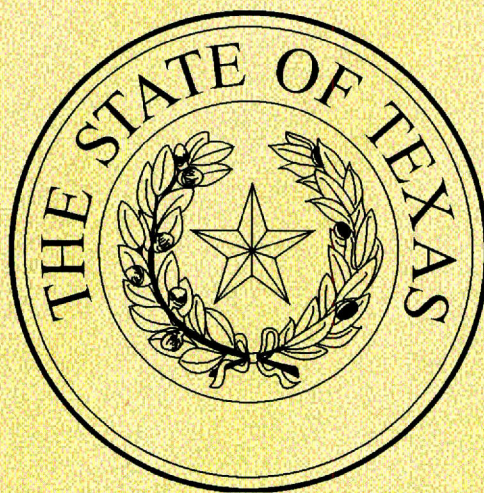


# Summary of Enactments 80th Legislature

Regular Session 2007



Texas Legislative Council  
October 2007



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Regular Session  
2007

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October 2007

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# Foreword

The Summary of Enactments of the 80th Legislature provides synopses of all bills enacted and all joint resolutions proposing amendments to the Texas Constitution passed by the legislature during the 2007 Regular Session. When a measure has been vetoed by the governor, the reason for the veto, as stated in the governor's veto proclamation, is included with the synopsis.

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

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

Other sources of information on legislation include:

Sunset bills (list)—[www.sunset.state.tx.us/legislation07.htm](http://www.sunset.state.tx.us/legislation07.htm)

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

Proposed constitutional amendments

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

(analyses)—[www.tlc.state.tx.us/pubsconamend/pubsconamend.html](http://www.tlc.state.tx.us/pubsconamend/pubsconamend.html)

Paper copies of enrolled bills and resolutions from the 80th Legislature, Regular Session, may be obtained from house and senate document distribution offices until October 2008. House measures are available from the House Document Distribution Office, located in Room B.324 of the Robert E. Johnson, Sr., Legislative Office Building, 1501 N. Congress Avenue (P.O. Box 12128, Austin, Texas 78711; (512) 463-1144). Senate measures are available from the Senate Bill Distribution office, located in Room 190 in the Sam Houston State Office Building, 201 E. 14th Street (P.O. Box 12068, Austin, Texas 78711; (512) 463-0252). The public may also obtain copies of all enrolled bills and resolutions from the Legislative Reference Library, located in Room 2N.3 of the Capitol (P.O. Box 12488, Austin, Texas 78711; (512) 463-1252).



# Introduction

The regular session of the 80th Legislature convened on January 9, 2007, and adjourned *sine die* on May 28, 2007. Of the 1,481 bills enacted during the session, 51 bills, as well as several items of appropriation in the General Appropriations Act, and in House Bill 15, relating to supplemental appropriations, were subsequently vetoed by Governor Rick Perry. Lawmakers also passed 17 joint resolutions proposing amendments to the Texas Constitution. One of the proposed amendments, relating to a proportionate reduction in the elderly and disabled school tax freeze amount, was approved by the voters on the May 12, 2007, election ballot. The 16 remaining proposed amendments will be offered for approval on the November 6, 2007, election ballot.

		Filed	Passed	Vetoed*
Bills	Regular	6,190	1,481	51
Joint Resolutions	Regular	172	17	0

\* The governor also vetoed several items of appropriation in House Bill 1, the General Appropriations Act, and in House Bill 15, relating to supplemental appropriations.



# Enactments of the 80th Legislature

## Agriculture

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

### **House Bill 1719**

**Effective:** 6-15-07

**House Author:** McReynolds

**Senate Sponsor:** Nichols

House Bill 1719 amends the Agriculture Code to provide that, if a landowner requests and complies with a water quality management plan that covers land on which animal carcasses will be buried, the Texas Commission on Environmental Quality may not require the landowner to report such a burial to the commission.

### **House Bill 2024**

**Effective:** 9-1-07

**House Author:** Kolkhorst

**Senate Sponsor:** Estes

House Bill 2024 amends the Education Code to continue the Texas Veterinary Medical Diagnostic Laboratory and remove it from applicability of the sunset law while simultaneously adopting certain across-the-board standard sunset provisions. The bill specifies the laboratory's duties, which include: providing diagnostic testing to aid in the identification of animal diseases; providing testing to facilitate international, interstate, or intrastate animal shipment; identifying and monitoring animal disease epidemics; assisting livestock owners and veterinarians in the identification, diagnosis, and treatment of diseases and other animal health matters; reporting diseases and related animal health matters, including those that could affect human health; disseminating information on trends in animal health derived from diagnostic testing; and performing other functions to provide diagnostics, surveillance, and reporting of animal diseases. The bill provides that the laboratory must satisfy specified requirements for notice and public comment opportunity before adopting a fee or changing the amount of a fee, and may provide diagnostic testing services for pets and other domestic animals or out-of-state clients only when and to the extent that laboratory resources are not required for diagnostic testing services for livestock in the state.

### **House Bill 2222**

**Effective:** 6-15-07

**House Author:** Heflin

**Senate Sponsor:** Uresti

House Bill 2222 amends the Agriculture Code to modify the composition of the Food and Fibers Research Council to contain a representative of the peanut industry generally, rather than a Texas representative of the Southwest Peanut Growers Association.

### **House Bill 2345**

**Effective:** 9-1-07

**House Author:** Anderson et al.

**Senate Sponsor:** Watson

House Bill 2345 amends the Agriculture Code to create the Texas Organic Agricultural Industry Advisory Board, staffed by and attached administratively to the Texas Department of Agriculture (TDA). The bill requires the advisory board to review and provide guidance on rules impacting the Texas organic agricultural products industry, and to assist the TDA in assessing

the status of such products, developing a public education and awareness campaign regarding such products, and developing recommendations to the agriculture commissioner and legislature to promote and expand the industry.

**House Bill 2543**

**Effective:** See below

**House Author:** Kolkhorst

**Senate Sponsor:** Ellis

House Bill 2543 amends the Agriculture Code to continue the Texas Animal Health Commission (TAHC) until September 1, 2019. It requires the TAHC to comply with and implement certain management actions adopted by the Sunset Advisory Commission and to report to the commission on that topic by specified deadlines. The bill updates and revises various statutes reflecting across-the-board sunset provisions. It makes multiple changes extending or clarifying TAHC's jurisdiction to include exotic livestock, domestic fowl, and exotic fowl, as well as other livestock. Such changes include those relating to animal carcass disposal. The bill replaces statutory requirements for burying or burning carcasses with provisions giving the TAHC discretion to determine the most effective methods of disposal. It amends the Water Code to make conforming changes. The bill allows the TAHC to act to eradicate or control any disease or agent for disease transmission affecting animals under its jurisdiction, even if the agent of transmission is an animal species that is not subject to its jurisdiction. Related provisions provide for collaboration and noninterference with the authority of other state agencies such as the Parks and Wildlife Department. The bill authorizes the TAHC to register feral swine holding facilities and to regulate movements of feral swine. Other new provisions allow the TAHC to quarantine livestock, exotic livestock, domestic fowl, or exotic fowl and to prepare and plan for, respond to, and aid in the recovery from disaster events that may affect those animals. The bill requires the TAHC and the Texas Veterinary Medical Diagnostic Laboratory, in consultation with the U.S. Department of Agriculture, to conduct a joint study regarding Texas' current and future capacity to perform disease testing during an animal disease outbreak or emergency. A report is due not later than December 31, 2008. The joint study portion of the bill takes effect June 15, 2007. The portions relating to animal carcass disposal take effect January 1, 2008, except that the TAHC may adopt rules as soon as practicable after the September 1, 2007, effective date applicable to the rest of the bill.

**House Bill 2546**

**Effective:** 9-1-07

**House Author:** Noriega, Rick

**Senate Sponsor:** Carona

House Bill 2546 amends the Agriculture Code to require a person who sells or offers for sale ammonium nitrate or ammonium nitrate material to hold a registration certificate from the Texas Feed and Fertilizer Control Service. The bill defines "ammonium nitrate material" as solid fertilizer that includes ammonium nitrate as a component, if the nitrogen content from the ammonium nitrate is at least 28 percent of the fertilizer by weight. The bill requires a seller to display the registration certificate in his or her place of business and to take specified steps, including fencing or enclosure, lockup when unattended, daily inspection, and inventory control, to secure ammonium nitrate or ammonium nitrate material against vandalism, theft, or other unauthorized access. A buyer must display a driver's license or other form of ID with a photograph, and must provide other information to enable the seller to make a required record of the sale that includes the buyer's name and date of birth, buyer's address and phone number, the date of purchase, the form of ID presented, the amount and brand name of the material purchased, and whether the purchase is on behalf of another. The seller must retain the sale record for at least two years and must make it available only on the request of the Department of Public Safety, a federal law enforcement agency, or the Office of the Texas State Chemist.



The bill requires the service to adopt rules allowing a seller to refuse a sale based on the season or the sale location. A registrant who violates legal requirements is subject to registration suspension. The bill provides that the purchase of ammonium nitrate or ammonium nitrate material with the intent to manufacture an explosive device is a third degree felony, except for holders of certain federal permits or licenses relating to manufacturers, importers, dealers, or users of explosive materials. The bill provides that the sale by a nonregistrant, the presentation of a false ID, or tampering with ammonium nitrate or ammonium nitrate material stored on the property of another is a Class A misdemeanor.

**House Bill 3300****Effective:** 6-15-07**House Author:** Phillips**Senate Sponsor:** Estes

House Bill 3300 amends the Agriculture Code to add llamas, alpacas, and exotic livestock to its uniform definition of livestock.

**House Joint Resolution 69****For Election:** 11-6-07**House Author:** Heflin**Senate Sponsor:** Seliger

House Joint Resolution 69 proposes an amendment to the state constitution to abolish the constitutional authority for the office of inspector of hides and animals.

**Senate Bill 827****Effective:** 6-15-07**Senate Author:** West, Royce**House Sponsor:** Patrick, Diane

Senate Bill 827 amends the Agriculture Code to make middle schools in large urban school districts eligible to receive grants from the Texas Department of Agriculture for the purpose of establishing demonstration agricultural projects or other projects designed to foster an understanding and awareness of agriculture.

**Senate Bill 1339****Effective:** 6-15-07**Senate Author:** Estes**House Sponsor:** Chisum

State law provides for a disaster contingency fund that can be used if the demands placed on funds regularly appropriated to state and local agencies are unreasonably great for coping with a particular disaster. Senate Bill 1339 amends the Government Code to authorize fund disbursements to a state or local agency to provide assistance to producers of agricultural products affected by or recovering from a disaster caused by severe drought, wildfire, flood, storm, or hurricane.

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

House Bill 407 - Human Services

House Bill 1090 - Utilities

House Bill 2417 - Energy Resources

House Bill 2458 - Occupational Regulation

House Bill 4062 - Human Services

Senate Bill 555 - Health and Safety



## Alcoholic Beverages

This chapter covers legislation on the regulation of individuals and establishments that sell, serve, manufacture, distribute, or transport alcoholic beverages. The chapter also includes bills relating to penalties for alcohol-related offenses and to the functions and operations of the Texas Alcoholic Beverage Commission. Bills relating to local option elections on the sale of alcoholic beverages are in the **Elections** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### **House Bill 1248**

**Effective:** 9-1-07

**House Author:** Taylor

**Senate Sponsor:** Jackson, Mike

House Bill 1248 amends the Alcoholic Beverage Code to allow a mixed beverage permit to be issued for a regularly scheduled excursion boat that is licensed by the United States Coast Guard to carry passengers on the navigable waters of the state if certain conditions are met. The bill clarifies that such a permit is inoperative in a dry area and makes provisions relating to certain residency requirements and compliance with Texas laws of incorporation applicable to the holder of such a permit.

### **House Bill 1365**

**Effective:** 6-16-07

**House Author:** Flores et al.

**Senate Sponsor:** Whitmire

House Bill 1365 amends the Alcoholic Beverage Code to redesignate the code chapter relating to promotional alcoholic beverage permits and to stipulate that the holder of such a permit is not required to be a state resident.

### **House Bill 1541**

**Effective:** 9-1-07

**House Author:** Isett, Carl

**Senate Sponsor:** Van de Putte

Previous law prohibited a permittee or an agent, servant, or employee of that person, from preannouncing the purchase of wine or distilled spirits to a consumer, and prohibited a permittee who holds a wholesaler's or class B wholesaler's permit from preannouncing a promotion to a consumer. House Bill 1541 amends the Alcoholic Beverage Code to allow a permittee to preannounce a promotional activity or the purchase of distilled spirits or wine to a consumer.

### **House Bill 1667**

**Effective:** Vetoed

**House Author:** Geren

**Senate Sponsor:** Brimer

House Bill 1667 amends provisions of the Alcoholic Beverage Code relating to annual state fees for a wine and beer retailer's permit and a retail dealer's on-premise license. The bill stipulates that the original and renewal fees for a permit or license in connection with an establishment in a county with a population of at least 1.4 million do not apply to such a permit or license issued with a food and beverage certificate. For other counties, the annual fee for a permit is increased from \$175 to \$275 and for a license from \$150 to \$250. In addition, the bill creates an annual state fee of \$175 for an original or renewal permit issued to a fraternal or veterans organization and \$150 for an original or renewal license issued to such an organization.

Reason Given for Veto: "House Bill No. 1667 would increase the wine and beer permit fees in Dallas, Harris, and Tarrant counties while decreasing fees for wine and beer permit holders who also have a food and beverage certificate. The bill would increase the fee for: (1) a wine and beer retailer's permit by \$100; and (2) an original wine and beer permit in connection with a food and beverage certificate by \$250. The bill also would decrease the annual renewal of a wine and beer retailer's permit by \$250, and create a fee for an original wine and beer retailer's permit to organizations that costs \$175.

## Alcoholic Beverages

“The bill seeks to address a local issue of regulating neighborhood bars by increasing fees and exempting restaurants from fees created during the 79th Legislature. Many of these small establishments operate in converted houses or garages in neighborhoods that lack the deed restrictions that might restrict the location of bars to commercial thoroughfares.

“I am vetoing House Bill No. 1667 because regulating businesses that engage in the alcoholic beverage industry should be accomplished through local ordinances in conjunction with an increased presence of law enforcement to preserve public safety, not through increased fees that are intended to price out businesses from existence.”

### **House Bill 1734**

**Effective:** 9-1-07

**House Author:** Goolsby

**Senate Sponsor:** Lucio

Previous law required that a notice of cancellation or suspension of an alcoholic beverage license or permit be given to the licensee or permittee personally or by registered or certified mail and provided that the cancellation or suspension took effect upon receipt of the notice. House Bill 1734 amends the Alcoholic Beverage Code to make the delivery method of the notice and effective date of the cancellation or suspension consistent with the Administrative Procedure Act in a contested case.

### **House Bill 2348**

**Effective:** 6-15-07

**House Author:** Thompson

**Senate Sponsor:** Ellis

House Bill 2348 amends Alcoholic Beverage Code provisions relating to a license or 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, except for certain establishments with a food and beverage certificate. The bill increases the period within which certain blood relatives of a person whose license or permit was canceled are prohibited from applying for the same type of license or permit from two years to three years from the cancellation date if the license or permit applied for is in connection with the same establishment whose license or permit was canceled.

### **House Bill 2350**

**Effective:** 9-1-07

**House Author:** Thompson

**Senate Sponsor:** Patrick, Dan et al.

House Bill 2350 amends the Alcoholic Beverage Code to require the Alcoholic Beverage Commission or its administrator to refuse to issue for a period of three years a permit or license for any location to an applicant who previously submitted an application that expired or was voluntarily surrendered before the application hearing was held on a protest involving allegations of certain criminal offenses. The bill provides that the three-year period begins on the date the previous application expired or was surrendered.

### **House Bill 2605**

**Effective:** 6-15-07

**House Author:** Hochberg et al.

**Senate Sponsor:** Whitmire

House Bill 2605 amends the Alcoholic Beverage Code to set out procedures by which the issuance of an original or renewal retailer's on-premise permit or license, other than one held with a food and beverage certificate, can be refused, suspended, or cancelled based on the existence of a common nuisance on the premise.

### **House Bill 2723**

**Effective:** 9-1-07

**House Author:** Thompson

**Senate Sponsor:** Gallegos

House Bill 2723 amends the Alcoholic Beverage Code to allow the holder of a brewer's permit to conduct ale or malt liquor samplings, and the holder of a manufacturer's license to conduct

beer samplings, at a retailer's premises, and allows the holder of a retail dealer's off-premise license to conduct beer samplings on the license holder's premises during regular business hours. The bill authorizes an agent or employee of the holder of such a permit or license to open, touch, or pour the sample product, make a presentation, or answer questions at a sampling event. The bill stipulates that a retail dealer's off-premise license does not authorize the sale of alcoholic beverages for on-premise consumption and that none of the license holder's income may be considered income from the sale of alcoholic beverages for on-premise consumption. The bill requires any beer used at a sampling event conducted by a retail dealer with an off-premise license to be purchased from or provided by the retailer on whose premises the event is held. The bill also allows the holder of a nonresident seller's permit who owns a brewery outside the state to conduct a sampling at a retailer's premises of the alcoholic beverages the permit holder is authorized to produce.

House Bill 2723 expands certain provisions relating to wine samplings to allow samplings of ale by the holder of a wine only package store permit and samplings of beer and certain malt liquors by the holder of a wine and beer retailer's off-premise permit.

**House Bill 2724**  
**Effective:** 9-1-07

**House Author:** Thompson  
**Senate Sponsor:** Gallegos

House Bill 2724 amends the Alcoholic Beverage Code to authorize the holder of a general, local, or branch distributor's license whose premises is located in a county with a population of at least 1.8 million or in a county adjacent to such a county to sell or deliver beer beginning at 4 a.m. on any day except Sunday in addition to any other period during which the sale or delivery of beer is authorized.

**House Bill 2727**  
**Effective:** 9-1-07

**House Author:** Goolsby  
**Senate Sponsor:** Williams

House Bill 2727 amends the Alcoholic Beverage Code to create a manufacturer's agent's warehousing permit and to authorize the holder of such a permit to receive beer, ale, or malt liquor from the holder of a nonresident brewer's permit or a nonresident manufacturer's license, store such products on permitted premises, transfer the products to certain licensed or permitted distributors or wholesalers in this state and to certain authorized persons outside this state, and return the products to the manufacturer or brewer from which they were originally received. The bill provides for the disposition of products received at permitted premises that are not labeled and approved for sale in this state. The bill requires the Alcoholic Beverage Commission to establish an annual fee and eligibility and reporting requirements for such a permit. The bill requires the permit holder's premises to be located in an area that is wet for the sale of beer, ale, and malt liquor and exempts an applicant for such a permit from certain residency requirements. House Bill 2727 stipulates that if any of these provisions are invalidated by a final, unappealable court order, all the provisions are invalid and any permit issued under them is void.

**House Bill 3123**  
**Effective:** 9-1-07

**House Author:** Miles  
**Senate Sponsor:** Gallegos

House Bill 3123 amends the Alcoholic Beverage Code to specify that no provision of the code prohibits permit and license holders engaged at different levels of the alcoholic beverage industry from simultaneously or jointly sponsoring a civic, religious, or charitable event provided that any license or permit to sell or serve alcoholic beverages at the event is held by a retailer who is independent of the sponsors and that none of the retailers who sponsor the event receive any direct benefit or service because of joint sponsorship by a wholesaler or manufacturer of alcoholic beverages.

**Senate Bill 904**

**Effective:** 9-1-07

**Senate Author:** Brimer

**House Sponsor:** Truitt

Senate Bill 904 amends the Alcoholic Beverage Code to continue the Texas Alcoholic Beverage Commission (TABC) until September 1, 2019. In addition to across-the-board sunset provisions, the bill updates TABC's mission to focus on the agency's role in protecting the public safety and regulating the alcoholic beverage industry. The bill requires TABC to develop a risk-based approach to its enforcement activities by focusing on detecting serious violations that impact public safety and monitoring entities with a history of complaints and violations. The bill authorizes TABC to test the contents of any alcoholic beverage manufactured or sold in the state to ensure that it meets certain standards; allows beverage samplings for verification of alcohol content to be done by an independent, reputable laboratory rather than solely by TABC; and requires TABC to require the holder of certain on-premise permits or licenses to display a warning notice on the premises informing the public of the risks of drinking alcohol during pregnancy.

Senate Bill 904 expands the list of violations for which the permittee or licensee is prohibited from choosing to pay a civil penalty rather than having the permit or license suspended. The bill makes it a Class A misdemeanor to refuse to allow TABC, an authorized representative, or a peace officer to enter a licensed or permitted premises to conduct an investigation or inspect the premises and makes it a Class A misdemeanor to sell, offer for sale, consume, or permit the consumption of an alcoholic beverage on such premises during prohibited hours. The bill specifies that a licensed or permitted premises is a public place for purposes of provisions restricting alcohol consumption after certain hours, amends the Penal Code to apply that specification to offenses relating to public intoxication, and requires TABC to submit a biennial report to the legislature on its enforcement efforts concerning alcohol sales and consumption during prohibited hours. Senate Bill 904 requires a permittee to register distilled spirits or wine with TABC before shipping the product into the state or selling it within the state and sets out commission registration requirements for a certificate of label approval for such products.

**Senate Bill 952**

**Effective:** 6-15-07

**Senate Author:** Watson

**House Sponsor:** Hamilton

Senate Bill 952 amends the Alcoholic Beverage Code to allow the holder of a mixed beverage permit who holds a food and beverage certificate to designate as part of the permit holder's premises a secured noncontiguous area on a public sidewalk adjoining the premises if that designation is authorized by city ordinance. The ordinance may specify and limit the areas of the municipality in which this provision is applicable, and alcoholic beverages may be delivered by an employee of the permit holder to patrons for consumption in the designated sidewalk area.

**Senate Bill 1215**

**Effective:** 9-1-07

**Senate Author:** Gallegos

**House Sponsor:** Miles

Senate Bill 1215 amends the Alcoholic Beverage Code to increase the maximum quantity of beer, ale, or malt liquor the holder of a distributor's license, wholesaler's permit, or class B wholesaler's permit may withdraw in its undamaged original packaging from a retailer's stock for quality control purposes from the equivalent of 15 cases of 24 12-ounce containers to 25 cases of such containers.

**Senate Bill 1217**  
**Effective:** 9-1-07

**Senate Author:** Gallegos  
**House Sponsor:** Hamilton

Senate Bill 1217 amends the Alcoholic Beverage Code to increase the term of an alcoholic beverage permit or license from one year to two years after its issue date, with certain exceptions. The bill requires the Alcoholic Beverage Commission to double the fee and surcharge for a two-year permit or license and to assess surcharges on all applicants for an original or renewal alcoholic beverage certificate, permit, or license at the time of application rather than assess an annual surcharge on certificate, permit, and license holders. The bill authorizes the commission to require a one-year term for the permit or license of an individual holder with a violation history. The bill allows the commission to issue a permit or license that expires less than two years after the issue date to maintain a reasonable annual distribution of renewal application review work and fees and requires the commission to prorate the fee so the holder pays only for the number of months during which the permit or license is valid.

Senate Bill 1217 modifies an exception to the prohibition on renewing a mixed beverage permit held by a corporation if there is a certain change in corporate control. Previous law allowed an exception to the prohibition if, among other conditions, the permittee paid a \$500 fee and notified the commission at least 10 days before the transfer became effective. The bill removes the requirement to pay the fee and the time restriction on notification.

**Senate Bill 1229**  
**Effective:** 9-1-07

**Senate Author:** Gallegos  
**House Sponsor:** Bailey

Senate Bill 1229 amends the Alcoholic Beverage Code to expand the territory within which the holder of a package store permit or wine only package store permit may deliver alcoholic beverages, including allowing such a permit holder to deliver alcoholic beverages to the holder of a carrier's permit for transportation to a person within or outside the state who has placed a bona fide order and meets certain other criteria.

**Senate Bill 1238**  
**Effective:** 9-1-07

**Senate Author:** Ellis  
**House Sponsor:** Veasey

Senate Bill 1238 amends the Alcoholic Beverage Code to authorize a county commissioners court to enact regulations applicable in parts of the county outside an incorporated city or town, and the governing board of an incorporated city or town to enact regulations applicable in that municipality, that prohibit the possession of an open container or the consumption of an alcoholic beverage on a public street, alley, or sidewalk within 1,000 feet of the property line of a homeless shelter or substance abuse treatment center that is not located in a central business district. If such regulations are enacted, the commissioners court or governing board may enact regulations allowing the suspension of the prohibition for special temporary events.

**Senate Bill 1257**  
**Effective:** 9-1-07

**Senate Author:** Averitt  
**House Sponsor:** Keffer, Jim

Senate Bill 1257 expands the definition of "hotel" under the Alcoholic Beverage Code to include a designated historic structure that contains at least five adequately furnished, completely separate rooms with certain facilities.

**Senate Bill 1287**  
**Effective:** 9-1-07

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

Senate Bill 1287 amends the Alcoholic Beverage Code to require holders of certain alcoholic beverage permits and licenses to display on their premises a sign with a notice in both English

and Spanish stating that obtaining forced labor or services is a crime under Texas law and providing the toll-free telephone number of the national human trafficking hotline. The sign must meet certain specifications and be clearly visible to the public and the permit or license holder's employees.

**Senate Bill 1426**  
**Effective:** 9-1-07

**Senate Author:** Averitt  
**House Sponsor:** Hamilton

Senate Bill 1426 amends the Alcoholic Beverage Code to authorize the Alcoholic Beverage Commission to exempt the holder of a wine and beer retailer's permit or retail dealer's on-premise license who also has a food and beverage certificate and is a concessionaire in a public entertainment venue from the requirement that food service be the primary business on the premises.

**Senate Bill 1828**  
**Effective:** 6-15-07

**Senate Author:** Whitmire  
**House Sponsor:** Hamilton

Senate Bill 1828 amends the Alcoholic Beverage Code to specify that an affirmative defense to prosecution for selling alcohol to a minor when the seller is relying on the results of a transaction scan device is available to the defendant if the scanner verifies that the purchaser's driver's license is valid and that the purchaser is at least 21 years old. The bill expands the criteria necessary for an owner of a store who is charged with an offense in connection with an employee who sold alcohol to a minor to claim an affirmative defense to include that the owner did not directly or indirectly encourage the employee to violate the law. The bill provides that an affirmative defense to prosecution for selling alcohol to a minor does not apply to an administrative action by the Texas Alcoholic Beverage Commission to cancel, deny, or suspend the defendant's license or permit, with certain exceptions.

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

House Bill 11 - Taxes and Tax Administration



## Appropriations and State Finance

This chapter includes the General Appropriations Act for the state fiscal biennium beginning September 1, 2007, and legislation on supplemental appropriations, revenue dedication, state bonding authority, and claims against the state. Related bills that are summarized in other chapters are listed at the end of this chapter.

### House Bill 1

**Effective:** 9-1-07

**House Author:** Chisum et al.

**Senate Sponsor:** Ogden

House Bill 1, the General Appropriations Act, appropriates almost \$152.5 billion for the FY2008-FY2009 state fiscal biennium beginning September 1, 2007. That amount includes all funding sources except nearly \$14.2 billion in appropriations for property tax relief, interagency contracts, and adjustments for appropriations made by or transferred to House Bill 15. Of the legislatively approved amount, more than \$80.1 billion, or 52.6 percent, is derived from general revenue, both dedicated and nondedicated. Another \$49.9 billion, or 32.7 percent, represents federal funding, and \$22.4 billion, or 14.7 percent, comes from other funds. (Figures and percentages do not add up due to rounding.) The \$152.5 billion budgetary total for FY2008-FY2009 represents an increase of seven percent over the FY2006-FY2007 budget.

Legislative appropriations for major governmental functions and services for FY2008-FY2009 compared with appropriations for the preceding fiscal biennium are as follows: General government receives \$3.8 billion, an increase of 5.6 percent. Total funding for health and human services is \$51.1 billion, an increase of 4.6 percent. The legislature appropriates \$61.0 billion for both public and higher education, a 7.0 percent increase. Public safety and criminal justice receives \$9.8 billion, a decrease of 0.6 percent. Natural resources is funded at \$3.1 billion, an increase of 32.5 percent. Business and economic development is appropriated \$20.2 billion, reflecting an increase of 4.2 percent. Regulatory functions are funded at \$740 million, an increase of 38.9 percent. The legislature is appropriated \$326 million, a decrease of 2.6 percent.

The governor vetoed approximately \$570 million in all funding sources from House Bill 1, of which \$297 million was funding for the state's FY2009 contribution to the Medicare Part D benefit for recipients eligible for both Medicaid and Medicare services and \$154 million was for FY2009 funding for higher education employees group insurance contributions for public community and junior colleges.

### House Bill 2

**Effective:** 9-1-07

**House Author:** Chisum et al.

**Senate Sponsor:** Ogden

House Bill 2 makes supplemental appropriations to the Texas Education Agency under the Foundation School Program and provides for the transfer of general revenue for the purpose of funding school district property tax rate reductions. The bill authorizes appropriations and transfers to make available a total of \$6,956,400,000 for the state fiscal year ending August 31, 2008, and \$7,234,700,000 for the state fiscal year ending August 31, 2009.

### House Bill 15

**Effective:** 6-15-07

**House Author:** Chisum et al.

**Senate Sponsor:** Ogden

House Bill 15 makes supplemental appropriations and reductions in appropriations, provides transfer authority and other appropriation adjustment authority, and imposes contingencies on the appropriation of funds. The bill includes provisions relating to the following entities and agencies: Austin Community College, South Plains College, Texas Southern University, Angelo State University, the University of Houston, University of Texas Medical Branch at

Galveston, Prairie View A&M University, Sam Houston State University, Texas Tech University Health Sciences Center, the Texas Department of Criminal Justice, Texas Medical Board, Texas Department of Licensing and Regulation, Texas Building and Procurement Commission, Texas Forest Service, the Adjutant General's Department, the Texas Supreme Court, Health and Human Services Commission, Department of Family and Protective Services, Department of Aging and Disability Services, Department of Assistive and Rehabilitative Services, Department of State Health Services, Comptroller of Public Accounts, General Land Office, Veterans Land Board, the Texas Secretary of State, Railroad Commission of Texas, Texas Commission on Environmental Quality, Texas Department of Transportation, Texas Parks and Wildlife Department, Texas State Library and Archives Commission, Teacher Retirement System, Texas Education Agency, Texas Higher Education Coordinating Board, Public Utility Commission of Texas, Office of the Attorney General, Texas Alcoholic Beverage Commission, Texas Water Development Board, Texas Youth Commission, Department of Information Resources, Employees Retirement System, Texas Department of Insurance, Texas Department of Public Safety, Department of Agriculture, and Texas Workforce Commission.

**House Bill 3107**

**Effective:** 6-15-07

**House Author:** Isett, Carl

**Senate Sponsor:** Ogden

House Bill 3107 requires all state revenue to be deposited to the credit of the undedicated portion of the general revenue fund unless specifically exempted under the provisions of the bill. The bill provides for the abolition of certain funds, accounts, and revenue dedications created, re-created, or dedicated in the state treasury by an act of the 80th Legislature, Regular Session, and creates, re-creates, dedicates, or re-dedicates certain of those funds, accounts, and dedications of revenue in the general revenue fund, and exempts certain unappropriated money from use for general governmental purposes.

**House Joint Resolution 90**

**For Election:** 11-6-07

**House Author:** Keffer, Jim et al.

**Senate Sponsor:** Nelson et al.

House Joint Resolution 90 proposes an amendment to the state constitution to provide for the establishment of the Cancer Prevention and Research Institute of Texas and authorizing the issuance of up to \$3 billion in general obligation bonds for the purpose of scientific research of all forms of human cancer.

**Senate Bill 1719**

**Effective:** 9-1-07

**Senate Author:** Ogden

**House Sponsor:** Chisum

Senate Bill 1719 provides for the direct payment of certain claims and judgments against the state and for the specific appropriation of funds to pay for various claims, settlements, and judgments. The bill amends the Government Code to increase from \$25,000 to \$50,000 the maximum amount of a single claim or an aggregate of claims by a single claimant the comptroller is authorized to pay during a biennium without specific appropriation or in the event the appropriation has lapsed. The bill extends the maximum period within which a claim can be made from four years to eight years after the date the circumstances of the claim arose. Senate Bill 1719 also amends provisions of the Civil Practice and Remedies Code relating to determining the eligibility of a claimant for compensation for wrongful imprisonment.

**Senate Bill 2033**

**Effective:** See below

**Senate Author:** Williams et al.

**House Sponsor:** Chisum

Senate Bill 2033 amends the Government Code to authorize the Texas Public Finance Authority to issue up to \$1 billion in general obligation bonds for certain maintenance, improvement, repair, and construction projects and for the purchase of certain equipment. The bill takes effect contingent on voter approval of the constitutional amendment proposed by Senate Joint Resolution 65.

**Senate Joint Resolution 57**

**For Election:** 11-6-07

**Senate Author:** Williams et al.

**House Sponsor:** Chisum et al.

Senate Joint Resolution 57 proposes an amendment to the state constitution to provide legislative authorization for the Texas Higher Education Coordinating Board to issue \$500 million in general obligation bonds to finance educational loans to students and to enter into bond enhancement agreements with respect to the bonds issued for that purpose.

**Senate Joint Resolution 65**

**For Election:** 11-6-07

**Senate Author:** Williams et al.

**House Sponsor:** Chisum

Senate Joint Resolution 65 proposes an amendment to the state constitution to provide legislative authorization for the Texas Public Finance Authority to issue up to \$1 billion in general obligation bonds for maintenance, improvement, repair, and construction projects and for the purchase of equipment by certain state agencies.

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

Senate Bill 2031 - State Government



## Business and Commerce

This chapter covers legislation on issues relating to business and commerce generally, including business organization and regulation, business transactions, and consumer protection. Bills relating specifically to banks and other regulated lenders are in the **Financial Institutions** chapter, and those relating to insurance companies are in the **Insurance** chapter. Bills on job creation are in the **Economic Development** chapter, and those pertaining to employers and employees are in the **Labor and Employment** chapter. Other bills related to business and commerce that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 860**

**Effective:** 9-1-07

**House Author:** Paxton et al.

**Senate Sponsor:** Williams

House Bill 860 modernizes and revises the uniform law contained in the Property Code concerning the management and investment of funds held by charitable organizations. The bill provides guidance and authority to charitable organizations and provides for additional duties for individuals who manage and invest such funds.

#### **House Bill 1303**

**Effective:** 9-1-07

**House Author:** Pena

**Senate Sponsor:** West, Royce

House Bill 1303 amends provisions of the Code of Criminal Procedure and Government Code relating to the expunction or nondisclosure of criminal history records. The bill requires the Department of Public Safety to notify any private business that has purchased criminal history record information from the department or that has been named in an order of expunction about the existence and effect of the order of expunction, and to request that the business destroy any information it has that is subject to the order. House Bill 1303 expands the private entities to which the department must send certain criminal history record information that is subject to a nondisclosure order to include a private entity that is likely to have such information.

House Bill 1303 provides that a business that disseminates criminal history record information for compensation must destroy and may not disseminate any information that is the subject of an order of expunction or nondisclosure and sets out procedures that provide for the updating of criminal history record information possessed by certain businesses. The bill provides that a business that disseminates information in violation of this law is liable for damages that are sustained by the person who is the subject of the information.

House Bill 1303 prohibits the department from releasing criminal history record information to a business that has illegally disseminated, three or more times, information that is the subject of an order of expunction or nondisclosure for one year after the most recent violation. The bill increases the civil penalty from \$500 to \$1,000 for certain violations of a prohibition relating to dissemination of criminal justice information under the Public Information Act.

### Business Organization and Regulation

#### **House Bill 1196**

**Effective:** 9-1-07

**House Author:** Kolkhorst et al.

**Senate Sponsor:** Janek

House Bill 1196 amends the Government Code to require a business that submits an application for a grant, loan, or other public subsidy from a public agency, state or local taxing jurisdiction, or economic development corporation to include in the application a statement

certifying that the business does not and will not knowingly employ an undocumented worker. The statement must declare that if the business is convicted of engaging in a pattern or practice of violations of federal law governing the unlawful employment of aliens, the business is required to repay the amount of the public subsidy with interest, at a specified rate and term, within 120 days of receiving notice of the violation. The bill provides for enforcement of these provisions by civil action and specifies that a business is not liable for a violation by a subsidiary, affiliate, or franchisee or by a person with whom the business contracts.

**House Bill 1737**  
**Effective:** 9-1-07

**House Author:** Giddings  
**Senate Sponsor:** Fraser

House Bill 1737 amends the Business Organizations Code to make technical, clarifying, and conforming changes and to modify certain requirements relating to the formation and operation of a nonprofit corporation, partnership, or limited liability company. The bill also amends provisions relating to a certificate of merger, exchange, or conversion for a business organization, a certificate of formation for a professional association, and the resignation of a corporate director.

**House Bill 1871**  
**Effective:** 9-1-07

**House Author:** Giddings  
**Senate Sponsor:** Fraser

House Bill 1871 amends the Business & Commerce Code to require a person in the business of recycling, shredding, or destroying bulk merchandise containers, before purchasing five or more plastic bulk containers from the same person, to obtain proof of ownership for the containers, identifying information of the seller or the seller's agent, a description of the items sold, and the date of the transaction and to verify the seller's or agent's identity from a government-issued photo identification card. The bill requires the person to retain that record of the transaction for one year on all containers that were purchased or delivered. The bill provides for civil penalties for violations of this law, including the use of subterfuge to avoid application of the law.

**House Bill 2278**  
**Effective:** 4-1-09

**House Author:** Deshotel  
**Senate Sponsor:** Brimer

House Bill 2278, enacted as a part of the state's continuing statutory revision program, is a nonsubstantive revision of statutes relating to business and commerce. Among other provisions, the bill codifies the Development Corporation Act of 1979 as Subtitle C1, Title 12, Local Government Code.

**House Bill 2392**  
**Effective:** 6-15-07

**House Author:** Madden  
**Senate Sponsor:** Deuell

House Bill 2392 amends the Health and Safety Code to authorize the commissioner of insurance to create requirements for the release of escrowed entrance fees for a continuing care facility that differ from those generally used for releasing such fees if the facility obtains a certificate of authority before the construction of the facility begins. The bill requires the commissioner, after the initial release of an entrance fee by an escrow agent for a specific facility, to authorize the agent to continue releasing that facility's fees without further proof of compliance if the provider submits a monthly report to the Texas Department of Insurance (TDI) on marketing activities for the facility's living units and the provider immediately informs TDI of any problems encountered in those activities. If the provider fails to meet these criteria, the bill authorizes the commissioner to require the provider to meet the other generally applicable criteria before allowing the agent to continue releasing the fees.

## Business Transactions

### House Bill 732

**Effective:** 9-1-07

**House Author:** Krusee

**Senate Sponsor:** Ogden

House Bill 732 amends the Property Code to prohibit a paper document concerning real or personal property from being recorded by or served as notice to a county clerk unless the document contains an original signature or signatures acknowledged and sworn to before a proper jurat or is attached as an exhibit to a paper affidavit or other document containing an original signature or signatures given under oath. The bill provides that an original signature may not be required for an electronic instrument or other document that complies with state laws relating to electronic document filing and recording and other electronic transactions.

### Senate Bill 324

**Effective:** 9-1-07

**Senate Author:** Deuell et al.

**House Sponsor:** Chisum

Senate Bill 324 amends the Business & Commerce Code to specify the circumstances in which contingent payment clauses in construction contracts are not enforceable under Texas law. The bill prohibits a contingent payor from enforcing a contingent payment clause in these cases: (1) the obligor's nonpayment is the result of the payor's failure to meet its contractual obligations, unless nonpayment is the result of a contingent payee's default on its contractual requirements; (2) as to work performed or materials delivered, after the payor receives written notice from the payee objecting to the payment clause's enforceability; or (3) the payor is in a sham relationship with the obligor. The bill sets forth a time frame and manner for delivery of the objection notice, a time frame in which a written notice becomes effective, and conditions under which a notice does not prevent enforcement of payment. The bill prohibits a payment clause from being used as a basis for invalidation of the enforceability or perfection of a mechanic's lien. The bill sets forth provisions where the enforcement of a contingent payment clause is not unconscionable. The bill provides that a payor has exercised diligence under a construction contract for a private project or for certain public projects if the payee receives from the payor certain information in writing. The bill requires a primary obligor to furnish certain identifying and financial information to the payor not later than the 30th day after the date the obligor receives a written request for such information. The bill exempts certain contracts from the application of this law.

### Senate Bill 1389

**Effective:** 9-1-07

**Senate Author:** Van de Putte

**House Sponsor:** Hochberg

Senate Bill 1389 amends the Business & Commerce Code to require a person, including a manufacturer or retailer, who offers a rebate to pay the amount of the rebate, either by mail or electronically, to the consumer within the time period specified in the rebate information provided or, if silent, no later than the 30th day after the properly completed rebate request is received. If a rebate request is timely submitted but not properly completed, the bill requires the offeror to process it or else notify the consumer of the deficiency, and it allows the consumer to correct the deficiency and resubmit the correct rebate request. The bill sets forth circumstances where the person offering the rebate may reject a rebate request from a consumer. The bill makes an offeror's failure to comply with these provisions a violation of the Deceptive Trade Practices Act. The bill prohibits a court from certifying an action brought under this law as a class action suit.

**Senate Bill 1540**  
**Effective:** 6-16-07

**Senate Author:** Fraser  
**House Sponsor:** Bailey

Senate Bill 1540 amends the Business & Commerce Code to clarify what constitutes the sufficient provision of the debtor's name on a financing statement filed in connection with a secured transaction if the debtor is a registered organization and to specify what constitutes sufficient identification of the debtor if the debtor is an individual. The bill provides that a failure of the designated filing office to correctly index information contained in a filed financing statement or other record does not affect the effectiveness of the record, and that filing a correction statement for such a record does not amend the filed financing statement and is insufficient to change the filing office's indexing of the statement or its contents. The bill establishes the duration of effectiveness of a financing statement properly filed before July 1, 2001, and provides for the filing of continuation statements extending the effectiveness for additional five-year periods.

**Senate Bill 1541**  
**Effective:** 9-1-07

**Senate Author:** Fraser  
**House Sponsor:** Elkins

Senate Bill 1541 amends the Business & Commerce Code to make technical changes, deleting and repealing certain obsolete terms from the definitions provisions of the Uniform Commercial Code—Negotiable Instruments chapter.

## **Consumer Protection**

**House Bill 54**  
**Effective:** 9-1-07

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

House Bill 54 amends the Business & Commerce Code to prohibit a person from advertising, promoting, or conducting certain live musical performances in Texas through the use of a false, deceptive, or misleading affiliation, connection, or association between a recording group and a performing musical group. The bill authorizes the attorney general to bring an action against the person to restrain the act or practice by temporary or permanent injunction if certain conditions exist. In addition, the prosecuting attorney in the county where such a violation occurs, with prior written notice to the attorney general, may institute and prosecute an action seeking injunctive relief and must make a full report to the attorney general regarding any action prosecuted. The bill authorizes a court issuing a permanent injunction in such a case to make additional orders or judgments as necessary to restore money or other property acquired because of the violation. The bill provides a civil penalty of \$5,000 to \$15,000 per violation, with each performance constituting a separate violation, and authorizes the attorney general or prosecuting attorney to bring suit to recover the penalty.

**House Bill 73**  
**Effective:** 9-1-07

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

House Bill 73 amends the Business & Commerce Code to provide that a person commits a Class A misdemeanor if the person by various fraudulent methods obtains, attempts to obtain, or conspires with another person to obtain a telephone record of a Texas resident without the resident's authorization, with certain exceptions. The bill also provides that such an offense may incur a fine of up to \$20,000 and is subject to other penalties, including payment of damages to the victim, plus any financial gain resulting from the offense, and to an action under the Texas Deceptive Trade Practices Act. If a violation of these provisions also constitutes an offense under another state law, the bill allows prosecution under either law or both laws. The bill provides



that these provisions do not create a private right of action or expand the obligations or duties of a telephone company under federal or other state laws to protect telephone records and may not be construed in a manner inconsistent with other applicable federal laws or rules or prohibit certain lawfully authorized federal, state, or local law enforcement investigative, protective, or intelligence activities. In addition, the bill amends the Code of Criminal Procedure to expand the definition of “contraband” to include property used or intended for use in the commission of a Class A misdemeanor relating to the unauthorized or fraudulent procurement, sale, or receipt of telephone records.

**House Bill 85****Effective:** 9-1-07**House Author:** Branch et al.**Senate Sponsor:** Van de Putte

House Bill 85 amends the Business & Commerce Code to prohibit a credit card issuer from engaging in campus credit card marketing activities at times or locations other than those designated by the governing board of a postsecondary educational institution. The bill also requires the issuer to develop financial educational material containing certain information in consultation with or subject to approval by the institution and to make the material available to students during campus marketing activities, when issuing a credit card, and on the Internet. The bill prohibits the issuer from offering a gift or other incentive in exchange for completing a credit card application unless the issuer also provides the individual with the financial educational material. The bill establishes a civil penalty of up to \$2,500 per violation for any person who intentionally violates these provisions. In addition, the bill requires an institution that designates a location for campus credit card marketing activities to adopt a policy requiring a credit card and debt education and counseling session in any orientation program for new students.

**House Bill 143****Effective:** 9-1-07**House Author:** Deshotel**Senate Sponsor:** Carona

House Bill 143 amends the Business & Commerce Code to include the transmission of a text or graphic message or an image in the types of unsolicited transmissions that may not be sent by a solicitor to a mobile telephone number on the Texas no-call list, with the exception of certain advertisements from a commercial mobile service provider in connection with its customer’s telephone service transmitted with the customer’s consent. The bill requires the Public Utility Commission to include a notice on its website explaining the application of the Texas no-call list to a call or other transmission, including a transmission of text, graphics, or images, to a mobile telephone number.

**House Bill 320****Effective:** 9-1-07**House Author:** West, George “Buddy”**Senate Sponsor:** Carona

House Bill 320 amends the Transportation Code to authorize a business to verify a customer’s identity by using the electronically readable information on the person’s driver’s license or personal identification card at the point of sale when the customer pays for goods or services by check.

**House Bill 863****Effective:** 9-1-07**House Author:** Cook, Byron**Senate Sponsor:** Ellis

House Bill 863 amends the Business & Commerce Code to exempt a licensed public accountant and certain other individuals subject to the accountant-client privilege and whose business transactions require disclosure of a social security number from certain privacy policy requirements relating to such disclosure.

**House Bill 3093**

**Effective:** 6-15-07

**House Author:** Howard, Charlie

**Senate Sponsor:** Janek

House Bill 3093 amends the Business & Commerce Code to authorize a business to require that a customer who makes a purchase using a credit card provide the customer's zip code to verify the customer's identity. The bill authorizes the business to electronically verify with the credit card issuer that the zip code matches any zip code the issuer has on file for the credit card, and it prohibits the business from retaining the zip code in any form after the purchase is completed.

**Senate Bill 222**

**Effective:** 9-1-07

**Senate Author:** Ellis et al.

**House Sponsor:** Thompson et al.

Under previous law, a consumer reporting agency's placement of a security freeze on a consumer's credit file was conditioned on the consumer's presentation of a written request that included proper identification and a police report, investigative report, or complaint alleging identity theft. Senate Bill 222 amends the Business & Commerce Code to allow a consumer to obtain a freeze on a consumer file without providing a police report, investigative report, or complaint. The bill provides an exception for certain consumer reporting agencies that merely assemble and merge information contained in another agency's or other agencies' databases and do not themselves maintain a permanent database of credit information from which new consumer reports are produced. The bill authorizes a credit agency to impose a reasonable fee to place, temporarily lift, or remove a security freeze, except when the action is in response to a request from a consumer who submits a copy of a police or investigative report or complaint.

**Senate Bill 1047**

**Effective:** 9-1-07

**Senate Author:** Seliger

**House Sponsor:** Swinford

Under previous law, only staff members of the Office of the Attorney General's Consumer Protection Division were authorized to inspect and copy, use, or make available to their producer documents obtained through a civil investigative demand under the Deceptive Trade Practices-Consumer Protection Act. Senate Bill 1047 amends the Business & Commerce Code to provide for extending that authorization to other employees of the office of the attorney general.

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

House Bill 1385 - Human Services

House Bill 1741 - Insurance

House Bill 1751 - Criminal Justice

House Bill 2002 - Financial Institutions

Senate Bill 277 - Military Forces and Veterans

Senate Bill 548 - Criminal Justice

## Civil Remedies and Procedures

This chapter covers legislation relating to civil indemnifications, immunities, judgments, liabilities, and lawsuits. Related bills that are summarized in other chapters are listed at the end of this chapter.

### **House Bill 823**

**Effective:** 5-18-07

**House Author:** Ritter et al.

**Senate Sponsor:** Williams

House Bill 823 amends the Civil Practice and Remedies Code to exempt a licensed architect or engineer volunteering his or her professional services during certain government-declared emergencies from liability for civil damages related to the professional's performance of those services unless such performance constitutes gross negligence or wilful, wanton, or intentional misconduct. The services must be provided at the request or with the approval of a public official acting in an official capacity in response to the emergency and must be related to a structure or structural system. The bill excludes from this exemption an architect or engineer who is at the scene of the emergency to solicit business or perform a service for compensation on behalf of the professional or a person for whom the professional is an agent.

### **House Bill 1183**

**Effective:** 6-15-07

**House Author:** Otto

**Senate Sponsor:** Nichols

House Bill 1183 amends the Civil Practice and Remedies Code to add radio control flying and related activities to the list of recreational activities for which an owner, lessee, or occupant of real property who invites or allows recreational use of the property has limited liability if an injury involving the activity occurs on the property. The bill specifies that provisions limiting such liability do not affect the liability of the owner, lessee, or occupant for an injury occurring outside the property's boundaries caused by an activity originating within those boundaries.

### **House Bill 1194**

**Effective:** 6-15-07

**House Author:** England et al.

**Senate Sponsor:** Harris

House Bill 1194 amends the Civil Practice and Remedies Code to add a licensed phlebotomist performing services under contract with the Texas Department of Criminal Justice when the act or omission on which the damages are based occurred to the list of persons who are indemnified by the state for actual damages, court costs, and attorney's fees without regard to whether the person performed the services for compensation.

### **House Bill 1268**

**Effective:** 9-1-07

**House Author:** Van Arsdale

**Senate Sponsor:** Ellis

House Bill 1268 amends the Government Code to prohibit certain types of contracts awarded by a governmental entity from providing for the award of attorney's fees to that entity in a dispute in which the entity prevails unless the contract also awards such fees to the other prevailing parties to the contract. The bill provides that a contract provision violating this requirement is void and unenforceable.

### **House Bill 1551**

**Effective:** 6-15-07

**House Author:** Hochberg et al.

**Senate Sponsor:** West, Royce

House Bill 1551 amends Civil Practice and Remedies Code provisions relating to public and common nuisances. The bill amends the requirement for a judgment in rem to order the place where a nuisance exists to be closed for one year, to remove an exception from closure if the defendant or the real property owner, lessee, or tenant of the property posts bond. The bill

provides that if the court in a hearing on a request for a temporary injunction determines that a petitioner's suit to abate a common nuisance is likely to succeed on the merits, the court may include in its order reasonable requirements to prevent the use or maintenance of the place as a nuisance. The bill adds to the actions that may be taken if, after an entry of a temporary or permanent injunction, a court determines a provision of the order has been violated to include limiting the hours of operation of the place, and under certain conditions ordering a landlord to terminate a tenant's lease.

**House Bill 1560**  
**Effective:** 5-25-07

**House Author:** Callegari  
**Senate Sponsor:** Jackson, Mike

Current law requires a governmental entity that owns, operates, or maintains any premises on which certain recreational activities occur to post a warning sign regarding the entity's limited liability for damages arising from such activity. House Bill 1560 amends the Civil Practice and Remedies Code to add paintball use to the list of recreational activities to which this law applies.

**House Bill 1572**  
**Effective:** 9-1-07

**House Author:** Woolley  
**Senate Sponsor:** West, Royce

House Bill 1572 amends the Civil Practice and Remedies Code to prohibit a court in a civil action, other than an action in which a law enforcement agency is a party, from ordering discovery of certain types of information from a nonparty law enforcement agency if the requested information deals with the detection, investigation, or prosecution of a crime or with an investigation by the agency that did not result in a conviction or deferred adjudication and if the release of the information would interfere with the detection, investigation, or prosecution of a crime. The bill authorizes the court to order such discovery on the motion of a party if the court determines, after a private review, that the information is relevant and necessary. The bill excludes certain vehicle accident reports and supporting information from such stipulations on discovery.

**House Bill 1602**  
**Effective:** 5-24-07

**House Author:** Van Arsdale et al.  
**Senate Sponsor:** Fraser

Previous law provided uniform venue options for bringing a lawsuit under the Federal Employers' Liability Act or the federal Jones Act, which establish a cause of action for the injury or death in the course of employment of a railroad worker or a seaman, respectively. The venue options for a suit filed under either act included the county where all or a substantial part of the actions giving rise to the claim occurred, the county where the defendant's principal office in this state was located, or the county where the plaintiff resided when the cause of action accrued. House Bill 1602 amends the Civil Practice and Remedies Code to create separate venue options for Jones Act lawsuits, providing the same filing options as previous law for such suits generally and adding other options if certain conditions exist. If all or a substantial part of the actions giving rise to the claim occurred in Texas - on inland waters, on shore, or while working on an erosion response project - the suit may be brought either in the county where the action occurred or in the county where the defendant's principal office in Texas is located. If all or a substantial part of the actions occurred on certain inland waters outside Texas, or on shore or while working on an erosion response project in the Gulf Coast states of Alabama, Florida, Louisiana, or Mississippi, the suit may be filed in the county where the defendant's principal office in Texas is located if that office is in a coastal county, Harris County, or Galveston County under certain conditions, or in the county where the plaintiff resided when the cause of action accrued if the defendant does not have a principal office in a Texas coastal county.

**House Bill 1787**  
**Effective:** 6-15-07

**House Author:** Hartnett  
**Senate Sponsor:** Watson

House Bill 1787 amends the Civil Practice and Remedies Code to allow a person interested under a deed, will, written contract, or other contractual agreement or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise to obtain a determination of title to real property through a declaratory judgment when the sole issue concerning title is the determination of the proper boundary line between adjoining properties.

**House Bill 2005**  
**Effective:** 9-1-07

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

House Bill 2005 amends provisions of the Civil Practice and Remedies Code that give certain volunteer health care providers immunity from civil liability for actions taken on behalf of a charitable organization to extend such immunity to a physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant who is either licensed in Texas or retired and eligible to provide health care services under state law.

**House Bill 2010**  
**Effective:** 9-1-07

**House Author:** Rose  
**Senate Sponsor:** Watson

House Bill 2010 amends the Civil Practice and Remedies Code to provide that a district court has original jurisdiction of a proceeding seeking a declaratory judgment if the party seeking declaratory relief is a business organized under state law or otherwise owned by a Texas resident or is a registered Texas retailer and the responding party is an official of another state who asserts a claim that the party seeking relief is required to collect sales or use taxes for that state based on conduct of the business occurring wholly or partially in Texas. The bill provides that the business is entitled to declaratory relief if the required collection and remittance of such taxes constitutes an undue burden on interstate commerce under federal law and requires the court, in determining whether to grant the relief, to consider the factual circumstances of the business's operations that gave rise to the other state's demand and other courts' decisions interpreting the federal law.

**House Bill 2056**  
**Effective:** 9-1-07

**House Author:** Homer  
**Senate Sponsor:** Whitmire

House Bill 2056 amends the Government Code to make provisions for a civil penalty for violations of the law governing the Texas Historical Commission applicable also to violations of the Antiquities Code of Texas and to require a court to award certain expenses to the attorney general if the attorney general substantially prevails in an action to recover a civil penalty under the provisions.

**House Bill 2117**  
**Effective:** 6-15-07

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

House Bill 2117 amends the Civil Practice and Remedies Code to clarify that the provision exempting a person from liability in civil damages relating to emergency care the person administered in good faith, unless wilfully or wantonly negligent, includes a person who administers emergency care using an automated external defibrillator or as a volunteer who is a first responder.

**House Bill 2566**  
**Effective:** 9-1-07

**House Author:** Madden  
**Senate Sponsor:** Carona

House Bill 2566 amends the Civil Practice and Remedies Code to prohibit an inmate or certain persons filing on behalf of an inmate from filing specified instruments relating to real or personal property that are recorded in a court or filing office unless the document includes a statement indicating that the document is being filed by an inmate or on behalf of an inmate. The bill amends the Government Code to create a presumption that a document or instrument filed in a court or with the secretary of state purporting to create a lien or assert a claim against real or personal property that is filed by an inmate or on behalf of an inmate is fraudulent. The bill sets out conditions under which the presumption can be rebutted.

**House Bill 3281**  
**Effective:** Vetoed

**House Author:** King, Phil et al.  
**Senate Sponsor:** Duncan

House Bill 3281 amends the Civil Practice and Remedies Code to specify that the provision limiting the recovery of medical or health care expenses in certain civil actions to the amount actually paid or incurred by or on behalf of the claimant applies only to a health care liability claim and does not apply to a claim for future medical or health care expenses.

Reason Given for Veto: "House Bill No. 3281 would reverse Texas' sweeping lawsuit reforms passed in 2003 that reasonably limited the amount of medical bills a plaintiff could recover to the amount actually paid or incurred by the individual or their insurer.

"This bill would permit an individual in a personal injury lawsuit (other than a medical malpractice claim) to recover more money for medical expenses than actually was or will be paid. This would be done by allowing a person to submit bills that are higher than those actually paid to health care providers. For example, if this bill became law, an individual who was billed \$20,000 by a hospital, but whose insurance company negotiated the bill down to an actual amount paid of \$12,000, could still submit the original \$20,000 bill to the jury as if their insurance company actually paid that amount. This would deceive the jury as to the true amount of actual medical damages.

"Our civil justice system holds a defendant accountable for economic damages caused, including medical bills. A person should not be allowed to recover, and a defendant should not be required to pay, an inflated amount of actual medical costs. If a defendant has caused damage in addition to medical expenses, those damages should be addressed and recovered under the rules of our civil justice system, rather than inflating medical bills to cover them.

"Proponents of this bill argue it would reverse the "collateral source" rule, which prevents defendants from introducing evidence that an insurance company, rather than the individual, paid all or a portion of the medical bills. This is not true. Nothing in Section 41.0105 allows a defendant to introduce this evidence or hinders an individual's ability to recover the amount of the medical bills paid by their insurance company.

"The purpose of damages in a civil lawsuit is to make an injured individual whole by reimbursing the actual amount they have been deprived by the defendant's actions. It should not be used to artificially inflate the recovery amount by claiming economic damages that were never paid and never required to be paid.

"The bill contains a second provision, which correctly restates that Texas' tort reform law does not prevent a person in a lawsuit from recovering damages for future medical bills caused by their injury. On its own, this provision would have been acceptable."

**Senate Bill 699**  
**Effective:** 9-1-07

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

Senate Bill 699 amends the Civil Practice and Remedies Code to require each party or the party's attorney in a civil action in a district, county, or statutory county court to include in the initial pleading the last three numbers of the party's driver's license number and the last three numbers of the party's social security number, if available. The bill allows the court to order

that an initial pleading be amended to include the identifying information and to find a party in contempt if the party does not amend the pleading as ordered by the court. Senate Bill 699 amends the Property Code to require, among other provisions, that an abstract judgment show the last three numbers of the defendant's driver's license and social security number, if available.

**Senate Bill 763**

**Effective:** 9-1-07

**Senate Author:** Duncan

**House Sponsor:** King, Phil

Senate Bill 763 amends the Civil Practice and Remedies Code to remove the requirement that an affidavit in evidence to prove expense in a civil action or to controvert a claim for such expense be filed with the court clerk.

**Senate Bill 791**

**Effective:** 9-1-07

**Senate Author:** Williams

**House Sponsor:** Eiland

Senate Bill 791 amends the Civil Practice and Remedies Code to include an oyster as a common consumer product that is inherently unsafe for personal consumption and for which a manufacturer or seller is not liable in a products liability action.

**Senate Bill 1269**

**Effective:** 9-1-07

**Senate Author:** West, Royce

**House Sponsor:** Strama

Previous law required the payment of certain costs in addition to actual damages in a suit brought by an injured party against a clerk, sheriff, or other officer for refusing or neglecting to perform certain duties required of that officer by state rule or law. Senate Bill 1269 amends the Civil Practice and Remedies Code, Government Code, and Local Government Code to provide that the officer and the officer's sureties are liable only for actual damages in such cases and that the burden of proof is on the injured party to show the action occurred and the actual value of the claimed injury or loss. The bill limits such a party to seeking either actual damages or contempt sanctions against the officer; authorizes the court to fine the officer between \$10 and \$100 with costs, for contempt, after notifying the officer of the motion; clarifies the determination of good faith in relation to an officer's execution or attempted execution of a writ; and specifies that this provision does not create a cause of action against an officer for a writ of execution on a judgment. The bill establishes venue requirements, filing deadlines, and grounds for defense in connection with such a suit. The bill allows a county to pay a judgment against the officer under certain conditions and provides in such a situation that the officer or county has a right of subrogation against the debtor or person against whom the writ was issued. The bill allows an officer who files a return of writ containing an error to file an amended or corrected return, provides that the officer may be subject to contempt for failing to do so, and removes a provision holding the officer and sureties liable for certain costs for filing a false return. In addition, Senate Bill 1269 sets out specific responsibilities and procedures for an officer processing a writ, and adds provisions relating to the liability of an officer's surety and the actions that may be taken against the surety in such a lawsuit involving the officer.

**Senate Bill 1288**

**Effective:** 6-15-07

**Senate Author:** Van de Putte

**House Sponsor:** Thompson

Senate Bill 1288 amends the Civil Practice and Remedies Code to provide that, if the defendant required to execute a bond in a suit to abate a common nuisance is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is prostitution or the promotion or compelling of prostitution, the bond must also be conditioned that the defendant will, in each of the defendant's lodging units on the premises that

are the subject of the suit, post in a conspicuous place near the posted room rate information required by law an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

**Senate Bill 1413**  
**Effective:** 9-1-07

**Senate Author:** Hinojosa  
**House Sponsor:** Gonzales

Senate Bill 1413 amends the Government Code and the Civil Practice and Remedies Code to increase the amount of a judgment that may be appealed or removed from a justice court from \$20 to \$250.

**Senate Bill 1781**  
**Effective:** 6-15-07

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

Senate Bill 1781 amends the Civil Practice and Remedies Code to reduce from four years to two years the period during which a person with a right of action for the recovery of real property conveyed by an instrument with a technical defect must bring suit and makes this provision applicable to a person with an interest in such property. The bill provides that an instrument affecting real property that contains a technical defect in the certificate of acknowledgment and that has been properly filed for record for more than two years is considered lawfully recorded and is notice of the existence of the instrument as of the filing date.

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

- House Bill 3210 - Courts
- Senate Bill 300 - Property Interests and Housing
- Senate Bill 749 - Courts
- Senate Bill 1244 - Courts



# Corrections

This chapter covers legislation relating to correctional, juvenile, and rehabilitation facilities, jails, incarcerated individuals, community supervision, parole, the Texas Department of Criminal Justice, and the Texas Youth Commission. Bills relating to correctional officer compensation and employment issues are in the **Public Officials and Employees** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 44

**Effective:** Vetoed

**House Author:** Hodge et al.

**Senate Sponsor:** Uresti

House Bill 44 amends the Government Code to authorize the Texas Department of Criminal Justice to restore an inmate's good conduct time forfeited due to commission of an offense or violation of a rule unless the inmate is serving a sentence for certain felony offenses.

Reason Given for Veto: "House Bill No. 44 would allow the Texas Department of Criminal Justice to restore forfeited good conduct time to an inmate while imprisoned. Current statute gives the department the discretion to forfeit all or part of an inmate's good conduct time credits if an inmate commits an offense or violates a department rule. That is sufficient discretion.

"Providing an additional discretionary opportunity does nothing to protect public safety. Indeed, this bill could endanger public safety by triggering early release of convicted felons who act out in prison."

### House Bill 47

**Effective:** Vetoed

**House Author:** Hodge et al.

**Senate Sponsor:** Hinojosa

House Bill 47 amends the Government Code to authorize the Texas Department of Criminal Justice to establish a policy to provide in-cell education to an inmate confined in administrative segregation if the inmate would benefit from the education and the education could be provided in a safe manner that does not pose a threat to any department staff or other inmate.

Reason Given for Veto: "By permitting the Texas Department of Criminal Justice (TDCJ) to establish a policy to provide in-cell education to certain offenders confined in administrative segregation, House Bill No. 47 would run counter to the purpose of administrative segregation, divert important education resources from other offenders, and highlight concerns the legislature has with educating offenders in administrative segregation.

"Administrative segregation is generally used to punish offenders who are serious behavior problems. Offenders in administrative segregation lose a number of privileges, including participation in educational or vocational classes. I think it is important to remember why offenders are in administrative segregation and to be judicious in how privileges are returned to those offenders.

"In addition, TDCJ estimates that implementation would require additional positions and supplies at a total annual cost of \$2,736,782. I believe these funds are better spent on rehabilitating other, non-violent offenders.

"Finally, it is worth comparing the provisions of the bill with the TDCJ budget rider that prohibits in-cell tutoring for offenders in administrative segregation. While I appreciate the distinction between these programs, it indicates to me that the legislature also has reservations about certain types of in-cell education for offenders in administrative segregation.

"I hope the Board of Criminal Justice and the legislature will consider this matter further because there are some in administrative segregation, like those offenders who are there for their own protection, who should have access to education. Yet, providing education to offenders in administrative segregation must always be balanced against the reason we have administrative segregation."

**House Bill 198**

**Effective:** 6-15-07

**House Author:** Madden

**Senate Sponsor:** Deuell

House Bill 198 amends the Government Code to increase from 1,000 to 1,150 the cap on the average daily inmate population held at a private or county secure correctional facility under contract with the Texas Board of Criminal Justice. The bill also increases from 4,580 to 5,580 the total number of inmate beds for which the board is allowed to contract with private vendors or counties.

**House Bill 199**

**Effective:** 9-1-07

**House Author:** Madden et al.

**Senate Sponsor:** Whitmire et al.

House Bill 199 amends the Government Code to require the Texas Department of Criminal Justice to implement a residential infant care and parenting program for mothers who are confined by the department. The bill requires the department to model the program on a federal program operated under contract in Fort Worth.

**House Bill 432**

**Effective:** 9-1-07

**House Author:** Madden

**Senate Sponsor:** Seliger

House Bill 432 amends the Government Code to create an exception to the prohibition on the sale of arts and crafts to the general public by an inmate if such items are sold in a manner authorized by the Texas Department of Criminal Justice.

**House Bill 433**

**Effective:** 9-1-07

**House Author:** Madden

**Senate Sponsor:** Seliger

House Bill 433 amends the Code of Criminal Procedure to provide that certain confidentiality provisions do not prohibit the inspector general of the Texas Department of Criminal Justice from disclosing the identifying information of a victim of a sexual offense who has chosen a pseudonym through a program in the office of the attorney general to an employee of the department if the victim is an inmate or state jail defendant confined in a department facility. The bill makes such disclosure an exception to the offense of unauthorized disclosure of identifying information about a victim of a sexual offense who is younger than 17 years of age and who has chosen a pseudonym.

**House Bill 434**

**Effective:** 6-15-07

**House Author:** Madden

**Senate Sponsor:** Whitmire

House Bill 434 amends the Code of Criminal Procedure to transfer the authority to appoint enforcement officers of the Texas Department of Criminal Justice from the executive director of the department to the inspector general.

**House Bill 914**

**Effective:** 6-15-07

**House Author:** Madden et al.

**Senate Sponsor:** Hinojosa

House Bill 914 amends the Human Resources Code to establish the office of inspector general in the Texas Youth Commission (TYC) to investigate crimes committed by TYC employees, including parole officers employed by or under contract with the TYC, and crimes committed in TYC facilities, including contract facilities. The bill authorizes the executive commissioner to select a chief inspector general, who may only be discharged for cause, and sets out the duties of the chief inspector general.

**House Bill 1111**  
**Effective:** 6-15-07

**House Author:** Turner  
**Senate Sponsor:** Uresti

House Bill 1111 amends the Human Resources Code to require the Texas Youth Commission to keep records that show certain information relating to children committed to the commission's care who are participating in research programs or studies and to submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislature on information in the records.

**House Bill 1780**  
**Effective:** 5-25-07

**House Author:** Harless  
**Senate Sponsor:** West, Royce

House Bill 1780 amends the Government Code to conform the number of audits of the county jail's commissary that a county auditor is required to provide to the Commission on Jail Standards with the number of audits that the auditor is required to perform under the Local Government Code.

**House Bill 1944**  
**Effective:** 6-15-07

**House Author:** Coleman  
**Senate Sponsor:** Ellis

House Bill 1944 amends the Code of Criminal Procedure and the Government Code to create the position of ombudsperson appointed by the Texas Board of Criminal Justice to coordinate the Texas Department of Criminal Justice's efforts to eliminate the occurrence of sexual assault in correctional facilities. The bill sets out the powers and duties of the ombudsperson and requires the department to adopt policies to administer related programs in each facility by December 1, 2008. The ombudsperson is required to submit an annual report of the activities of the office, with the first report due January 1, 2009. House Bill 1944 preserves the unimpaired authority of the state auditor, as it relates to the operation of the ombudsperson and the office of the inspector general, to fully and timely audit, investigate, and review matters of the department.

**House Bill 2103**  
**Effective:** Vetoed

**House Author:** Kolkhorst et al.  
**Senate Sponsor:** Ogden

House Bill 2103 amends the Education Code to require the Texas Higher Education Coordinating Board to establish the Correctional Officer Loan Repayment Assistance Pilot Program to provide repayment assistance for tuition and fees related to junior-level and senior-level coursework at Sam Houston State University undertaken by certain correctional officers.

Reason Given for Veto: "House Bill No. 2103 would provide student loan repayment assistance for correctional officers who take junior-level and senior-level courses at Sam Houston State University and fulfill certain other requirements.

"Although correctional officers are needed across the state, this bill would limit them to attending only one specified university to achieve the intended benefit.

"Furthermore, the state currently funds 19 financial aid programs; five of these are major financial aid programs and the other 14 target small groups of students. If the legislature funds the five major programs adequately, as I set forth in my 2008-2009 budget proposal, then we should not need other programs. It is more cost effective for the Higher Education Coordinating Board and the institutions to administer a few large programs rather than many small programs."

**House Bill 2389**

**Effective:** 6-15-07

**House Author:** Madden

**Senate Sponsor:** Deuell

House Bill 2389 amends the Government Code and the Family Code to authorize a minor in the custody of the Texas Department of Criminal Justice to consent to medical, dental, psychological, and surgical treatment, except if the treatment involves an abortion.

**House Bill 2990**

**Effective:** Vetoed

**House Author:** Madden

**Senate Sponsor:** Seliger

House Bill 2990 amends the Government Code to require the Texas Department of Criminal Justice to ensure that any correctional facility, other than a municipal jail, whose construction begins on or after September 1, 2007, be equipped with electronic monitoring and tracking systems to ensure the safety of certain inmates, employees, contractors, and visitors. The department is authorized to retrofit older correctional facilities, other than a municipal jail, with such electronic monitoring and tracking systems.

Reason Given for Veto: "House Bill No. 2990 directs the Texas Department of Criminal Justice (TDCJ) to include an electronic monitoring and tracking system to monitor the physical location and safety of inmates, employees, third-party vendors, and visitors in any correctional facility designed and built after September 1, 2007.

"While I believe that an electronic monitoring and tracking system has merit, I do not believe it should be required by law, especially when funds were not specifically appropriated as part of the bond funds that the TDCJ may be able to utilize for prison construction, if approved by the voters.

"A better approach is to have the TDCJ evaluate how an electronic monitoring and tracking system might improve its operations and safety as part of the construction design process. I direct the Texas Board of Criminal Justice to ensure that this evaluation occurs."

**House Bill 3295**

**Effective:** 6-15-07

**House Author:** Driver

**Senate Sponsor:** Williams

House Bill 3295 amends the Government Code to provide that a person in custody of the Texas Department of Criminal Justice may not be held past the person's release date if the person fails or refuses to provide a DNA sample. However, the department is authorized to take administrative action, including loss of good conduct time, against a person who refuses to provide a sample. The bill adds certain persons who are required to provide a DNA sample under court order to the list of individuals whose records may be included in the statewide DNA database. The bill specifies that a disclosure of information in a DNA record is an offense only if the disclosure is made to an unauthorized recipient.

**House Bill 3309**

**Effective:** 6-15-07

**House Author:** Bolton et al.

**Senate Sponsor:** Hinojosa

House Bill 3309 amends the Human Resources Code to require the Texas Youth Commission to allow certain advocacy and support groups to provide on-site information, support, and other services to children confined in a commission facility.

**House Bill 3736**

**Effective:** 6-15-07

**House Author:** McReynolds

**Senate Sponsor:** Hinojosa

House Bill 3736 amends the Government Code to require the Texas Department of Criminal Justice to establish maximum caseload guidelines for each parole officer, and it sets forth a maximum caseload for each type of case. If the department is unable to meet the caseload guidelines, it is required to submit a report to the Legislative Budget Board at the end of each fiscal year that states the amount of money it would need to meet the guidelines.

**Senate Bill 103**  
**Effective: 6-8-07**

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

Senate Bill 103 amends provisions of the Code of Criminal Procedure, Government Code, Human Resources Code, Health and Safety Code, Family Code, and Penal Code relating to the juvenile justice system, including the Texas Youth Commission (TYC). The bill restricts a juvenile court from committing a youth to TYC for a misdemeanor crime or for violation of misdemeanor probation and requires a youth committed to TYC before June 8, 2007, based on a misdemeanor offense, to be discharged from TYC by the youth's 19th birthday. The bill requires a juvenile board in certain populous counties to implement by January 1, 2008, a community-based program in which a youth with multiple offenses may be required to participate by the juvenile court. The Texas Juvenile Probation Commission must establish guidelines and provide grants for the community-based programs and must report to the governor and legislature on the implementation, effectiveness, and cost of the programs.

Senate Bill 103 prohibits TYC from housing, except for short-term assessment and orientation, a youth younger than 15 years of age in the same dormitory as a person who is 17 years of age or older unless TYC determines the placement is necessary for the safety of the youth. TYC is required to consider the proximity of the residence of a youth's family in determining in which TYC facility to place the youth. The bill requires TYC to establish a minimum length of stay for each youth who is committed without a determinate sentence. TYC is required to perform certain medical, treatment history, psychological, and psychiatric examinations on youths as soon as possible after commitment and to perform certain reexaminations to determine if the rehabilitation plan should be modified or continued. Senate Bill 103 also sets out a parent's bill of rights and requires TYC to assign a caseworker to each committed youth to perform enumerated duties relating to the offender and the offender's family.

Senate Bill 103 requires TYC to develop a reentry and reintegration plan for each youth in custody to ensure continuity of care from entry to final discharge. The bill also requires TYC to establish a panel to determine whether a youth who has served the minimum length of stay should be discharged, released under supervision, or have the stay in TYC custody extended, and sets out provisions relating to panel membership, procedures, and certain statistical reports. The bill requires TYC to establish a process by which certain persons may request reconsideration of an extension of stay order issued by the panel. Senate Bill 103 lowers the age at which a youth must be either released or transferred for confinement in the Texas Department of Criminal Justice from 21 years of age to 19 years of age. The bill requires TYC to evaluate a youth serving a determinate sentence who has not been transferred to TDCJ before the youth's 18th birthday to determine if the youth is in need of additional services that could be completed within a six-month period after the youth's 18th birthday to prepare the youth for release or transfer. The bill stipulates that a determinate sentenced offender must receive credit for time served in detention before commitment to TYC and credit for time served in TYC before transfer to TDCJ.

Senate Bill 103 modifies the management structure of TYC to replace the governing board with an executive commissioner, who is appointed by the governor subject to senate confirmation and advised by a newly formed nine-member advisory board, whose members are appointed by the governor, lieutenant governor, and speaker of the house. This structure is in effect until September 1, 2009, after which time TYC will be governed by a seven-member board, whose members are appointed by the governor subject to senate confirmation. Rights, duties, and qualifications of the temporary executive commissioner and advisory board, as well as the governing board, are set out in the bill.

Senate Bill 103 establishes the office of inspector general in TYC to investigate crimes committed by TYC employees, including parole officers employed by or under contract with TYC, and crimes committed in TYC facilities, including contract facilities. The bill authorizes the executive commissioner to select a chief inspector general, who may only be discharged for cause, and sets out the duties of the chief inspector general. Senate Bill 103 expands the audit authority of the state auditor to include the entire commission, rather than only the financial transactions, and authorizes the state auditor to provide assistance to and work with the office of the inspector general as appropriate. Additionally, TYC is required to regularly conduct internal audits of its correctional facilities and the provision of medical services and to make certain reports to the Joint Select Committee on the Operation and Management of TYC. A permanent toll-free number must be established by TYC for the purpose of receiving any information concerning the abuse, neglect, or exploitation of children in custody and a chaplain must be employed or formally designated for certain facilities.

Senate Bill 103 institutes an independent special prosecution unit that cooperates with and supports prosecuting attorneys in prosecuting offenses committed on TYC or TDCJ property or by or against a person in custody of TYC or TDCJ while the person is performing a duty away from the agency's property. The bill provides that the county be reimbursed by the state for certain prosecutorial expenses in such cases and authorizes the office of the attorney general to offer assistance in the prosecution of criminal offenses concerning TYC. The bill sets out provisions designating cooperation between a local prosecutor, a grand jury, the special prosecution unit, the office of the inspector general, and the executive commissioner relating to certain allegations, including the alleged physical or sexual abuse of a youth in TYC custody or an investigation related to the alleged abuse. The executive commissioner is required to immediately file a complaint with the appropriate law enforcement agency if the commissioner has reasonable cause to believe that a youth in custody is the victim of a crime committed at a TYC facility.

Senate Bill 103 sets out training and assignment standards for juvenile correctional officers and requires TYC to maintain a ratio of not less than one officer performing direct supervisory duties for every 12 youths. The bill also requires the executive commissioner to do criminal background checks on each TYC volunteer, employee, or direct delivery service provider, and on any person who has access to TYC records. The bill provides that TYC employees are at-will employees and requires the commission to establish certain employee grievance and disciplinary action procedures. TYC is required to adopt a zero-tolerance policy concerning the detection, prevention, and punishment of sexual abuse, including consensual sexual contact, of juveniles in TYC custody and to establish a procedure for a youth in custody and a TYC employee to report such incidents. Senate Bill 103 also enhances the punishment for the offense of improper sexual activity with a person in custody to a second degree felony if the offense is committed against a juvenile offender. The bill also requires TYC to allow certain advocacy and support groups to provide on-site services to youths committed to TYC.

Senate Bill 103 sets out provisions relating to the operation, inspection, and registration of pre-adjudication and post-adjudication secure detention facilities.

Senate Bill 103 creates the Office of Independent Ombudsman of TYC as a state agency to investigate, evaluate, and secure the rights of youths committed to TYC, including youths released under supervision before final discharge, and provides that the independent ombudsman is appointed by the governor subject to senate approval.

**Senate Bill 453****Effective:** 5-26-07**Senate Author:** Ellis**House Sponsor:** Davis, Yvonne et al.

Senate Bill 453 amends the Government Code to require the Texas Department of Criminal Justice to maintain the confidentiality of an inmate's HIV test results at all times, including following the inmate's discharge, release from state jail, or release on parole or mandatory supervision. The bill expands the occasions on which the department must test an inmate for HIV to include during the diagnostic process, if the department does not have a record of a positive test result for the inmate.

**Senate Bill 839****Effective:** 9-1-07**Senate Author:** Duncan**House Sponsor:** Madden

Senate Bill 839 amends the Health and Safety Code and Government Code to clarify which agencies may exchange medical information about persons under the care of the criminal justice system who have a mental impairment or who are elderly, physically disabled, terminally ill, or significantly ill for the purpose of ensuring continuity of care and services. The bill sets out confidentiality provisions for the management of confidential information exchanged and makes it a Class B misdemeanor for a person to release or disclose certain confidential information obtained for purposes of continuity of care and services, except as authorized by law.

**Senate Bill 909****Effective:** 6-15-07**Senate Author:** Whitmire**House Sponsor:** Madden et al.

Senate Bill 909 amends provisions of the Code of Criminal Procedure, Government Code, Health and Safety Code, Human Resources Code, Occupations Code, and Transportation Code relating to the continuation and functions of the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and the Correctional Managed Health Care Committee (CMHCC), and to the functions of the Board of Pardons and Paroles. In addition to across-the-board sunset provisions, the bill provides that the board, the department, and CMHCC are to be continued until September 1, 2011. The bill defines what constitutes compliance with recommendations made by the Sunset Advisory Commission for the department, CMHCC, The University of Texas Medical Branch at Galveston (UTMB), and the Texas Tech University Health Sciences Center (TTU).

Senate Bill 909 establishes the six-member Criminal Justice Legislative Oversight Committee to provide objective research, analysis, and recommendations to help guide state criminal justice policy.

Senate Bill 909 requires the department to:

- adopt a zero-tolerance policy concerning the detection, prevention, and punishment of sexual abuse, including consensual sexual contact, of inmates and establish procedures for reporting such abuse
- establish a screening and education program in its facilities relating to fetal alcohol exposure during pregnancy
- compensate employees for overtime in the same month the overtime is earned

The bill authorizes department employees who are granted law enforcement authority to assist municipal, county, state, or federal law enforcement officers in certain emergency situations and prohibits the exemption of any department employee from the requirements imposed under the sex offender treatment provider license. The bill increases from 500 to 700 the number of inmates who may participate in a private contract work program and requires such a contract to pay at least the federal minimum wage.

Senate Bill 909 requires the department to conduct:

- a study on using electronic monitoring devices for people on parole
- a study on alternatives to incarceration for certain low-risk and foreign inmates
- a feasibility study for the relocation of the Central Prison Unit and adjoining prison housing

Senate Bill 909 specifies the department's responsibility relating to the provision of health care, including monitoring the quality of care delivered by the health care providers and requiring the health care providers to take corrective action if the care provided does not meet certain expectations. The bill requires the department to ensure that certain correctional health care information is available to inmates and the public. Senate Bill 909 modifies the duties of CMHCC, including requiring the committee to:

- develop statewide policies on the delivery of correctional health care
- monitor the expenditures of UTMB and TTU
- identify and address the long-term needs of the correctional health care system
- report each quarter to the board on certain financial matters and corrective actions

Senate Bill 909 provides for a legislative appropriation request and budget structure for the Board of Pardons and Paroles (BPP) that is separate from the department's request and budget structure and requires the establishment of a salary career ladder for parole officers. The bill requires BPP to ensure that the parole guidelines require consideration of an inmate's progress in any program in which the inmate participated while incarcerated, annually review and update the guidelines, and report to the legislature its efforts in applying the guidelines. Senate Bill 909 provides that the department may not prohibit a parole panel from or request that a parole panel refrain from requiring an inmate to complete a department treatment program before being released on parole.

Senate Bill 909 modifies the procedure by which certain releasees may be released early from supervision by requiring a parole officer annually to identify eligible releasees and determine if a recommendation for early release is appropriate. The bill requires the division to release the person from supervision if the parole supervisor approves the officer's recommendation for release. The bill adds that a releasee must not have committed any violation of the rules or conditions of release during the preceding two years as a criteria to be eligible for early release.

Senate Bill 909 expands the group of offenders for whom the judge is given discretion to either suspend the imposition of a sentence and place a defendant on community supervision or to order the sentence executed to include a defendant who was placed on deferred adjudication community supervision for certain state jail felonies. The bill authorizes a judge, under specified conditions, to release to a medically suitable placement certain elderly, mentally fragile, or physically fragile defendants convicted of a state jail felony and to take certain action if a defendant so released violates the terms of release. Senate Bill 909 authorizes a judge to order a defendant to make a specified donation to a food bank or food pantry in lieu of completing community service hours. The bill requires that community supervision fees are transferred to the court into whose jurisdiction a defendant on community supervision is transferred.

**Senate Bill 1580**

**Effective:** 5-15-07

**Senate Author:** Van de Putte

**House Sponsor:** Haggerty et al.

Senate Bill 1580 amends the Government Code to require the Texas Board of Criminal Justice to award a contract to a single private vendor to provide pay telephone services to eligible inmates by September 1, 2008. Mandatory contract provisions are set forth, including provisions that



the vendor will be responsible for installing, operating, and maintaining the service without any cost to the state and must pay the Texas Department of Criminal Justice a commission of not less than 40 percent of the gross revenue received from the use of the service. The department is required to transfer 50 percent of all commissions received from the vendor to the compensation to victims of crime fund and the other 50 percent to the general revenue fund, except that the first \$10 million of the commissions collected each year must go to the compensation to victims of crime fund. The department is required to adopt policies governing the use of the service by inmates, ensure that an inmate is allowed to communicate only with persons on a pre-approved list, and maintain recordings of inmate conversations for law enforcement and security purposes. The department is also required to ensure that no confidential attorney-client communication is monitored or recorded.

## Community Supervision and Parole

### House Bill 309

**Effective:** 6-15-07

**House Author:** Truitt et al.

**Senate Sponsor:** Brimer

House Bill 309 amends the Government Code to provide that the nearest blood relative of a deceased victim is entitled to be notified of a parole hearing for an inmate who is serving a sentence for an offense against the deceased victim if other enumerated close relatives are deceased or incapacitated.

### House Bill 312

**Effective:** 9-1-07

**House Author:** Turner

**Senate Sponsor:** Whitmire

House Bill 312 amends the Code of Criminal Procedure to shift the burden of proof in a revocation hearing at which it is alleged only that the defendant violated the conditions of community supervision by failing to pay certain court-ordered payments from the defendant proving that the defendant is unable to pay, to the state proving that the defendant is able to pay and did not pay. The bill deletes language that included restitution and reparation in the enumerated court-ordered costs, the nonpayment of which could subject a defendant to a revocation hearing.

### House Bill 429

**Effective:** 9-1-07

**House Author:** Madden

**Senate Sponsor:** Deuell

House Bill 429 requires the Texas Department of Criminal Justice to conduct a study to determine the number of inmates 55 years of age and older who receive health care services from the department and who have not committed certain violent, sexual, or controlled substance offenses and the amount of savings in health services costs that would result if such inmates were released on parole. The department is to report the results of the study to the legislature by December 1, 2008.

### House Bill 1678

**Effective:** 9-1-07

**House Author:** Madden et al.

**Senate Sponsor:** Whitmire

House Bill 1678 amends provisions of the Code of Criminal Procedure and Local Government Code relating to the system of community supervision. The bill requires a judge in a criminal case to credit against a defendant's sentence the time the defendant has spent in specified substance abuse treatment facilities or certain other court-ordered residential programs or facilities if the defendant successfully completes the program at the facility. The bill expands the

scheme under which the period of community supervision is determined to include a maximum five-year period for certain third-degree felony property offenses and third-degree felony offenses under the Controlled Substances Act.

For the purpose of determining whether a defendant's community supervision should be reduced or terminated, House Bill 1678 requires a judge, after notifying the prosecutor, to review a defendant's record on completion of one-half of the original community supervision period or two years, whichever is more, unless the defendant is delinquent in paying restitution, fines, costs, or fees that the defendant has the ability to pay, or unless the defendant has not completed court-ordered counseling or treatment. The bill expands the category of defendants eligible for such review to include a defendant convicted of a state jail felony. The bill modifies a judge's authority to extend the period of community supervision to require a showing of good cause for an extension.

House Bill 1678 prohibits a person convicted of murder from receiving jury-recommended community supervision. The bill makes community service as a condition of community supervision discretionary, rather than mandatory, and removes from the schedule of community service hours the minimum number of community service hours to be served for each offense level.

**House Bill 2611**  
**Effective:** 9-1-07

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

House Bill 2611 amends the Government Code to provide that an inmate who is a sex offender is eligible for medically recommended intensive supervision if, among other conditions, the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the Managed Health Care Committee, identifies the inmate as being in a persistent vegetative state or a person with an organic brain syndrome with significant to total mobility impairment.

**House Bill 3200**  
**Effective:** Vetoed

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

House Bill 3200 amends the Government Code to revise the funding formula used by the community justice assistance division of the Texas Department of Criminal Justice to fund community supervision and corrections departments. The revised funding formula based on a per diem amount for each offender must include:

- a higher per capita rate for a felon who is in the earlier years of community supervision than for a felon who is serving the end term of supervision
- penalties in per capita funding with respect to a felon whose probation has been revoked for a technical violation
- awards in per capita funding with respect to a felon who is released from supervision early

House Bill 3200 amends the Code of Criminal Procedure to provide that community supervision fees are transferred to the court into whose jurisdiction a defendant on community supervision is transferred.

Reason Given for Veto: "House Bill No. 3200 would revise the funding formula that the Texas Department of Criminal Justice uses to fund community supervision and correction (probation) departments. This bill is problematic because the revised funding formula provides penalties for each felony defendant whose community supervision is revoked due to a "technical violation." Yet, there is no statutory definition of what constitutes a "technical violation." Just as important, there is no guidance in the bill as to how much of a funding penalty should be applied for these technical violations. Thus, we risk creating a system that has perverse financial incentives which undermine the purpose of probation itself.

“I encourage both the Legislature and the Board of Criminal Justice to continue looking at ways we can improve the probation funding formula.”

**Senate Bill 166**

**Effective:** 6-15-07

**Senate Author:** West, Royce

**House Sponsor:** Madden

Senate Bill 166 amends the Government Code to require the Community Justice Assistance Division of the Texas Department of Criminal Justice to provide grants to community supervision and corrections departments for the implementation of a system of progressive sanctions designed to reduce the revocation rate of defendants placed on community supervision. The bill sets out priorities and preferences for awarding the grants and requires a report regarding the effectiveness and cost-benefit of programs that receive the grants.

**Senate Bill 230**

**Effective:** 6-16-07

**Senate Author:** Harris

**House Sponsor:** Dutton

Senate Bill 230 amends the Code of Criminal Procedure to specify that the school district or school official who must be notified about a transferring or returning student who is on parole or probation is the superintendent of a public school district or the superintendent's designee, and the principal of a private school or the principal's designee.

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

House Bill 541 - Criminal Justice

House Bill 770 - Elections

House Bill 2566 - Civil Remedies and Procedures



## Courts

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

### General

#### **House Bill 368**

**Effective:** 9-1-07

**House Author:** Hartnett

**Senate Sponsor:** Watson

Previous law authorized the Judicial Committee on Information Technology to administer a judicial technology account within the judicial fund to provide technological support for the judiciary. House Bill 368 amends the Government Code to repeal this law and authorize the Office of Court Administration to award a grant of money to a local or state governmental entity in the judicial branch of local or state government to fund programs, approved by the Judicial Committee on Information Technology, that provide technological support for the judiciary. The bill requires the office to file with the Legislative Budget Board a report on the amount, recipient, and purpose for each grant awarded and subjects all money under the grant to audit by the comptroller and the state auditor. In addition, the bill exempts the office's disposition of surplus computer equipment from restrictions regarding surplus and salvage property under current law and requires the office to give preference to the transfer of equipment to an entity in the judicial branch of local or state government.

#### **House Bill 587**

**Effective:** 9-1-07

**House Author:** Gonzalez Toureilles et al.

**Senate Sponsor:** Hinojosa

House Bill 587 amends the Code of Criminal Procedure and the Property Code to update terms used in provisions relating to the making of a criminal or civil court record to take into consideration technological advances in the making and transferring of the court record. The terms "minutes" and "docket" are replaced with the term "record."

#### **House Bill 1265**

**Effective:** 9-1-07

**House Author:** Pena

**Senate Sponsor:** Seliger

House Bill 1265 amends the Government Code to continue the collection of a \$65 legal services fee paid by members of the state bar, by deleting language that provided for the fee's expiration.

#### **House Bill 1380**

**Effective:** 9-1-07

**House Author:** McCall

**Senate Sponsor:** Watson

House Bill 1380 amends the Code of Criminal Procedure to specify that money deposited in a municipal court building security fund may be used only for security items related to municipal court buildings and that money deposited in a courthouse security fund may be used only for security items related to district, county, and justice court buildings. The bill further provides that operations of a district, county, or justice court include the activities of certain associate judges, masters, magistrates, referees, hearing officers, criminal law magistrate court judges,

and masters in chancery. The bill requires that a local administrative judge provide a written report regarding certain security incidents to the Office of Court Administration of the Texas Judicial System not later than the third business day after the date the incident occurred.

**House Bill 1518**  
**Effective:** 9-1-07

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

House Bill 1518 amends the Government Code to set forth certain circumstances under which a court reporting firm, shorthand reporting firm, or affiliate office is considered to be providing court reporting or other related services in this state.

**House Bill 2766**  
**Effective:** 6-15-07

**House Author:** Eiland  
**Senate Sponsor:** Janek

House Bill 2766 amends the Government Code to authorize the presiding judge of an administrative judicial region, with approval of the judge of the affected court, to designate an alternate location in the judicial district at which a district court, a statutory county court, or a county court may conduct its proceedings if the district court is located in a first tier or second tier coastal county and is unable to conduct its proceedings in a county seat because of a disaster. The bill also provides similar authority to the presiding judge of the statutory probate courts to designate an alternate location for a statutory probate court located in a first tier or second tier coastal county to conduct proceedings in the event of a disaster.

**House Bill 3199**  
**Effective:** 9-1-07

**House Author:** Hartnett  
**Senate Sponsor:** Wentworth

House Bill 3199 amends the Government Code to create the Judicial Compensation Commission, consisting of nine members appointed by the governor with the advice and consent of the senate. The bill prohibits a member of the commission from receiving compensation for the member's service, but requires the Office of Court Administration of the Texas Judicial System to reimburse a member for all actual and reasonable expenses. The bill also requires the Office of Court Administration to provide administrative support, including staff support and resources, for the commission. House Bill 3199 requires the commission to make a biennial report to the legislature recommending the proper salaries to be paid by the state for all justices and judges of certain courts and specifies some of the factors the commission must consider in making its recommendations.

**House Bill 4039**  
**Effective:** 6-15-07

**House Author:** Anderson  
**Senate Sponsor:** Averitt

House Bill 4039 amends the Government Code to allow judges of the district courts and county courts at law in McLennan County that give preference to criminal cases, with the consent and approval of the Commissioners Court of McLennan County, to appoint the number of magistrates determined by the commissioners court to perform specified duties. The bill establishes provisions relating to the qualifications, compensation, judicial immunity, and duties of such magistrates.

**Senate Bill 168**  
**Effective:** 5-22-07

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

Senate Bill 168 amends the Government Code to eliminate the expiration of the additional \$65 annual legal services fee required of each active member of the State Bar of Texas to provide legal services to the indigent.

**Senate Bill 237****Effective:** 5-11-07**Senate Author:** Shapiro**House Sponsor:** Madden

Senate Bill 237 amends the Government Code to require the Texas Supreme Court to adopt rules governing the electronic filing of documents in civil cases in justice of the peace courts not later than January 1, 2008.

**Senate Bill 343****Effective:** 9-1-07**Senate Author:** Carona**House Sponsor:** Alonzo

Senate Bill 343 amends the Code of Criminal Procedure to revise the oath taken by witnesses appearing before a grand jury to read as follows: "You solemnly swear that you will not reveal, by your words or conduct, and will keep secret any matter about which you may be interrogated or that you have observed during the proceedings of the grand jury, and that you will answer truthfully the questions asked of you by the grand jury, or under its direction, so help you God." The bill makes clarifying and conforming changes in the provision relating to sanctions for any violation of the oath.

**Senate Bill 705****Effective:** 9-1-07**Senate Author:** Lucio**House Sponsor:** Goolsby

Senate Bill 705 amends the Government Code to require the Office of Court Administration of the Texas Judicial System (OCA) annually to collect and publish a report of information regarding cases involving the trial of a capital offense, including the contents of the trial court's charge to the jury and the sentence issued in the case. The bill requires the judge or clerk of a court hearing a capital case to submit to OCA a written record of the case containing the information described above not later than the 30th day after the date the judgment of conviction or acquittal is entered.

**Senate Bill 1951****Effective:** See below**Senate Author:** Wentworth et al.**House Sponsor:** Hartnett et al.

Senate Bill 1951 amends provisions of the Government Code relating to the creation, operation, and officers of certain courts and juvenile boards. Effective on the date specified, the bill creates the 397th Judicial District in Grayson County on September 15, 2008, the 423rd Judicial District in Bastrop County on October 1, 2007, and the 429th Judicial District in Collin County on January 1, 2009.

The bill creates the following judicial districts on September 1, 2007: the 418th and 435th Judicial Districts in Montgomery County, the 444th and 445th Judicial Districts in Cameron County, the 448th Judicial District in El Paso County, the 449th Judicial District in Hidalgo County, and the 506th Judicial District in Grimes and Waller Counties. The bill requires the 418th District Court to give preference to family law matters, requires the 435th District Court to give preference to certain civil commitment proceedings and criminal cases and other matters assigned by the administrative judge, requires the 445th District Court to give preference to criminal law cases, and requires the 449th District Court to give preference to juvenile matters.

Senate Bill 1951 amends previous law to remove certain counties from existing judicial districts. The bill removes Fannin County from the 6th Judicial District and Grayson County from the 336th Judicial District on January 1, 2010. The bill removes Waller County from the 9th Judicial District and Grimes County from the 278th Judicial District on September 1, 2008, and reduces the residency requirements for appointment or election as the district attorney of the 506th Judicial District to require at least six months' residency in Grimes County in accordance

with Election Code requirements for holding public office rather than three years immediately preceding election or appointment. The bill repeals previous law that established the 155th Judicial District in Austin, Fayette, and Waller Counties.

The bill creates the El Paso County Criminal Judicial District No. 1, requires the court to give primary and secondary preference to certain cases, and provides for the terms and the seal of the court. The bill provides that the voters of Blanco, Burnet, Llano, and San Saba Counties elect a district attorney for the 33rd and 424th Judicial Districts. In lieu of monthly payments for certain qualified expenditures, the bill requires the commissioners courts of Culberson and Hudspeth Counties to pay to El Paso County the budgeted prosecution costs for the preparation and conduct of criminal affairs of the 34th Judicial District attorney's office, caps the total payment from those counties at \$90,000 per fiscal year, and includes in the budgeted costs the compensation for assistants and other employees of the district attorney, applicable to their respective counties, which compensation was paid previously by the Commissioners Court of El Paso County. The bill sets forth procedures for that district attorney's office in preparing and filing a budget and financial statement.

Previous law required the district attorney for the 105th Judicial District to serve and attend each term and session of the district courts of Kleberg and Kenedy Counties. Senate Bill 1951 amends the Government Code to create a new district attorney position for Kleberg and Kenedy Counties on September 1, 2007, to be elected by the voters of those counties. The bill provides for the powers, duties, attendance, jurisdiction, and supplemental salary of the district attorney and includes the district attorney for Kenedy and Kleberg Counties and the district attorney for the 39th Judicial District within the scope of certain statutory provisions regarding the compensation, expenses, and limitations on law practice of professional prosecutors. Effective September 1, 2008, the bill extends the application of those provisions to the district attorney for the 506th Judicial District, and effective January 1, 2009, removes the district attorney for the 278th Judicial District from their application.

The bill requires a clerk of a district court, probate court, county court at law, and justice court in Hays County to collect an additional filing fee of not more than \$15 in each civil case filed in the court to fund the construction, renovation, or improvement of Hays County court facilities, if authorized by the county commissioners court. The bill requires the judge of the 115th District Court to appoint a bailiff to serve the court only in Upshur County, provides that the bailiff must be a resident of Upshur County and at least 18 years of age, and requires the sheriff of Upshur County to deputize that bailiff on the request of the appointing judge.

Senate Bill 1951 amends the Human Resources Code to permit the Duval County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Duval County to operate together with respect to all matters and to appoint one fiscal officer to receive and disburse funds for the boards. The bill creates the Jim Hogg County Juvenile Board on September 1, 2007, provides for board members' qualifications and compensation, and provides for the appointment of an advisory council. The bill permits collaboration on all matters between the Jim Hogg County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Jim Hogg County and permits the appointment of one fiscal officer to receive and disburse the funds for the boards. The bill exempts the Jim Hogg County Juvenile Board from certain statutory provisions regarding board meetings, expenses, a fiscal officer, duties, and personnel of a juvenile board and its members.

Senate Bill 1951 amends the Human Resources Code to include the judge of the county court at law in Starr County as a member of the Starr County Juvenile Board and allow the Starr County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or



in close proximity to Starr County to operate together with respect to all matters and to appoint one fiscal officer to receive and disburse funds for the boards.

The bill amends the Government Code to repeal a provision that included the statutory probate courts of Dallas County and Harris County, except Probate Courts Nos. 1 and 3 within the scope of statutory provisions relating to a statutory probate court associate judge's appointment, compensation, termination, oath of office, powers, and jurisdiction.

Except as otherwise provided with respect to the creation or reorganization of judicial districts and the application of statutory provisions to certain district attorneys noted above, Senate Bill 1951 takes effect September 1, 2007.

## County Courts

### House Bill 421

**Effective:** 1-1-08

**House Author:** Phillips

**Senate Sponsor:** Deuell

House Bill 421 amends the Government Code to create the office of criminal district attorney of Fannin County and abolish the office of county attorney in that county. The bill provides that the criminal district attorney shall be elected by the voters of the county to a four-year term beginning January 1, 2009, on which date the office of county attorney is abolished. The bill prescribes the duties of and compensation for the office of criminal district attorney and makes the office subject to the statutory provisions applicable generally to professional prosecutors.

### House Bill 682

**Effective:** 9-1-07

**House Author:** Eissler et al.

**Senate Sponsor:** Nichols

House Bill 682 amends the Government Code to create the County Court at Law No. 5 of Montgomery County.

### House Bill 2359

**Effective:** 9-1-07

**House Author:** Hartnett

**Senate Sponsor:** Wentworth

House Bill 2359 amends the Government Code and the Local Government Code to require all statutory county probate courts to impose an additional \$40 filing fee in each probate, guardianship, mental health, or civil case filed in the respective court to be used for court-related purposes for the support of the judiciary by repealing provisions that restricted the fee's collection to the statutory probate courts in certain counties where the fee was authorized by the county commissioners court. The bill requires the fees to be submitted to the comptroller of public accounts, deposited into the judicial fund, and remitted to each county in a proportionate manner as specified if excess contributions are available. The determination and remittance of excess contributions applies beginning with the determination and remittance occurring at the end of state fiscal year 2008. The bill also requires the state to pay \$5,000 of the annual salary of a presiding judge of the probate courts in equal monthly installments from amounts deposited in the judicial fund and appropriated for that purpose and provides that the remainder of the salary and expenses is paid by the counties that have statutory probate courts.

### House Bill 2385

**Effective:** 9-1-07

**House Author:** Lucio III

**Senate Sponsor:** Hinojosa

House Bill 2385 amends the Code of Criminal Procedure to authorize a district attorney, criminal district attorney, or county attorney to collect from any defendant who participates in a pretrial intervention program offered by a county and administered in any part by the attorney's office a fee in an amount not to exceed \$500 to reimburse the county for expenses, including

expenses of the attorney's office, related to a defendant's participation in the program. The bill requires the fees to be deposited in the county treasury in a special fund to be used solely to administer the program and permits an expenditure from the fund only in accordance with a budget approved by the commissioners court.

The bill also amends the Government Code to include a supervision fee and a district attorney, criminal district attorney, or county attorney administrative fee for a pretrial intervention program in the list of fees and costs that an accused or defendant, or a party to a civil suit, as applicable, must pay if ordered by the court or otherwise required.

**House Bill 2967**  
**Effective:** 10-1-07

**House Author:** Hartnett  
**Senate Sponsor:** Watson

House Bill 2967 amends the Government Code to require a judge of a statutory probate court, before beginning the duties of office, to execute a bond in the amount of \$500,000, payable to the county treasurer or other person performing the duties of county treasurer, conditioned on the faithful performance of the duties of the office, and approved by the commissioners court of the county. The bill permits a county to elect to obtain insurance against losses caused by the judge's gross negligence in performing the duties of office in lieu of the bond and requires the commissioners court to pay the premium for the bond or insurance out of the general funds of the county.

The bill repeals a provision that exempted a judge of a statutory probate court in Bexar County from a requirement to execute a bond and a provision that required the judge of a statutory probate court in Harris County to execute a bond in the sum of \$100,000, payable as required by law.

**House Bill 3992**  
**Effective:** 10-1-07

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

House Bill 3992 amends the Government Code to clarify the names of the two statutory county courts of Parker County, designating the courts as the County Court at Law No. 1 of Parker County and the County Court at Law No. 2 of Parker County, respectively, and to provide that the statutory county courts in Parker County sit in Weatherford. The bill also updates certain references to the county court at law and the district court in Parker County to clarify that provisions regarding those courts' jurisdiction, powers, and duties apply to county courts at law and district courts in that county generally. The bill repeals previous law that provided that the district court clerk served as the clerk of a county court at law in Parker County in cases where the county courts at law and the district courts have concurrent jurisdiction.

**House Bill 4007**  
**Effective:** 6-15-07

**House Author:** Ortiz, Jr.  
**Senate Sponsor:** Hinojosa

Previous law regarding the compensation for judges of county courts at law in Nueces County cited specific courts and only required compensation for certain county courts at law. House Bill 4007 amends the Government Code to require equal compensation for all judges of county courts at law in Nueces County without regard to the specific courts over which they preside. In addition, the bill repeals provisions that previously authorized the appointment or election of a special judge for County Court at Law No. 1, 2, 3, 4, or 5 of Nueces County on the disqualification or absence of the regular judge of the respective county court at law.

**House Bill 4008**  
**Effective:** 9-1-07

**House Author:** Chavez  
**Senate Sponsor:** Shapleigh

House Bill 4008 amends the Government Code to create two additional statutory county courts at law in El Paso County, to be designated as the County Criminal Court at Law No. 3 of El Paso County, Texas, and the County Criminal Court at Law No. 4 of El Paso County, Texas. The bill requires the El Paso Council of Judges, in determining the court to which a criminal misdemeanor case is transferred, to give preference to a county criminal court at law that is required to give preference to certain cases as provided by law, and it requires the County Criminal Court No. 4 to give preference to certain cases involving family violence and assault.

**House Bill 4094**  
**Effective:** 9-1-07

**House Author:** Swinford  
**Senate Sponsor:** Seliger

House Bill 4094 amends the Government Code to provide that the fees assessed in a case filed in a county court at law in Midland County in which the county court at law has concurrent civil jurisdiction with the district court are the same as the fees that would be assessed in the district court for that case.

**House Bill 4139**  
**Effective:** 1-1-11

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

House Bill 4139 amends the Government Code to create the County Court at Law of Van Zandt County, effective January 1, 2011.

**Senate Bill 406**  
**Effective:** 9-1-07

**Senate Author:** Wentworth  
**House Sponsor:** Hartnett

Previous law required a statutory probate court judge, in a case in which a motion for the judge's recusal or disqualification was filed, either to recuse himself or herself or to request the presiding judge of the statutory probate courts to assign a judge to hear that motion. Senate Bill 406 amends the Government Code to vest responsibility for the assignment of a judge to hear the recusal motion in the presiding judge of the administrative judicial district rather than in the presiding judge of the statutory probate courts. The bill requires the presiding judge of the statutory probate courts to immediately forward the probate court judge's request to the presiding judge of the administrative judicial district, who, immediately upon receiving the request, must set a hearing before himself or herself or a judge designated by the presiding judge, except that the presiding judge may not designate a judge of a statutory probate court in the same county as the statutory probate court served by the judge who is the subject of the motion.

Senate Bill 406 also adds provisions regarding a tertiary recusal motion in a statutory probate court. The bill defines "tertiary recusal motion" and requires a judge who declines recusal after a tertiary recusal motion to comply with rules of procedure for recusal and disqualification, except that the judge continues presiding over the case and signing orders and moves the case to final disposition as though that motion had not been filed. The bill provides that the denial of a tertiary recusal motion is only reviewable on appeal from final judgment and that if a tertiary recusal motion is finally sustained, the new judge for the case shall vacate all orders signed by the sitting judge during the pendency of the motion. The bill amends the Civil Practice and Remedies Code to remove from the definition of "tertiary recusal motion" such motions filed against a statutory probate court judge.

**Senate Bill 618**  
**Effective:** 9-1-07

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

Senate Bill 618 amends the Government Code to extend the concurrent jurisdiction that county courts and small claims courts share with justice courts to include civil cases involving matters in controversy up to \$10,000, rather than \$5,000, in value. The bill also extends a justice court's original jurisdiction of civil matters in which exclusive jurisdiction is not in the district or county court to cases with amounts in controversy up to \$10,000, rather than \$5,000, in value exclusive of interest. The bill also provides that a corporation need not be represented by an attorney in justice court.

**Senate Bill 660**  
**Effective:** 1-1-08

**Senate Author:** Wentworth  
**House Sponsor:** Naishtat

Senate Bill 660 amends the Government Code to create the County Court at Law Number 8 of Travis County and to require that court to give preference to criminal cases.

**Senate Bill 1404**  
**Effective:** 9-1-07

**Senate Author:** Whitmire  
**House Sponsor:** Van Arsdale

Senate Bill 1404 amends the Government Code to grant concurrent jurisdiction over criminal cases filed in a justice court of a county with a population of 3.3 million or more, without the limitations on that concurrent jurisdiction imposed by previous law, and all other additional powers as a magistrate specified by law, to a criminal law hearing officer in that county. The removal of the limitations on concurrent jurisdiction in the justice courts permits a criminal law hearing officer to dispose of criminal cases filed in those courts by trial.

**Senate Bill 1412**  
**Effective:** 9-1-07

**Senate Author:** Hinojosa  
**House Sponsor:** Gonzales

Senate Bill 1412 amends the Government Code and the Local Government Code to increase from \$15 to \$25 the amount of the mandatory fee to be collected by a justice of the peace for services rendered by a justice court and to increase from \$10 to \$25 the amount of the mandatory fee to be collected for services rendered by a small claims court.

**Senate Bill 1416**  
**Effective:** 9-1-07

**Senate Author:** Hinojosa  
**House Sponsor:** Gonzales

Senate Bill 1416 amends the Government Code to increase the amount of a judgment that may be appealed from a small claims court to the county court or county court at law from \$20 to \$250.

**Senate Bill 2016**  
**Effective:** 10-1-07

**Senate Author:** Eltife  
**House Sponsor:** Merritt

Senate Bill 2016 amends the Government Code to set the annual salary of a judge of a county court at law in Gregg County at an amount that is not less than \$1,000 less than the total annual salary of a district judge in the county, rather than tying the county court at law judge's salary to a specified percentage of a district judge's salary.

**Senate Bill 2018**  
**Effective:** 9-1-07

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

Senate Bill 2018 amends the Government Code to create a second statutory county court in Hunt County, to be designated as the County Court at Law Number Two of Hunt County, and to redesignate the existing county court at law as County Court at Law Number One of Hunt County.

## Municipal Courts

### House Bill 2617

**Effective:** 6-15-07

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 2617 amends the Government Code to create and establish rules for the municipal courts of record in the City of Laredo. The bill provides that a municipal court of record's presiding officer is a municipal judge, who must be a licensed attorney in the state and a resident of Laredo. A municipal judge is elected at large to a four-year term, is limited to two terms plus the remainder of any unexpired term to which the judge was elected or appointed, and is entitled to the salary provided by ordinance of the governing body of the city. The bill permits the governing body to appoint to the municipal court of record a clerk nominated by the city manager, to authorize the appointment of deputy clerks who may act on behalf of the clerk, and to provide other court personnel, including associate municipal judges. The bill also sets forth the powers and duties of the clerk, whose employment status is equivalent to that of a department director.

### Senate Bill 397

**Effective:** 6-15-07

**Senate Author:** Harris

**House Sponsor:** Goolsby

Previous law restricted the authority of a judge, retired judge, or clerk of a municipal court to administer oaths and provide a certificate of the fact to apply only in matters pertaining to a duty of the court. Senate Bill 397 amends the Government Code to remove the restriction, allowing such municipal court personnel to administer oaths and provide the attendant certificates in general.

### Senate Bill 2009

**Effective:** 6-15-07

**Senate Author:** Hinojosa

**House Sponsor:** Garcia et al.

Senate Bill 2009 amends the Government Code to create a municipal court of record in Corpus Christi and to require the city manager to appoint a municipal court director to serve as the clerk. The bill requires the director to perform certain duties previously reserved for the presiding judge in addition to duties prescribed by law for the county clerk of a county court at law, as applicable. The bill also gives the director the authority that otherwise would be vested in the municipality's governing body to hire, direct, and remove personnel authorized in the city's budget for the clerk's office, and it requires the director to appoint a court reporter.

## Courts of Appeals

### Senate Bill 325

**Effective:** 9-1-07

**Senate Author:** Williams

**House Sponsor:** Creighton

Senate Bill 325 amends the Government Code to establish an appellate judicial system for the Ninth Court of Appeals District to assist the court of appeals for each county in the district in the processing of appeals from the county courts, county courts at law, probate courts, and district courts, to defray costs and expenses incurred by the county, and to reimburse Jefferson County for supplemental salaries and annual benefits paid to the justices. The bill authorizes each county commissioners court to set a court fee of \$5 for each civil suit filed in the county courts, county courts at law, probate courts, or district courts in the county, except for a suit filed by the county or a suit for delinquent taxes. The bill provides for the taxation, collection,

and payment of the court fee and the deposit of that fee into a separate appellate judicial system fund. The bill requires the commissioners court each month to order the collected funds to be forwarded to the appellate court for expenses incurred and to vest management of the system in the chief justice of the court of appeals.

**Senate Bill 496**

**Effective:** 9-1-07

**Senate Author:** Duncan

**House Sponsor:** Alonzo et al.

Senate Bill 496 amends the Government Code to allow the court of criminal appeals to use more than three percent of its annual appropriation for administration of judicial and court personnel training programs if the legislature specifically appropriates additional money for such purposes. The bill requires the legislature to appropriate funds from the judicial and court personnel training fund to the court of criminal appeals to grant legal funds to statewide professional associations and other entities that provide innocence training programs to law enforcement officers, law students, and other participants. The bill also permits the court of criminal appeals to adopt rules for and monitor programs relating to education and training for law enforcement officers, law students, and other participants.

**Senate Bill 885**

**Effective:** 9-1-07

**Senate Author:** Whitmire

**House Sponsor:** Turner

Senate Bill 885 amends the Government Code to permit an appellate court to obtain from the Department of Public Safety criminal history record information maintained by the department that relates to an applicant for employment or a volunteer position with the court or a court appointment or to an employee, volunteer, or appointee of the court. The bill authorizes the criminal history record information obtained to be used only for the purpose of evaluating an applicant, employee, volunteer, or appointee; prohibits a court from releasing or disclosing information obtained except on order of a district court; and requires the court to destroy all information obtained for an applicant after the expiration of any probationary term of the person's employment, volunteer status, or appointment and for an employee, volunteer, or appointee, before January 1, 2008.

**Senate Bill 1182**

**Effective:** 9-1-07

**Senate Author:** Watson

**House Sponsor:** Hartnett et al.

Senate Bill 1182 amends the Government Code to require the comptroller of public accounts to create a supreme court support account in the judicial fund and to require the clerk of the supreme court and the clerks of the courts of appeal to collect an additional court cost fee of not more than \$50 on the filing of any application or proceeding otherwise requiring a filing fee, including an appeal, and send the fees collected to the comptroller for deposit to the credit of the judicial fund. The bill requires the supreme court to administer the funds deposited into the account and to report all expenditures from the support account, subject to audit by the comptroller and the state auditor, to the Legislative Budget Board.

## **District Courts**

**House Bill 622**

**Effective:** 9-1-07

**House Author:** Hardcastle

**Senate Sponsor:** Estes

House Bill 622 amends the Government Code to include the district attorney of the 46th Judicial District within the scope of certain statutory provisions regarding the compensation, expenses, and limitations on law practice of professional prosecutors.

**House Bill 632**  
**Effective:** 9-1-07

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

House Bill 632 amends the Government Code to authorize the judge of the 415th District Court to appoint one or more bailiffs that the judge believes are necessary for the court's efficient administration.

**House Bill 2288**  
**Effective:** 9-1-07

**House Author:** West, George "Buddy"  
**Senate Sponsor:** Uresti

House Bill 2288 amends the Government Code to include the district attorney of the 109th Judicial District within the scope of certain statutory provisions regarding the compensation, expenses, and limitations on law practice of professional prosecutors. The bill also eliminates a provision that authorized the commissioners courts of the counties comprising the district to supplement the district attorney's state salary in an amount not to exceed \$2,000 a year and that required each commissioners court to pay a proportionate share of the supplemental salary according to that county's population.

**House Bill 3972**  
**Effective:** 9-1-07

**House Author:** Hughes  
**Senate Sponsor:** Eltife

House Bill 3972 amends the Government Code to require the judge of the 115th District Court to appoint a bailiff to serve the court only in Upshur County, which bailiff must be a resident of that county and at least 18 years of age. The bill also requires the sheriff of Upshur County, on the request of the judge of the 115th District Court, to deputize the bailiff appointed by that judge, in addition to other deputies authorized by law.

**House Bill 4037**  
**Effective:** 9-1-07

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

House Bill 4037 amends the Government Code to provide that the terms of the 49th District Court and the 341st District Court begin in Webb County on the first Mondays in January, April, July, and October and in Zapata County on the first Mondays in February and August. The bill repeals previous law that provided the terms of the 341st District Court.

**Senate Bill 229**  
**Effective:** 9-1-07

**Senate Author:** Harris  
**House Sponsor:** Gonzales

Senate Bill 229 amends the Government Code to permit the electronic creation of a district court seal, including its creation by means of an optical disk or another electronic reproduction technique, and to allow the electronic placement of the district clerk's signature on an original document, if the means by which the seal is impressed or the signature electronically affixed does not allow for changes, additions, or deletions to be made to the original document. The bill also permits the electronic transfer of electronic seals and signatures.

**Senate Bill 272**  
**Effective:** 9-1-07

**Senate Author:** Estes  
**House Sponsor:** Hardcastle

Senate Bill 272 amends the Government Code to permit the judge of the 97th District Court to appoint a bailiff to serve in more than one county of the district and to set the bailiff's salary, to be apportioned by the judge among the counties in which the bailiff is designated to serve. The bill requires the judge to give written notification to each commissioners court in the district of the amount of compensation to be paid by the county and requires the bailiff's salary to be approved by the commissioners court of each of the counties in which the bailiff is designated to serve.

**Senate Bill 355**

**Effective:** 5-14-07

**Senate Author:** Wentworth

**House Sponsor:** Naishtat

Senate Bill 355 repeals a provision of the Government Code that required the judge of the 147th District Court of Travis County to impanel grand juries for each court term in the manner provided by law and allowed the judge to impanel such juries at other times by court order. The bill provides that none of the judges of the district courts in Travis County has a duty to impanel grand juries but that they may impanel grand juries when they consider it necessary. Senate Bill 355 provides for two terms, rather than four terms, for the 147th District Court, eliminating the terms that began on the first Mondays in April and October, and it changes the beginning dates of the terms of the 167th District Court from the first Mondays in March and September to the first Mondays in January and July.

**Senate Bill 749**

**Effective:** 6-15-07

**Senate Author:** Janek

**House Sponsor:** Hartnett et al.

Senate Bill 749 amends the Government Code to provide for the authority and salary of a district judge presiding over multidistrict litigation (MDL) proceedings in cases involving claims for asbestos-related or silica-related injuries. The bill requires cooperation between an MDL judge, a trial court, and a multidistrict litigation court regarding trial settings or other matters regarding remand and provides that a presiding judge is a party in interest for the limited purpose of requesting mandamus enforcement of the priority in setting hearings and trials involving asbestos-related or silica-related injuries. The bill also authorizes additional compensation for the presiding judges of asbestos or silica MDL up to the maximum additional state salary allowed presiding judges of administrative judicial regions, with the annual amount to be apportioned over 12 equal monthly payments for each month during which the judge retains jurisdiction over the claims, but it excludes the supplemental compensation for the purposes of computing another salary that is based on the salary of the district judge. The bill also authorizes a presiding judge to appoint up to four staff members to address the additional workload.

**Senate Bill 1414**

**Effective:** 9-1-07

**Senate Author:** Hinojosa et al.

**House Sponsor:** Gonzales

Senate Bill 1414 amends the Government Code to include the district attorney of the 143rd Judicial District within the scope of certain statutory provisions regarding the compensation, expenses, and limitations on law practice of professional prosecutors.

## Judges

**House Bill 3505**

**Effective:** 9-1-07

**House Author:** Hartnett

**Senate Sponsor:** West, Royce

House Bill 3505 amends the Government Code to include the issue of child neglect, in addition to problems of family violence, sexual assault, and child abuse, as part of the judicial training the court of criminal appeals is required to provide for certain judges and judicial officers. The bill increases from eight to 12 hours the minimum amount of training required by court rule of each district judge, judge of a statutory county court, master, referee, magistrate, and certain appointed associate judges during the individual's first four years of service as a judge or officer and requires at least four of those hours to be dedicated to issues related to child abuse and neglect and to cover at least two of five listed topics. The bill also increases from three to four hours the additional training required by rule of each judge and judicial officer during each additional term in office or four years of service, and it requires at least two of those hours to



be dedicated to issues related to child abuse and neglect. The bill adds five specific topics on the issue of child abuse and neglect, including physical, emotional, and other impacts on child development, to the mandatory content of judicial instruction. House Bill 3505 also requires the sponsoring organization for any training on issues related to child abuse and neglect to have at least three years' experience in training professionals on child abuse and neglect issues or have personnel or planning committee members who have at least five years' experience in working directly in the field of child abuse and neglect prevention and treatment.

**House Joint Resolution 36**

**For Election:** 11-6-07

**House Author:** McReynolds et al.

**Senate Sponsor:** Watson et al.

House Joint Resolution 36 proposes an amendment to the state constitution to permit a state justice or judge who reaches the mandatory age of retirement while in office to complete the justice's or judge's current term. The proposed amendment would include an exception for a justice or judge elected to serve or fill the remainder of a six-year term who reaches the age of 75 years during the first four years of the term, in which case the office would become vacant on December 31 of the fourth year of that six-year term.

**Senate Bill 271**

**Effective:** 9-1-07

**Senate Author:** Wentworth

**House Sponsor:** Hughes

Senate Bill 271 amends the Family Code to establish qualifications and change residency requirements for an associate judge appointed to hear Title IV-D and child protection cases. The bill requires a judge, to be eligible for appointment as a Title IV-D or child protection judge, to be a United States citizen, to have resided in the administrative judicial region or a county adjacent to the region of the court to which the person is appointed for the two years preceding the date of appointment, to be licensed to practice law in this state, and to be a practicing lawyer or a judge of a court in this state for the four years preceding the date of appointment. The bill also requires an associate judge during the term of appointment to continue to meet the residency requirement for appointment to serve on the court in the administrative judicial region and permits an associate judge appointed to serve in two or more administrative regions to reside anywhere in those regions.

**Other Court Personnel**

**House Bill 335**

**Effective:** 9-1-07

**House Author:** Hartnett

**Senate Sponsor:** Hinojosa

House Bill 335 amends the Government Code to require an official court reporter to furnish a transcript of the evidence in a case to the person requesting the transcript not later than the 120th day after the date the reporter receives the application for the transcript and the transcript fee is paid or, if applicable, the person establishes indigency.

**House Bill 1346**

**Effective:** 9-1-07

**House Author:** Latham

**Senate Sponsor:** Deuell

House Bill 1346 amends the Government Code to require a truancy magistrate to complete at least eight hours of continuing education conducted by the Texas Association of Counties, the State Bar of Texas, or the Texas Justice Court Training Center every two years.

**House Bill 3210**

**Effective:** 6-15-07

**House Author:** Harless

**Senate Sponsor:** Whitmire

House Bill 3210 amends the Government Code to expand the authority of an investigator employed by a prosecuting attorney to include serving of warrants, capiases, and all other processes in civil cases issued by a district, county, or justice court of this state. Under previous law, an investigator had such authority only in relation to criminal cases.

**House Bill 4107**

**Effective:** 9-1-07

**House Author:** Herrero et al.

**Senate Sponsor:** Hinojosa

House Bill 4107 amends the Code of Criminal Procedure to include magistrates appointed by the judges of the district courts and the statutory county courts of Nueces County among those officers considered to be criminal law magistrates. The bill amends the Government Code to set forth a magistrate's eligibility for appointment, appointment process, compensation, terms of employment, powers, and judicial immunity. The bill specifies the type of criminal case proceedings that may be referred to a magistrate by the appointing judge and provides for a clerk and bailiff in those proceedings conducted by a magistrate. House Bill 4107 prohibits an appointed magistrate from dismissing a case, authorizes the termination of a magistrate's services only on a majority vote of the judges of the type of court that appointed the magistrate, and authorizes the appointment of a temporary magistrate in the absence of a magistrate. The bill requires a record of a criminal proceeding in a magistrate court, requires a magistrate to transmit to the judge of the referring court any papers relating to a case, authorizes the judge of the court in which the case is pending to change any action taken by a magistrate, and sets forth the requirements for a defendant in entering a pretrial diversion program or the functional equivalent that is authorized to be operated in Nueces County.

**Senate Bill 1244**

**Effective:** 6-15-07

**Senate Author:** Whitmire

**House Sponsor:** Harless

Senate Bill 1244 amends the Government Code to expand the authority of an investigator employed by a prosecuting attorney to include serving of warrants, capiases, and all other processes in civil cases issued by a district, county, or justice court of this state. Under previous law, an investigator had such authority only in relation to criminal cases.

**Juries**

**House Bill 1086**

**Effective:** 9-1-07

**House Author:** Hughes

**Senate Sponsor:** Wentworth

House Bill 1086 amends the Code of Criminal Procedure to delay the time during a trial at which an alternate juror who has not replaced a regular juror could be discharged from duty. The bill requires the court to dismiss an alternate juror after the jury has rendered its verdict and, if applicable, the amount of the punishment, rather than when the jury retires to consider the verdict.

**House Bill 1204**

**Effective:** 9-1-07

**House Author:** Giddings

**Senate Sponsor:** West, Royce

House Bill 1204 amends the Government Code to authorize a prospective juror, on signing a form letter, to designate a portion of the juror's per diem payment to be donated to the victims of crime fund, the county child welfare board, a battered women's shelter, a safe house, or any

other program approved by the county commissioners court. The bill requires the form letter to include a blank in which a prospective juror may enter the amount of the daily reimbursement that the juror wishes to donate.

**Senate Bill 399**

**Effective:** 9-1-07

**Senate Author:** Harris

**House Sponsor:** Truitt

Senate Bill 399 amends the Government Code to permit a person summoned for jury service in a county with a population of 1.4 million or more and that has within its boundaries at least two municipalities that each have a population of 300,000 or more to request and obtain a postponement of the person's initial appearance for jury service if the person has not been granted a postponement since the most recent reconstitution of the jury wheel in the county and the person and the county clerk or the court's designee determine a substitute date for the person's appearance within six months of the date of the original summons. The bill also permits a person who receives a postponement to request and obtain subsequent postponements in the same manner as the first postponement if the clerk or the court's designee determines that the person's request is for a legitimate reason.

**Senate Bill 560**

**Effective:** 9-1-07

**Senate Author:** Ellis et al.

**House Sponsor:** Hartnett

Senate Bill 560 amends the Government Code to clarify provisions relating to the payments to be made to a prospective juror who reports for jury service in response to the process of a court. The bill defines "person who reports for jury service" and provides that a person who reports for jury service in a municipal court is not entitled to reimbursement under these provisions but may be reimbursed by the municipality. The bill removes a provision that permitted the commissioners court of a county to reduce or eliminate the daily reimbursement for a person who attends court for only one day or a fraction of one day.

Senate Bill 560 amends the Code of Criminal Procedure to provide for a program of posttrial psychological counseling for a person who serves as a juror or an alternate juror in the trial of a criminal offense involving graphic evidence or testimony and who requests the counseling by a certain deadline. The bill amends the Government Code to permit each person who reports for jury service to opt to donate and designate a specific amount of the person's daily reimbursement to a program that offers psychological counseling to jurors in criminal cases involving graphic evidence or testimony.

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

House Bill 530 - Criminal Justice

House Bill 930 - Family Law and Juvenile Justice

House Bill 1295 - Probate and Guardianship

Senate Bill 57 - Taxes and Tax Administration



# Criminal Justice

This chapter covers legislation relating to criminal offenses, penalties, and procedures, and crime victims. Bills on correctional, juvenile, and rehabilitation facilities, jails, incarcerated individuals, community supervision, parole, the Texas Department of Criminal Justice, and the Texas Youth Commission are in the **Corrections** chapter, and bills relating to law enforcement agencies, the Texas Department of Public Safety, and concealed handguns and firearms possession are in the **Law Enforcement** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 76

**Effective:** 9-1-07

**House Author:** Naishtat et al.

**Senate Sponsor:** Zaffirini

House Bill 76 amends the Government Code to require the bureau of identification and records within the Department of Public Safety to collect certain information regarding sexual assault and aggravated sexual assault, including information on the specific offense committed, the victim, the offender and the offender's relationship to the victim, any weapon used or exhibited in the commission of the offense, and any injuries sustained by the victim. The bill also requires the law enforcement agency to report the sexual assault and aggravated sexual assault information in a particular manner.

### House Bill 716

**Effective:** 9-1-07

**House Author:** Solomons et al.

**Senate Sponsor:** Averitt

House Bill 716 amends the Government Code to require the office of the attorney general to establish a residential mortgage fraud task force to assist state, federal, and local law enforcement agencies with tracking and prosecuting mortgage fraud statewide by sharing information and resources and successfully enforcing administrative and criminal actions against perpetrators of such fraud. The bill sets out the composition of the task force and its confidentiality and reporting requirements, authorizes it to request assistance from certain federal agencies, and allows the attorney general to solicit specified gifts, grants, and donations to aid the task force with its efforts. The bill establishes requirements for the reporting of fraudulent activity relating to a mortgage loan and prohibits certain parties from sharing the report or its contents. The bill exempts any party voluntarily reporting mortgage fraud activity from liability for the report under state or federal laws or regulations and specifies that these provisions do not affect any common law or statutory privilege or immunity. The bill permits the credit union commissioner to obtain from the credit union department criminal history record information maintained by the department relating to certain credit union board members, employees, or applicants and prohibits the release of such information unless specific conditions are met.

House Bill 716 amends the Penal Code to make it a punishable offense to knowingly make a materially false or misleading written statement to obtain a mortgage loan and provides that the attorney general has concurrent jurisdiction with a county or district attorney to prosecute mortgage fraud with the consent of that local prosecutor. The bill requires certain state agencies to assist federal, state, and local officials with their investigations of mortgage fraud. The bill amends the Code of Criminal Procedure to set the statute of limitations for laundering money or making a false statement to obtain property or credit at seven years from the commission of the offense. In addition, the bill amends the Finance Code to require a lender, mortgage banker, or

licensed mortgage broker to provide each home loan applicant with a written notice at closing that warns of the penalties for making a false or misleading statement to obtain property or credit, including a mortgage loan, and stating that the information in the completed application is accurate as of the closing date. The bill sets out the format and wording of the notice and requires the applicant to verify the information and execute the notice. The bill specifies that failing to provide the notice to the applicant does not affect the loan's validity or enforceability.

**House Bill 814**

**Effective:** 9-1-07

**House Author:** Dutton et al.

**Senate Sponsor:** Ellis et al.

House Bill 814 amends the Civil Practice and Remedies Code to increase the amount paid to a person wrongfully imprisoned from \$25,000 to \$50,000 for each year served in prison, and it removes a limit on the maximum amount that must be paid. The bill requires that a person wrongfully sentenced to death be paid \$100,000 for each year served in prison. In addition, it requires that compensation be paid for child support payments and interest on arrearages that became due but were not paid during the time served in prison, and it requires this amount to be paid in a lump sum to the office of the attorney general and distributed to the obligee under the child support order, regardless of whether payments to the person wrongfully imprisoned are terminated because of a subsequent conviction. The bill provides that a person who claims compensation for child support must bring suit and present certain evidence.

**House Bill 1267**

**Effective:** 9-1-07

**House Author:** Pena

**Senate Sponsor:** Seliger et al.

House Bill 1267 amends provisions of the Code of Criminal Procedure, Government Code, and Local Government Code relating to the compensation of counsel appointed to represent an indigent defendant. The bill authorizes an attorney representing an indigent defendant to appeal a request for payment if it has not been acted upon within 60 days of submission. The bill establishes an indigent defense representation fund that consists of money collected from a newly created \$2 fee paid by a person convicted of any offense, other than an offense relating to a pedestrian or the parking of a vehicle. The fund may be used only for purposes for which the fair defense account for use by the Task Force on Indigent Defense may be used, including appropriate compensation of appointed counsel.

House Bill 1267 requires the state to reimburse a county for all compensation and expenses awarded by the court to a counsel appointed to represent an indigent inmate charged with an offense while in the custody of the Texas Department of Criminal Justice and modifies procedures for reimbursement.

**House Bill 1751**

**Effective:** 1-1-08

**House Author:** Cohen et al.

**Senate Sponsor:** West, Royce

House Bill 1751 amends the Business & Commerce Code to impose a fee on certain sexually-oriented businesses in an amount equal to \$5 for each time a customer enters the business. The bill sets out provisions relating to the administration, payment, collection, and enforcement of the fee by the comptroller. The bill requires the comptroller to deposit the first \$25 million received from the fee in a state fiscal biennium to the credit of the sexual assault program fund and specifies the uses for which the fund may be appropriated. The bill requires the comptroller to deposit any excess revenue to the credit of the Texas health opportunity pool. House Bill 1751 establishes the Sexual Assault Advisory Council and sets out its mission. The bill authorizes the legislature to appropriate funds for a third-party assessment of the sexually-oriented business industry in Texas, including recommendations on how to further regulate the growth of the industry.

**House Bill 2034****Effective:** See below**House Author:** England**Senate Sponsor:** Shapiro

House Bill 2034 amends provisions of the Occupations Code relating to the Council on Sex Offender Treatment and licensure of sex offender treatment providers. The bill expands the definition of "sex offender treatment provider" to include a psychological associate, provisionally licensed psychologist, licensed professional counselor intern, licensed marriage and family associate, licensed clinical social worker, certain licensed master social workers, and certain advanced practice nurses. The bill provides that a licensed sex offender treatment provider is subject to the rules of the Council on Sex Offender Treatment rather than rules of the licensing entity by which the provider is licensed or otherwise regulated. The bill makes this chapter inapplicable to a person licensed to practice in this state who provides adjunct therapy and to the prescribing of a drug, remedy, or clinical supply by a licensed physician.

House Bill 2034 amends provisions of the Health and Safety Code relating to the civil commitment of a sexually violent predator to provide that a judge assigned to preside over a trial relating to the commitment of such a predator is not subject to certain objections to the assignment of the judge. The bill authorizes an attorney employed by the civil division of the special prosecution unit, which is headquartered in Walker County, at the request of the local prosecuting attorney, to assist in the prosecution of a civilly committed predator for violation of a civil commitment requirement.

House Bill 2034 amends the Code of Criminal Procedure to provide that the offense of the failure of a sexually violent predator to comply with a civil commitment requirement may be prosecuted in the county in which any element of the offense occurs or in Montgomery County.

The provision of House Bill 2034 relating to objections to the assignment of a judge takes effect June 15, 2007; all other provisions take effect September 1, 2007.

**House Bill 2391****Effective:** 9-1-07**House Author:** Madden**Senate Sponsor:** Seliger

House Bill 2391 amends the Code of Criminal Procedure to authorize a peace officer to issue a citation to appear before a magistrate at a later time, in lieu of requiring an immediate appearance, to a person who is charged with certain Class A or Class B misdemeanors, if the person resides in the county where the offense occurred. The bill requires the magistrate to issue a warrant for the person's arrest if the person fails to appear as required by the citation.

**Senate Bill 157****Effective:** 9-1-07**Senate Author:** Seliger**House Sponsor:** Hopson

Senate Bill 157 amends the Code of Criminal Procedure to expand the definition of "criminally injurious conduct" to include the offenses of passing an authorized emergency vehicle, reckless driving, and deadly conduct. Victims of such crimes are eligible for compensation under the Crime Victims' Compensation Act.

**Senate Bill 548****Effective:** 9-1-07**Senate Author:** Carona**House Sponsor:** Hamilton

Senate Bill 548 amends provisions of the Penal Code, the Code of Criminal Procedure, and the Business & Commerce Code relating to notice for the prosecution of a dishonored check. The bill adds first class mail evidenced by an affidavit of service to the list of means by which notice of intent to prosecute may be given to the issuer of a check dishonored due to insufficient funds. The bill deletes telegram as an acceptable means of notice. Senate Bill 548 allows the

cost of notification by registered or certified mail expended by the holder of the dishonored check to be recovered from the issuer of the dishonored check and provides that recovery of the cost does not affect any right or remedy to which the holder of the dishonored check may be entitled under any rule, written contract, judicial decision, or other statute.

**Senate Bill 722**  
**Effective:** 5-21-07

**Senate Author:** Hegar  
**House Sponsor:** Driver

Senate Bill 722 amends the Health and Safety Code to clarify that no court action, court order, or further proceeding is required to forfeit or destroy controlled substance plants and property seized under the Texas Controlled Substances Act.

**Senate Bill 1106**  
**Effective:** 9-1-07

**Senate Author:** Watson  
**House Sponsor:** Farabee

Senate Bill 1106 amends the Code of Criminal Procedure to authorize an official, agency, court, or other entity to retain receipts, invoices, vouchers, or similar records of financial transactions that arose from the expunction proceeding or prosecution of the underlying criminal cause in accordance with internal financial control procedures. The bill requires the retaining entity to redact all portions of the record or file that identify the person who is the subject of the expunction order. The bill extends the deadline for completion of a forfeited funds audit from 30 to 60 days after a certain date and allows for an extension of 76 days, rather than 46 days.

Senate Bill 1106 also amends the Local Government Code to authorize a county, with proper notice, to apply any funds the county owes a person to any outstanding debt the person owes the county.

## **Offenses and Penalties**

**House Bill 8**  
**Effective:** 9-1-07

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

House Bill 8 adds the Jessica Lunsford Act, relating to the prosecution, punishment, and supervision of sex offenders, to the Code of Criminal Procedure. The bill subjects certain repeat sex offenders to the death penalty or to life without parole and sets out procedures for repeat sex offender capital cases. House Bill 8 creates the offense of continuous sexual abuse of a young child or children as a first degree felony punishable by imprisonment for life or for at least 25 years and no more than 99 years. The bill sets a minimum of 25 years imprisonment for aggravated sexual assault if the victim is a child younger than six years of age at the time of the offense or, under certain circumstances, if the victim is younger than 14 years of age at the time of the offense. The bill enhances the punishment for the offense of sexual performance by a child if the victim is younger than 14 years of age at the time of the offense.

House Bill 8 extends the statute of limitations for a felony indictment for certain sex offenses against a child from 10 years past the victim's 18th birthday to 20 years past the victim's 18th birthday in some instances, and eliminates the statute of limitations in other instances. The bill also makes a person serving a sentence for continuous sexual abuse of a young child or children, or for aggravated sexual assault of certain young victims, ineligible for parole or mandatory supervision. The bill adds a person convicted of certain offenses, including sex offenses, committed against a child to the list of persons ineligible for community supervision or deferred adjudication.



House Bill 8 sets out duties of the office of the attorney general relating to assisting a county or district attorney in the prosecution of certain sexual and assaultive offenses and requires the Texas Department of Criminal Justice to establish a sex offender treatment program that inmates who are serving sentences for certain sex offenses must complete before being released. The bill specifies that the tracking device required to be worn by a civilly committed sex offender must be able to track the person's location in real time and to provide certain real-time and cumulative reports on the offender's location.

**House Bill 95**  
**Effective:** 9-1-07

**House Author:** Martinez, "Mando"  
**Senate Sponsor:** Hinojosa

House Bill 95 amends the Penal Code to make interfering with child custody or agreeing to abduct a child from custody in violation of a temporary child custody order an offense.

**House Bill 126**  
**Effective:** 9-1-07

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

House Bill 126 amends the Penal Code to add obtaining, possessing, transferring, or using the identifying information of a deceased person, with the intent to harm or defraud another and without legal authorization, to the offense of fraudulent use or possession of identifying information. The bill sets out circumstances under which the intent to harm or defraud another is presumed and makes such a presumption inapplicable to a business or other commercial entity or a government agency that is engaged in legal activity. The bill adds tampering with a governmental record to the list of offenses that may be used in establishing the offense of engaging in organized criminal activity.

**House Bill 401**  
**Effective:** 9-1-07

**House Author:** Brown, Betty et al.  
**Senate Sponsor:** Zaffirini

House Bill 401 amends the Penal Code to add the use of text messaging or other electronic message systems to the list of means by which the offense of online solicitation of a minor may be committed. The bill includes conduct described in the offense of online solicitation of a minor as conduct that constitutes the offense of engaging in an improper relationship between an educator and a student, regardless of the age of the victim.

**House Bill 460**  
**Effective:** 9-1-07

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

House Bill 460 amends the Penal Code to add obtaining, possessing, transferring, or using, with the intent to harm or defraud another and without legal authorization, an item of identifying information of a deceased natural person, including a stillborn infant or fetus, to the list of actions that constitute the offense of fraudulent use or possession of a person's identifying information. The bill restructures the punishment scheme for the offense to enhance punishment based on the number of items possessed. Punishment ranges from a state jail felony for less than five items to a first degree felony for 50 items or more.

**House Bill 495**  
**Effective:** 9-1-07

**House Author:** Bonnen  
**Senate Sponsor:** Seliger

House Bill 495 amends the Penal Code to add emergency services personnel who are providing emergency services to the list of persons the assault of whom is a third degree felony.

**House Bill 649**

**Effective:** 9-1-07

**House Author:** McCall et al.

**Senate Sponsor:** Carona

House Bill 649 amends the Penal Code to add obtaining, possessing, transferring, or using the identifying information of a child younger than 18 years of age, with the intent to harm or defraud another, to the offense of fraudulent use or possession of identifying information.

**House Bill 872**

**Effective:** 9-1-07

**House Author:** Otto et al.

**Senate Sponsor:** Nichols

House Bill 872 amends the Penal Code to enhance the penalty for certain conduct under the offense of tampering with or fabricating physical evidence from a third degree felony to a second degree felony if the thing altered, destroyed, or concealed is a human corpse.

**House Bill 916**

**Effective:** 9-1-07

**House Author:** Menendez et al.

**Senate Sponsor:** Van de Putte

House Bill 916 amends provisions of the Penal Code relating to the offense of dog fighting to increase the penalty for causing a dog to fight with another dog from a Class A misdemeanor to a state jail felony and to increase the penalty for attending an exhibition of dog fighting as a spectator from a Class C misdemeanor to a Class A misdemeanor. The bill deletes causing a dog to fight with another dog for a pecuniary benefit as a separate offense under the offense of dog fighting.

**House Bill 946**

**Effective:** 9-1-07

**House Author:** Miller et al.

**Senate Sponsor:** Whitmire

House Bill 946 amends the Health and Safety Code to enhance the penalty for the manufacture of a controlled substance listed in Penalty Group 1, if the offense is committed when a child younger than 18 years of age is present on the premises. House Bill 946 amends the Penal Code to expand, for purposes of the offense of endangering a child, conduct that is presumed to imminently endanger a child to include:

- possessing or introducing into the body of any person methamphetamine in the presence of a child.
- conduct related to the proximity or accessibility of methamphetamine to a child if an analysis indicates the presence of the substance in the child's body.
- introducing a controlled substance listed in Penalty Group 1 into the human body when the person is not in lawful possession of the substance.

**House Bill 1092**

**Effective:** Vetoed

**House Author:** Hilderbran

**Senate Sponsor:** Wentworth

House Bill 1092 amends the Penal Code to add a recreational vehicle park to the provision establishing the offense of criminal trespass on or in certain property. The bill also establishes certain Class B misdemeanor offenses in connection with criminal trespass on a docking place.

Reason Given for Veto: "House Bill 1092, House Bill 1129, Senate Bill 1097 and Senate Bill 182 all seek to amend the offense of criminal trespass by creating certain places that are subject to criminal trespass. Current statute covers the places identified in these bills, which renders this legislation redundant. If there are problems, the State of Texas should address criminal trespass issues in a comprehensive manner that makes the system consistent for enforcement and punishment."

**House Bill 1093****Effective:** 6-4-07**House Author:** Geren et al.**Senate Sponsor:** Harris

House Bill 1093 amends a provision of the Penal Code relating to the offense of funeral service disruption to expand the area in which picketing is unlawful from within 500 feet to within 1,000 feet of a facility or cemetery being used for a funeral service.

**House Bill 1129****Effective:** Vetoed**House Author:** Macias**Senate Sponsor:** Wentworth

House Bill 1129 amends provisions of the Penal Code relating to criminal trespass. The bill makes it a Class C misdemeanor for a person to criminally trespass on residential land, defined as real property improved by a dwelling or authorized for single-family or multifamily use. Punishment for this type of criminal trespass is enhanced to a Class A misdemeanor if the person enters or remains in a building or habitation on the residential land, or if the person carries a deadly weapon during the commission of such an offense.

House Bill 1129 restructures the punishment scheme for criminal trespass in a building or on or in property, including an aircraft or other vehicle, to make the first offense a Class C misdemeanor, rather than a Class B misdemeanor, and to enhance punishment for a subsequent offense of such criminal trespass to a Class B misdemeanor. The bill expands the list of persons who may invoke an affirmative defense to prosecution for the offense of criminal trespass.

Reason Given for Veto: "House Bill 1092, House Bill 1129, Senate Bill 1097 and Senate Bill 182 all seek to amend the offense of criminal trespass by creating certain places that are subject to criminal trespass. Current statute covers the places identified in these bills, which renders this legislation redundant. If there are problems, the State of Texas should address criminal trespass issues in a comprehensive manner that makes the system consistent for enforcement and punishment."

**House Bill 1212****Effective:** 9-1-07**House Author:** Pierson et al.**Senate Sponsor:** Harris

House Bill 1212 amends the Penal Code to enact the Darren Medline and Dwayne Freeto Act. The bill enhances the penalty for intoxication assault from a third degree felony to a second degree felony if a person causes serious bodily injury to a peace officer, a firefighter, or emergency medical services personnel while such personnel are performing an official duty. The bill enhances the penalty for intoxication manslaughter from a second degree felony to a first degree felony if a person causes the death of a peace officer, a firefighter, or emergency medical services personnel while such personnel are performing an official duty.

**House Bill 1355****Effective:** 9-1-07**House Author:** Gattis et al.**Senate Sponsor:** Shapleigh

House Bill 1355 amends the Health and Safety Code to create the offense of attack by a dog. The bill provides that a dog owner commits an offense if the person, with criminal negligence, fails to secure the dog and the dog makes an unprovoked attack against another person at a location other than the owner's real property or on or in the owner's motor vehicle or boat that causes serious bodily injury or death. The bill also provides that an owner, knowing the dog is dangerous, commits an offense if the dog makes an unprovoked attack on another person at a location other than a secure enclosure where the dog is restrained that causes serious bodily injury or death. The bill provides that an unprovoked attack that causes serious bodily injury is a felony of the third degree and such an attack that causes death is a felony of the second degree. The bill allows the court to order a dog destroyed if the owner is found guilty of an offense under this law and sets out defenses against prosecution for the offense of attack by a dog.

**House Bill 1411**  
**Effective:** 9-1-07

**House Author:** West, George "Buddy" et al.  
**Senate Sponsor:** Seliger

House Bill 1411 amends the Health and Safety Code to create the offense of unlawful restraint of a dog, under which an owner is prohibited from leaving a dog outside and unattended by use of restraint that unreasonably limits the dog's movement under certain conditions. The bill provides exceptions to the offense for certain types of restraint and requires a peace officer or animal control officer who has probable cause to believe that an owner is illegally restraining a dog to provide the owner with a written statement of that fact. The owner commits an offense if the person fails to comply with the law within 24 hours of receiving the statement. A first offense is a Class C misdemeanor, and any subsequent offense is a Class B misdemeanor.

**House Bill 1519**  
**Effective:** Vetoed

**House Author:** Smith, Todd et al.  
**Senate Sponsor:** Carona

House Bill 1519 amends the Penal Code to make it an offense for certain health care professionals or private investigators, with the intent to obtain professional employment, to solicit or cause to be solicited in person or by phone, before the 31st day after the date an accident or disaster occurred, employment related to a personal injury sustained in an accident or disaster involving the solicited person or a relative of that person. A first offense is punishable as a Class A misdemeanor and a subsequent offense as a third degree felony.

Reason Given for Veto: "House Bill No. 1519 does not include attorneys in the new section (d-1) it creates for the offense of barratry and solicitation of professional employment. The new section prohibits in person or telephone contact before 31 days have passed since an accident; however attorneys are included in the current law in section (d), which covers improper written communications. The criminal acts covered by the statute should contain identical provisions for all covered professions."

**House Bill 1586**  
**Effective:** 9-1-07

**House Author:** Flores  
**Senate Sponsor:** Lucio

House Bill 1586 amends the Penal Code to create the offense of illumination of aircraft by intense light. A person commits the offense if the person intentionally directs a light at an aircraft and the light is sufficiently intense to impair the operator's ability to control the aircraft. The bill provides that the offense is a Class C misdemeanor, unless the light actually impairs the operator's ability to control the aircraft, in which case it is a Class A misdemeanor. The bill provides an affirmative defense to prosecution if the actor was using the light to send an emergency distress signal.

**House Bill 1766**  
**Effective:** 9-1-07

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

House Bill 1766 amends the Penal Code to make it a state jail felony under the offense of theft to steal property if the value of the property stolen is less than \$20,000 and the property stolen is wire or cable that consists of at least 50 percent aluminum, bronze, or copper. The penalty for such theft is enhanced to a third-degree felony if certain conditions are met.

**House Bill 1767**  
**Effective:** 9-1-07

**House Author:** Pena  
**Senate Sponsor:** Carona

House Bill 1767 amends the Penal Code to make it a third-degree felony under the offense of criminal mischief to intentionally damage, destroy, or tamper with property if the property is a transportation communications device or transportation communications equipment and the amount of pecuniary loss to the property is less than \$100,000.

**House Bill 1804**  
**Effective:** 9-1-07

**House Author:** Gattis et al.  
**Senate Sponsor:** Ogden

House Bill 1804 amends the Penal Code to add to the conduct that constitutes the offense of improper photography or visual recording (1) broadcasting or transmitting a visual image of another at a location other than a bathroom or private dressing room without the other person's consent and with the intent to arouse or gratify the sexual desire of another, (2) photographing, videotaping, broadcasting, or transmitting a visual image of another at a location that is a bathroom or private dressing room without the other person's consent and with the intent to invade the privacy of the other person or arouse or gratify the sexual desire of another, and (3) promoting the broadcast or transmission of certain visual images with knowledge of the character and content of the broadcast or transmission.

The bill specifies that signage indicating that the person is being photographed or that a visual image of the person is being recorded, broadcast, or transmitted is not sufficient to establish the person's consent.

**House Bill 1815**  
**Effective:** 9-1-07

**House Author:** Isett, Carl et al.  
**Senate Sponsor:** Hinojosa

House Bill 1815 amends the Penal Code to modify the conduct that constitutes the offense of unlawful carrying of a weapon to exclude a person carrying a handgun, illegal knife, or club on the person's own premises or premises under the person's control or inside of or directly en route to a motor vehicle that is owned by the person or under the person's control. The bill makes it an offense to intentionally, knowingly, or recklessly carry a handgun in a motor vehicle that is owned by the person or under the person's control if the handgun is in plain view or the person is engaged in certain criminal activity, is prohibited from possessing a firearm, or is a member of a criminal street gang. The bill deletes provisions that made the prohibitions under the offense of unlawful carrying of a weapon inapplicable to certain persons, including a person on the person's own premises or on premises under the person's control.

**House Bill 1887**  
**Effective:** 9-1-07

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

House Bill 1887 amends the Penal Code and Code of Criminal Procedure to increase the penalty for a second conviction of the offense of burglary of a vehicle from a Class A misdemeanor to a Class A misdemeanor with a minimum term of confinement of six months and to provide that the minimum period of community supervision for the second offense is one year. The bill increases the penalty for a third or subsequent conviction of the offense from a Class A misdemeanor to a state jail felony. The bill provides that, for purposes of determining whether a defendant has a previous conviction for burglary of a vehicle, a deferred adjudication is considered to be a conviction.

House Bill 1887 amends the law to rename the Automobile Theft Prevention Authority as the Automobile Burglary and Theft Prevention Authority and to include burglary of a vehicle in the scope of the authority's mission and work.

**House Bill 2328**  
**Effective:** 9-1-07

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

Previous law included both livestock and nonlivestock animals in the offense of cruelty to animals. House Bill 2328 amends the Penal Code, Family Code, Health and Safety Code, and Occupations Code to modify the offense of cruelty to animals to apply only to livestock animals. The bill creates a new section for the offense of cruelty to nonlivestock animals with penalties ranging from a Class A misdemeanor to a third-degree felony and provides that the law does not create a civil cause of action for damages or enforcement of either offense.

**House Bill 2703**  
**Effective:** 9-1-07

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

House Bill 2703 amends the Penal Code to expand the conduct that constitutes the offense of interference with public duties to include interfering, with criminal negligence, with certain state, county, or municipal public health officials in the performance of their official duties.

**House Bill 3584**  
**Effective:** 9-1-07

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

House Bill 3584 amends the Penal Code to create the offense of organized retail theft. A person commits the offense if the person intentionally conducts, promotes, or facilitates an activity in which the person receives, possesses, conceals, stores, barter, sells, or disposes of stolen retail merchandise or merchandise explicitly represented to the person as stolen that is valued at \$1,500 or more. Punishment for the offense ranges from a state jail felony to a first degree felony depending on the value of the merchandise stolen. When the offense of organized retail theft is punished as a state jail felony, third degree felony, or second degree felony, the punishment is increased to the next higher category if the person organized, supervised, financed, or managed one or more other persons engaged in organized retail theft. Additionally, for purposes of punishment, an offense of organized retail theft and certain conduct under the offense of theft is increased to the next higher category if the defendant, with the intent to create a distraction from the crime, intentionally, knowingly, or recklessly caused an alarm to become activated. The bill sets out venue for prosecution of the offense of organized retail theft if the stolen property is moved from one county to another.

**Senate Bill 6**  
**Effective:** 9-1-07

**Senate Author:** Zaffirini  
**House Sponsor:** Pena

Senate Bill 6 amends provisions of the Code of Criminal Procedure and Penal Code relating to the offense of online solicitation of a minor. The bill increases the level of offense for a person 17 years of age or older who communicates in a sexually explicit manner with or distributes sexually explicit material to a person who is or is believed to be younger than 17 years of age over the Internet from a state jail felony to a third degree felony and provides for an enhancement to a second degree felony if the minor is or is believed to be younger than 14 years of age at the time of the offense. The bill increases the offense level of online solicitation if the person knowingly solicits a minor to meet another person with the intent to engage in sexual activity from a third degree felony to a second degree felony. Senate Bill 6 sets out procedures governing the response by an Internet service provider to a subpoena, search warrant, or other court order relating to the investigation or prosecution of online solicitation and the preservation of certain information by such a provider.

Senate Bill 6 amends the Government Code to require the attorney general to establish, by April 1, 2008, a computerized database containing certain contact information for all Internet service providers in Texas. The database information is to be made available by June 1, 2008, to certain law enforcement and criminal justice agencies to expedite the information-gathering process of a criminal investigation concerning an offense of online solicitation of a minor.

Senate Bill 6 amends the Code of Criminal Procedure and Education Code to set out provisions relating to school district policies, notification requirements, and procedures for placement of a student required to register as a sex offender in either a disciplinary alternative education program or a juvenile justice alternative education program.

**Senate Bill 75**

**Effective:** 9-1-07

**Senate Author:** Shapiro et al.

**House Sponsor:** Rose

Previous law provided that the punishment for a defendant who was convicted of indecency with a child with sexual contact and who had a prior felony conviction was life in prison or five to 99 years in prison. Senate Bill 75 amends the Penal Code to make life in prison the only punishment available for a defendant who is convicted of indecency with a child with sexual contact and who has been previously convicted of sexual performance by a child, possession or promotion of child pornography, indecency with a child, sexual assault, aggravated sexual assault, incest, aggravated kidnapping if the defendant committed the offense with the intent to injure the victim or violate or abuse the victim sexually, and burglary with the intent to violate or abuse the victim sexually.

**Senate Bill 182**

**Effective:** Vetoed

**Senate Author:** Wentworth

**House Sponsor:** Hilderbran

Senate Bill 182 amends the Penal Code to clarify that the offense of criminal trespass includes entering or remaining in a recreational vehicle park. The bill defines "recreational vehicle park" for purposes of the law.

Reason Given for Veto: "House Bill 1092, House Bill 1129, Senate Bill 1097 and Senate Bill 182 all seek to amend the offense of criminal trespass by creating certain places that are subject to criminal trespass. Current statute covers the places identified in these bills, which renders this legislation redundant. If there are problems, the State of Texas should address criminal trespass issues in a comprehensive manner that makes the system consistent for enforcement and punishment."

**Senate Bill 378**

**Effective:** 9-1-07

**Senate Author:** Wentworth et al.

**House Sponsor:** Driver et al.

Senate Bill 378 amends provisions of the Penal Code and the Code of Criminal Procedure relating to the use of force or deadly force in defense of a person. The bill creates a presumption of reasonableness for the belief of a person who takes such action that the use of force or deadly force to protect the actor was immediately necessary and provides that the presumption would be reasonable if the actor:

- 1) knew or had reason to believe that the person against whom the force or deadly force was used unlawfully and with force entered, or attempted to enter, the actor's home, vehicle, or place of business or employment; unlawfully and with force removed, or attempted to remove, the actor from the home, vehicle, or place of business or employment; or was committing or attempting to commit certain serious crimes;
- 2) did not provoke the person against whom the force or deadly force was used; and
- 3) was not otherwise engaged in certain criminal activity at the time the force or deadly force was used.

The bill provides that an actor who has a right to be present at the location where the force or deadly force is used, who has not provoked the person against whom the force is used, and who is not engaged in criminal activity at that time is not required to retreat before using force or deadly force.

Senate Bill 378 also provides immunity from civil liability for a personal injury or death resulting from the use of force or deadly force to a defendant who was justified under the law in using such force or deadly force.

**Senate Bill 877**  
**Effective:** 9-1-07

**Senate Author:** Seliger  
**House Sponsor:** Vaught

Senate Bill 877 amends the Code of Criminal Procedure to render a person convicted of the offense of injury to a child, elderly individual, or disabled individual, if the offense is punishable as a first degree felony and the victim is a child, ineligible for judge-ordered community supervision. The bill amends the Government Code to render such a defendant ineligible for release on parole until the defendant's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the defendant eligible for release on parole in less than two calendar years.

**Senate Bill 1097**  
**Effective:** Vetoed

**Senate Author:** Whitmire  
**House Sponsor:** Noriega, Rick

Senate Bill 1097 amends provisions of the Penal Code relating to criminal trespass. The bill makes it a Class C misdemeanor for a person to criminally trespass on residential land, defined as real property improved by a dwelling or authorized for single-family or multifamily use. Punishment for this type of criminal trespass is enhanced to a Class A misdemeanor if the person enters or remains in a building or habitation on the residential land, or if the person carries a deadly weapon during the commission of such an offense.

Senate Bill 1097 restructures the punishment scheme for criminal trespass in a building or on or in property, including an aircraft or other vehicle, to make the first offense a Class C misdemeanor, rather than a Class B misdemeanor, and to enhance punishment for a subsequent offense of such criminal trespass to a Class B misdemeanor. The bill expands the list of persons who may invoke an affirmative defense to prosecution for the offense of criminal trespass.

Reason Given for Veto: "House Bill 1092, House Bill 1129, Senate Bill 1097 and Senate Bill 182 all seek to amend the offense of criminal trespass by creating certain places that are subject to criminal trespass. Current statute covers the places identified in these bills, which renders this legislation redundant. If there are problems, the State of Texas should address criminal trespass issues in a comprehensive manner that makes the system consistent for enforcement and punishment."

## Procedures

**House Bill 184**  
**Effective:** 9-1-07

**House Author:** Hochberg  
**Senate Sponsor:** Ellis

House Bill 184 amends the Penal Code to specify that the defense to prosecution for certain assaultive offenses based on a victim's consent is not available to a defendant who commits the offense as a condition of the defendant's or the victim's initiation or continued membership in a criminal street gang.



**House Bill 431**  
**Effective:** 9-1-07

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

House Bill 431 amends the Code of Criminal Procedure and the Health and Safety Code to authorize a judge sentencing a state jail felon to release the defendant to a medical care facility or a medical treatment program if the Texas Correctional Office on Offenders with Medical or Mental Impairments finds the state jail felon suitable for medically recommended intensive supervision. The bill sets out options for the judge if such a releasee violates the terms of the release.

**House Bill 485**  
**Effective:** 9-1-07

**House Author:** Van Arsdale  
**Senate Sponsor:** Hegar

House Bill 485 amends the Penal Code to expand the circumstances in which a court may approve collection of restitution for a bad check to include collection by a law enforcement agency if a peace officer executes a warrant against the person charged with passing the bad check. The bill amends the Code of Criminal Procedure to raise the limit on the amount of restitution that an offender may be required by a justice of the peace or municipal court to pay for passing bad checks from \$500 to \$5,000.

**House Bill 530**  
**Effective:** 6-15-07

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

House Bill 530 amends provisions of the Health and Safety Code, Government Code, and Code of Criminal Procedure relating to the operation and funding of drug court programs. The bill expands the definition of a drug court program to include other types of problem-solving programs, including, but not limited to, juvenile drug courts, reentry drug courts, and family dependency drug treatment courts. The bill lowers the county population threshold at which a county is required to establish a drug court program from 550,000 to 200,000 and makes the requirement to establish a program contingent on federal or state funding.

House Bill 530 expands the list of entities authorized to establish a drug court program to include municipalities, and authorizes the establishment of a regional program by agreement among three or more counties or three or more municipalities. The bill authorizes a county to establish a DWI court program and provides that if a county does not establish a separate DWI court program, the county must require a person who commits more than one DWI offense to participate in the county's existing drug court program.

House Bill 530 authorizes certain participants who have completed a program to request an order of nondisclosure with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program. A participant arrested for an offense involving the operation of a motor vehicle while intoxicated is not eligible to make such a request. The bill authorizes the appointment of magistrates in administering a drug court program. A judge or magistrate is authorized to excuse a participant from community service requirements and to order the issuance of an occupational driver's license for certain participants in the program. House Bill 530 sets out provisions relating to the imposition, collection, disbursement, and use of certain court and program fees.

**House Bill 541**  
**Effective:** Vetoed

**House Author:** Martinez Fischer et al.  
**Senate Sponsor:** Hinojosa

House Bill 541 amends the Government Code to authorize a county magistrate to release on bond, pending a revocation hearing, a person who is arrested for an administrative violation of parole or for certain new offenses, excluding a felony offense, family violence offense, certain

offenses against a person, and certain intoxication or alcoholic beverage offenses; determined to be eligible for release on bond by the parole division of the Texas Department of Criminal Justice using criteria set out in the bill; and determined not to be a threat to public safety by the magistrate.

Reason Given for Veto: "House Bill No. 541 would allow some parolees who have been arrested for violating the terms of their parole to be released on bond from jail. Currently a parole violator is not authorized to have bail set so that they may be released on bond. Although House Bill No. 541 applies only to administrative violations and certain misdemeanor offenses, these offenders should not be given freedom when their return to prison or other sanctions are imminent, particularly considering that the top 10 fugitives being sought by the Department of Public Safety are parole violators. I understand and am sympathetic to the concerns of counties that are experiencing capacity problems at their jails because of the number of parole violators they must house, but I believe this bill will have negative unintended consequences, and other alternatives should be considered to lessen the burden on county jails."

**House Bill 681**

**Effective:** 9-1-07

**House Author:** Hochberg et al.

**Senate Sponsor:** Duncan

House Bill 681 amends provisions of the Code of Criminal Procedure relating to postconviction forensic testing. The bill adds forensic testing, other than certain DNA testing, to the list of items a court may order to resolve controverted, previously unresolved facts that are material to the legality of the confinement of an applicant for a writ of habeas corpus. The bill sets out circumstances under which the state pays for the testing and under which the applicant pays for the testing. In a case in which a convicted person has requested forensic DNA testing, House Bill 681 establishes a deadline for the appointment of counsel for an indigent or presumably indigent convict and for a response from the prosecutor to the request for forensic DNA testing. The bill broadens circumstances under which the court may order that forensic DNA testing be conducted in a laboratory other than a Department of Public Safety laboratory to include at the request of the convicted person, regardless of whether the other parties agree, and requires the state to pay for such testing if good cause is shown.

**House Bill 887**

**Effective:** 9-1-07

**House Author:** Giddings

**Senate Sponsor:** Ellis

House Bill 887 amends the Code of Criminal Procedure to increase the statute of limitations for credit or debit card abuse, providing a false statement to obtain property or credit, and the fraudulent use or possession of identifying information from three years to seven years from the date of the commission of the offense.

**House Bill 959**

**Effective:** 9-1-07

**House Author:** Bonnen

**Senate Sponsor:** Seliger

Previous law set the statute of limitations for indictment for injury to a child as 5 years or 10 years from the date of the offense, depending on the punishment level. House Bill 959 amends the Code of Criminal Procedure to set the statute of limitations for indictment for injury to a child, regardless of punishment level, as 10 years from the 18th birthday of the victim of the offense.

**House Bill 963**

**Effective:** 9-1-07

**House Author:** Guillen

**Senate Sponsor:** West, Royce

House Bill 963 amends the Code of Criminal Procedure to require the Texas Department of Criminal Justice or a sheriff, as applicable, to notify a witness who testified against a defendant, when the defendant is released, is transferred, or escapes. The bill makes the notification requirement inapplicable to an expert or official witness, expands the offenses that trigger

notification of a victim or witness, and modifies procedures relating to such notification. House Bill 963 requires the department to create a computerized database containing information about defendants whose release triggers notification and to allow victims and witnesses entitled to notice to access the database. The bill requires the department to create the database by March 1, 2008, and to allow victims or witnesses access not later than September 1, 2008.

**House Bill 1121**

**Effective:** 6-15-07

**House Author:** Anchia et al.

**Senate Sponsor:** Van de Putte

House Bill 1121 amends the Code of Criminal Procedure and the Family Code to require a judge in a trial of an adult or juvenile or in a deferred adjudication, on motion of the prosecutor, to make an affirmative finding of fact and enter the finding in the case file if the judge determines that a victim in the trial is or has been a victim of a severe form of trafficking in persons or has suffered substantial physical or mental abuse as a result of having been a victim of certain federal criminal law violations, which are generally violent, sexual, or extortionary in nature.

House Bill 1121 amends the Penal Code to clarify that the definition of “forced labor or services” includes conduct under the offense of prostitution and to broaden the definition to include: causing a person performing or providing labor or services to believe that the person or another person will suffer bodily injury or be restrained; knowingly destroying, concealing, removing, confiscating, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person certain records, identifying information, or personal property; threatening to report the person or another person to immigration or other officials or otherwise blackmailing or extorting the person or another person; exerting financial control over the person or another person in a certain manner; or using any scheme, plan, or pattern intended to cause the person to believe that the person or another person will be subjected to serious harm or restraint if the person does not perform or provide the labor or services. House Bill 1121 expands the conduct that constitutes the offense of trafficking of persons to include knowingly trafficking another person with the knowledge that the trafficked person will engage in forced labor or services, and intentionally or knowingly benefiting from participating in a venture that involves trafficking another person with the intent or knowledge that the trafficked person will engage in forced labor or services. The bill changes the age of the victim, from younger than 14 years of age to younger than 18 years of age, for which the offense, if the applicable conduct constitutes prostitution, is enhanced from a second degree felony to a first degree felony.

House Bill 1121 amends the Civil Practice and Remedies Code to provide that, if the defendant required to execute a bond in a suit to abate a common nuisance is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is prostitution or the promotion or compelling of prostitution, the bond must also be conditioned on the defendant posting, in specified places, a toll-free telephone number of a hotline for victims of human trafficking.

House Bill 1121 requires the attorney general, in consultation with the Health and Human Services Commission, to prepare and issue a report, not later than September 1, 2008, relating to the laws on human trafficking and requires the commission, in consultation with the attorney general, to prepare and issue a report, not later than September 1, 2008, relating to addressing the needs of victims of human trafficking.

**House Bill 1158**  
**Effective:** 9-1-07

**House Author:** Goolsby  
**Senate Sponsor:** Carona

House Bill 1158 amends the Code of Criminal Procedure to require that the notification of a defendant who posted a cash bond that the bond has been forfeited be served either at the address shown on the bond or the last known address of the defendant. The bill expands the address options at which an individual who is a surety for a bond may be notified that a bond has been forfeited to include the last known address of the individual.

**House Bill 1178**  
**Effective:** 9-1-07

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

House Bill 1178 amends provisions of the Code of Criminal Procedure relating to a defendant's waiver of the right to counsel. The bill prohibits a prosecutor from initiating or encouraging an attempt to obtain a waiver of the right to counsel from an unrepresented defendant, and from communicating with a defendant who has requested appointment of counsel based on indigency unless certain conditions are met. The bill also prohibits the court from directing or encouraging the defendant to communicate with a prosecutor unless certain conditions are met. The bill specifies that a waiver obtained in violation of the above provisions is presumed invalid. House Bill 1178 prohibits a judge or magistrate, in relation to a defendant who has posted bail, from ordering the defendant to be rearrested or requiring the defendant to post additional bail because the defendant withdrew a waiver of the right to counsel or requested the assistance of counsel.

**House Bill 1545**  
**Effective:** 9-1-07

**House Author:** Pena  
**Senate Sponsor:** Duncan

House Bill 1545 amends provisions of the Code of Criminal Procedure relating to the determination of a defendant's competency to be executed. The bill expands the determinations to be made by the trial court in the appeal of a death penalty case based on competency to be executed to include whether the defendant has established that the defendant is not incompetent, in addition to whether the defendant has established that the defendant is incompetent. The bill authorizes either party in the case to appeal the trial court's determination to the court of criminal appeals and requires the court of criminal appeals to review and determine whether to adopt the trial court's order, findings, or recommendations relating to the defendant's competency. The bill prohibits the court of criminal appeals from reviewing any finding of the defendant's competency if the motion for a competency hearing is filed on or after the 20th day before the defendant's scheduled execution date.

**House Bill 1610**  
**Effective:** 9-1-07

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

House Bill 1610 amends the Code of Criminal Procedure to expand the group of offenders for whom the judge is given discretion to either suspend the imposition of a sentence and place a defendant on community supervision or order the sentence executed to include a defendant who was placed on deferred adjudication community supervision for certain state jail felonies under the Controlled Substances Act. The bill removes such judicial discretion for a defendant who committed certain state jail felonies under the Controlled Substances Act whose sentence has been reduced to a Class A misdemeanor and requires the judge to place the defendants on community supervision.

**House Bill 1687****Effective:** Vetoed**House Author:** Farias**Senate Sponsor:** Ellis

House Bill 1687 amends the Code of Criminal Procedure to add a defendant's name, date of birth, and driver's license or personal identification certificate number, if available, to the list of informational items that must appear on an appeal bond.

Reason Given for Veto: "House Bill No. 1687 would authorize the inclusion of a person's name, date of birth, driver's license number or personal identification number on an appeal bond.

"The Supreme Court of Texas is conducting a review of Texas court rules that would identify information that should be included on various court records. I believe it is best to allow the Supreme Court to complete its review and determine what identifying information should be provided while protecting Texans against identity theft."

**House Bill 1801****Effective:** 9-1-07**House Author:** Zerwas**Senate Sponsor:** Hegar

House Bill 1801 amends the Code of Criminal Procedure to require the clerk of a court that does not provide online Internet access to the court's criminal case records to post notice of the criminal court docket setting in a public place in the courthouse not less than 48 hours before the docket setting. The bill increases from 15 days to 20 days the time in which a prosecutor may appeal an order, ruling, or sentence in a criminal case.

**House Bill 1988****Effective:** 9-1-07**House Author:** Martinez, "Mando"**Senate Sponsor:** Hinojosa

House Bill 1988 amends the Code of Criminal Procedure to authorize a parent or guardian acting on behalf of a person younger than 17 years of age who is the victim of sexual assault, aggravated sexual assault, or indecency with a child to file an application for a protective order. The bill provides that a protective order based on one of these offenses may be effective for the duration of the lives of the offender and victim under certain circumstances, for any shorter period stated in the order, or for two years if no period is stated. The bill authorizes a victim who is 17 years of age or older or the parent or guardian of a victim younger than 17 years of age to request that a court rescind a protective order. It also provides that if a person who is the subject of a protective order is confined when the protective order is due to expire, the order will instead expire one year after the person is released from confinement.

**House Bill 2115****Effective:** 9-1-07**House Author:** Frost et al.**Senate Sponsor:** Zaffirini

House Bill 2115 amends the Code of Criminal Procedure to add a defendant charged with the offense of driving while intoxicated with a child passenger or the offense of assembling or operating an amusement ride while intoxicated to the list of defendants who are ineligible for deferred adjudication.

**House Bill 2151****Effective:** 9-1-07**House Author:** Bohac et al.**Senate Sponsor:** Ellis

House Bill 2151 amends the Code of Criminal Procedure and the Family Code to establish procedures for restitution to be made to a person or political subdivision who is the victim of a graffiti offense. The bill authorizes a court or juvenile court to order a convicted defendant or adjudicated child to make restitution to a person who is the victim of a graffiti offense by paying a certain amount specified by law or by personally restoring the property by removing or painting over any markings the defendant or child made. The bill also requires restitution paid to a political subdivision to be equal to the lesser of a certain amount specified by law

or the cost to the political subdivision of restoring any damaged public property, street sign, or official traffic-control device. The bill authorizes a court to order a convicted defendant or adjudicated child who is financially unable to make restitution to perform a specific number of hours of community service, including service restoring the property by removing or painting over any markings the defendant or child made, to satisfy the restitution.

House Bill 2151 amends the Code of Criminal Procedure and the Government Code to rename the graffiti eradication fee as the juvenile delinquency prevention and graffiti eradication fee and increase from \$5 to \$50 the court cost required to be paid by a defendant on conviction in a district court, statutory county court, or county court, or by a child adjudicated in a juvenile court. The bill amends the Code of Criminal Procedure to expand the use of the fund in which the juvenile delinquency prevention and graffiti eradication fees are deposited to include providing printed educational materials for distribution to primary and secondary school students.

**House Bill 2210**

**Effective:** 9-1-07

**House Author:** Bolton

**Senate Sponsor:** Ellis

House Bill 2210 amends the Code of Criminal Procedure to require a peace officer who investigates an alleged occurrence of the offense of assault, aggravated assault, sexual assault, aggravated sexual assault, or terroristic threat to prepare a written report that contains information about the incident, including the name of the persons involved, the date, time, location, description, and disposition of the incident, and any visible or reported injuries. The bill requires a local law enforcement agency, on request of a victim of such an offense or of an incident of family violence, to provide to the victim, at no cost, certain information contained in the report.

**House Bill 2267**

**Effective:** 9-1-07

**House Author:** Solomons et al.

**Senate Sponsor:** Harris

House Bill 2267 amends provisions of the Code of Criminal Procedure relating to certain deferred adjudication cases in a justice or municipal court. In such a case, deferral is dependent upon payment of all court costs. As an alternative to requiring a defendant charged with one or more misdemeanor offenses punishable by a fine only to pay all court costs, the bill authorizes a judge to allow a defendant to enter into an agreement for payment of court costs in installments while on probation, require completion of community service in lieu of or as partial payment of those costs, or impose a combination of the two options. If a defendant fails to show satisfactory evidence of compliance with probation requirements by the end of the deferral period, House Bill 2267 requires the court to notify the defendant in writing of the failure and to require the defendant to appear before the court to show cause as to why the order of deferral should not be revoked. The bill authorizes the court to extend the probation period if good cause is shown for the noncompliance.

**House Bill 2949**

**Effective:** 9-1-07

**House Author:** Merritt

**Senate Sponsor:** Eltife

House Bill 2949 amends the Code of Criminal Procedure and the Family Code to authorize a justice, municipal, or juvenile court, as applicable, that is located in certain counties in the Texas-Louisiana border region to charge a fee of \$20, rather than \$10, to participate in a teen court program for the dismissal of certain misdemeanor charges.

**House Bill 3060**  
**Effective:** 9-1-07

**House Author:** Pena  
**Senate Sponsor:** Watson

The law explicitly authorizes a justice of the peace court or a municipal court to issue a “capias pro fine,” which is a summons issued by the court with criminal jurisdiction in the case to have a person who owes fines and court costs brought before the court. House Bill 3060 amends the Code of Criminal Procedure to define “capias” and “capias pro fine.” The bill authorizes all courts with criminal jurisdiction to issue a capias pro fine and authorizes its issuance in electronic form. A defendant is required to pay a \$50 fee, if such service is performed in the defendant’s case, for executing or processing a capias pro fine and for processing an arrest warrant or capias if the arrest warrant or capias was not executed. The bill modifies procedures relating to the payment of fines and court costs by an indigent defendant and authorizes the waiver of payment of fines and court costs for an indigent defendant under certain conditions.

**House Bill 3131**  
**Effective:** 9-1-07

**House Author:** Cook, Robby  
**Senate Sponsor:** Hegar

House Bill 3131 amends the Code of Criminal Procedure to allow any magistrate in a county that does not have a municipal court of record judge who is an attorney licensed in the state, a county court judge who is an attorney licensed in the state, or a statutory county court judge, to issue a search warrant for certain property constituting evidence or for contraband subject to seizure. The bill prohibits the magistrate from issuing a subsequent search warrant for property constituting evidence. The bill deletes a provision that authorized the issuance of such warrants by any magistrate in a county in which the only judges that were licensed attorneys were district judges.

**House Bill 3692**  
**Effective:** See below

**House Author:** Straus  
**Senate Sponsor:** Wentworth

Previous law made knowingly or intentionally undertaking certain conduct in violation of a protective order or magistrate’s order an offense. House Bill 3692 amends the Penal Code to expand the offense to include undertaking certain conduct in violation of a condition of bond set in a family violence case related to the safety of the victim or the community or in violation of a temporary protective order that has been served. The bill sets out circumstances under which bail may be denied for a person who violates certain protective orders, including a temporary protective order that has been served, or a condition of bond set in a family violence case related to the safety of the victim or the community. The bill sets out circumstances under which a bail bond may be revoked for a violation of a condition of a bond related to victim or community safety.

House Bill 3692 amends the Code of Criminal Procedure to provide that a defendant who is charged with a traffic offense or possession of alcohol by a minor and who is required to perform community service as a condition of deferred adjudication is entitled to make certain elections relating to where the community service is completed.

House Bill 3692 takes effect January 1, 2008, contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 6. The section of the bill amending provisions of the Code of Criminal Procedure relating to orders of a justice or municipal court in regard to community service takes effect September 1, 2007.

**House Joint Resolution 6**  
**For Election:** 11-6-07

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

House Joint Resolution 6 proposes an amendment to the state constitution to authorize the denial of bail to a person who violates an order for emergency protection issued after an arrest for an offense involving family violence or who violates an active protective order in a family violence case, including a temporary ex parte order that has been served on the person, or who engages in conduct that constitutes an offense involving the violation of such orders.

**Senate Bill 244**  
**Effective:** 9-1-07

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

Senate Bill 244 amends the Code of Criminal Procedure to authorize a district or appellate court to seal, for a specified time period, an affidavit filed in relation to a search warrant when there is a compelling state interest for doing so. The bill provides that an order sealing an affidavit may not affect the right of a defendant to discover the contents of the affidavit, or prohibit the disclosure of information relating to the contents or return of a search warrant, or inventory of property taken pursuant to a search warrant.

**Senate Bill 563**  
**Effective:** 6-15-07

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

Senate Bill 563 amends the Penal Code to establish that the attorney general has concurrent jurisdiction with a consenting local county or district attorney to prosecute any offense that is an abuse of state office or that occurs on state property or involves the use, unlawful appropriation, or misapplication of state property, including state funds. In addition, the bill enhances the punishment for the offense of improper sexual activity with a person in custody to a second-degree felony if the offense is committed against a juvenile offender detained in a correctional facility that is financed primarily with state funds.

**Senate Bill 584**  
**Effective:** 5-11-07

**Senate Author:** Carona  
**House Sponsor:** Pena

Senate Bill 584 amends the Code of Criminal Procedure and the Penal Code to add sexual assault and aggravated sexual assault to the list of offenses for which a magistrate is authorized to issue an emergency protective order.

**Senate Bill 867**  
**Effective:** 9-1-07

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

Senate Bill 867 amends provisions of the Code of Criminal Procedure relating to procedures for civilly committing or treating a criminal defendant with mental illness or mental retardation. The bill:

- expands the state's treatment options for a defendant who is found incompetent to stand trial to include an outpatient treatment program;
- limits the maximum period of treatment for a defendant charged with a misdemeanor and ordered to participate in an outpatient treatment program to two years from the initial order for treatment;
- modifies guidelines under which a court may release a defendant on bail, including, under certain conditions, requiring a defendant charged with a misdemeanor to be released on bail if public safety and effective treatment can be reasonably assured;
- specifies the deadlines for action within the procedure for the restoration of competency to stand trial;



- modifies the law so that procedures for civil commitment for mental illness and for mental retardation are separate procedures; and
- removes assault from the list of crimes for which a defendant is automatically confined to a maximum security section of a state or federal mental health facility.

Senate Bill 867 amends the Health and Safety Code to specify that a county in which the defendant's trial is pending or was adjudicated must pay for a hearing to evaluate the court-ordered administration of psychoactive medication to a patient who is receiving inpatient mental health services.

**Senate Bill 1470**

**Effective:** 9-1-07

**Senate Author:** Seliger et al.

**House Sponsor:** Dukes

Senate Bill 1470 amends the Code of Criminal Procedure to require a judge, before accepting a plea of guilty or nolo contendere from a defendant, to notify the defendant that it is unlawful for the defendant to possess or transfer a firearm or ammunition if the defendant is convicted of a misdemeanor involving family violence. The same notification is to be given to a defendant upon conviction for such an offense.

**Senate Bill 2037**

**Effective:** 6-15-07

**Senate Author:** Ogden

**House Sponsor:** Gattis

Current law authorizes a prosecuting attorney to request the assistance of the attorney general in the prosecution of all manner of criminal cases or in performing any duty imposed by law on the prosecuting attorney and, in requesting such assistance, to appoint any assistant attorney general as an assistant prosecuting attorney. Senate Bill 2037 amends the Government Code to also allow the attorney general to offer such assistance to the prosecuting attorney and includes in the acceptance of such an offer the prosecuting attorney's authority to appoint any assistant attorney general as an assistant prosecuting attorney.

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

House Bill 1042 - Open Government and Privacy  
 House Bill 1303 - Business and Commerce  
 House Bill 2112 - Public Education  
 House Bill 2524 - Human Services  
 House Bill 2546 - Agriculture  
 House Bill 3295 - Corrections  
 House Bill 3502 - Environment  
 House Bill 3659 - Open Government and Privacy  
 House Bill 3688 - State Government  
 Senate Bill 11 - Emergency Response  
 Senate Bill 74 - Open Government and Privacy  
 Senate Bill 199 - Human Services  
 Senate Bill 1533 - State Government  
 Senate Bill 1562 - Occupational Regulation



# Economic Development

This chapter covers legislation relating to state and local economic development. It includes bills on job creation, reinvestment and enterprise zones, economic development districts, and the emerging technology fund. Bills relating to workforce development are in the **Labor and Employment** chapter, and those relating to transportation development are in the **Transportation** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## Local Economic Development

### House Bill 470

**Effective:** 9-1-07

**House Author:** Rodriguez et al.

**Senate Sponsor:** Watson

House Bill 470 amends Local Government Code provisions relating to homestead preservation districts and reinvestment zones and extends applicability of certain of these provisions to a municipality with a population of 1.18 million or more that is located predominately in a county that has a total area of less than 1,000 square miles. The bill establishes eligibility criteria for an area in such a municipality to be designated as a homestead preservation district and provides for the dissolution of a district.

### House Bill 2514

**Effective:** 6-15-07

**House Author:** McClendon

**Senate Sponsor:** West, Royce

House Bill 2514 amends the Local Government Code to authorize a municipality with a population of more than one million to designate an area as an arts and entertainment district and develop the area in the district so that it contributes to the public through certain uses. The bill authorizes a municipality to solicit grants and donations to develop the district, provide incentives to persons to develop the area in the district for public purposes, and provide tax breaks to persons to develop the district for public purposes.

### House Bill 2994

**Effective:** See below

**House Author:** Bonnen et al.

**Senate Sponsor:** Hegar

House Bill 2994 amends provisions of the Tax Code relating to certain agreements made with electric power generation facilities. The bill amends the Property Redevelopment and Tax Abatement Act to authorize a taxing unit to defer the effective date of a tax abatement agreement with a nuclear facility located in a county reinvestment zone for up to seven years after the date the agreement is made and to require the term of a deferred agreement to end no later than 10 years after the effective date of the agreement.

House Bill 2994 amends the Economic Development Act to authorize a school district to offer a limitation on property appraisal valuation for purposes of job creation to the owner of a nuclear facility and an integrated gasification facility. "Qualifying time period" is redefined to provide that the time period of a property valuation limitation agreement with the owner of a nuclear power generation facility may be for up to seven years after the third anniversary of the date the school district approves the property owner's application. House Bill 2994 redefines "qualified investment" to include certain tangible property used in connection with a nuclear facility or an integrated gasification facility regardless of whether the property is affixed to or incorporated into real property. The bill adds property used in connection with electric power generation using integrated gasification combined cycle technology and nuclear electric power

generation to the property that is eligible for a limitation on appraised value and includes a transition provision that is in effect until this provision takes effect on January 1, 2008. The comptroller is required to submit a report assessing the progress of each agreement made under the terms set out in this bill under the Economic Development Act to the legislature, including information relating to job creation and impact on local tax revenues.

The provision of House Bill 2994 expanding the property that is eligible for limitation on appraised value is effective January 1, 2008; all other provisions take effect June 15, 2007.

**House Bill 3440**

**Effective:** 6-15-07

**House Author:** Parker

**Senate Sponsor:** Harris

House Bill 3440 amends the Development Corporation Act of 1979 to expand projects relating to airport facilities that may be undertaken by development corporations generally and by development corporations created under Section 4B of the Act to include airport hangars, airport maintenance and repair facilities, air cargo facilities, and related infrastructure located on or adjacent to an airport facility. The Section 4B projects must meet certain conditions specified in the bill. The bill also expresses findings relating to the grants, loans, expenditures, and tax exemptions authorized by the Act that constitute the making of loans or grants of public money authorized by the Texas Constitution.

**House Bill 3954**

**Effective:** 6-6-07

**House Author:** Macias

**Senate Sponsor:** Wentworth

House Bill 3954 amends the Local Government Code to specify that certain counties may establish special economic development projects and create public improvement districts. The bill establishes that such a district is created under certain provisions in the state constitution that authorize the district to levy taxes and issue bonds for certain purposes and provide the district with the powers and authority of a conservation and reclamation district.

**Senate Bill 1424**

**Effective:** 6-16-07

**Senate Author:** Brimer et al.

**House Sponsor:** Smith, Todd et al.

Senate Bill 1424 amends provisions of state law relating to the municipalities authorized to use the other events trust fund to attract certain sporting events. The bill removes certain minimum population requirements from the definition of an endorsing municipality with respect to certain events covered under the other events trust fund. The bill requires the comptroller to provide an estimate of the total tax revenue and of the incremental increase in receipts from a sporting event not later than six months before the date of the game or event on request of a local organizing committee, endorsing municipality, or endorsing county.

**Senate Bill 1523**

**Effective:** 6-15-07

**Senate Author:** Wentworth

**House Sponsor:** Dukes

Senate Bill 1523 provides for the creation of the sporting event trust fund under the law relating to facilitating and supporting efforts of certain municipalities and counties to promote economic development by hosting certain major sporting or athletic events. The bill requires the comptroller to make certain determinations relating to the increase in tax revenue that is directly attributable to a major sporting or athletic event at a site in this state selected by a site selection organization provided that an endorsing municipality with a population of 500,000 or more, an endorsing county with a population of 800,000 or more, or a local organizing committee submits a request for the determination to the comptroller not later than three months before the date of the event. The bill requires each endorsing municipality or county to remit to the

comptroller, and the comptroller to retain and deposit in the sporting event trust fund, certain local and state tax revenue based on the comptroller's determinations. The bill authorizes an endorsing municipality or county to issue notes secured by the fund to meet obligations under an event support contract and requires the comptroller, on payment of all state, municipal, or county obligations under the contract, to remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the fund. The bill also defines a motor sports racing event as an event sanctioned by the Automobile Competition Committee for the United States and held at a temporary event venue for purposes of the motor sports racing trust fund.

The bill amends the Development Corporation Act of 1979 to authorize an eligible city that holds an election authorizing the imposition of a sales and use tax for the benefit of a Section 4B small business industrial development corporation to also allow the voters to vote on a ballot proposition that limits the length of time the tax may be imposed or that limits the use of the tax to a specific project. The corporation is required to hold a public hearing before expending funds to undertake a project, except that if the corporation is authorized by an eligible city with a population of less than 20,000, a public hearing is not required for a proposed project defined by the Act.

## State Economic Development

### House Bill 1188

**Effective:** 9-1-07

**House Author:** Morrison

**Senate Sponsor:** Shapiro et al.

House Bill 1188 amends provisions of the Government Code relating to the Texas emerging technology fund and its three components. The bill authorizes the fund to be used for expenses in connection with administration of the fund by the office of the governor. It requires 16.67 percent, rather than 25 percent, of the remaining amount in the fund to be allocated for research award matching and requires 33.33 percent, rather than 25 percent, to be allocated for acquisition of research superiority. It requires 50 percent to be allocated for incentives for commercialization activities, rather than for incentives to create regional centers of innovation and commercialization, and authorizes no more than two percent of that allocation to be invested directly in the regional centers to support commercialization activities. The bill defines the term "award" for purposes of allocating money from the fund for each of these components and authorizes the governor to make awards in the form of loans. The bill adds an activity that has the potential to result in a breakthrough in the area of clean energy to the proposals and programs that are required to receive priority for funding under each component. House Bill 1188 renames the Texas Emerging Technology Committee as the Texas Emerging Technology Advisory Committee and revises the list of persons who are authorized to nominate a person to the committee. The bill requires the committee to review and consider, rather than solicit and identify, proposals in connection with acquisition of research superiority and provides that a contract in connection with incentives for commercialization activities is between a person and the office of the governor, rather than the committee.

### House Bill 1634

**Effective:** 6-8-07

**House Author:** Dukes et al.

**Senate Sponsor:** Deuell

House Bill 1634 amends provisions of the Government Code relating to the moving image industry incentive program formerly known as the film industry incentive program. Rather than capping program grants at the lesser of 20 percent of the wages paid to Texas residents on a filmed entertainment project or \$750,000, the bill provides that a grant may not exceed the lesser of

five percent of the total amount of a production company's in-state spending or \$2 million for a film; \$2.5 million for a television program; \$200,000 for a commercial or series of commercials; or \$250,000 for a digital interactive media production. The amount for an additional grant for production in an underused area, redefined in the bill as an area outside of Austin, Houston, and Dallas-Fort Worth, is set at 1.25 percent of the total amount of the production company's in-state spending for the project rather than at five percent of the wages paid to Texas residents. To qualify for a grant, a production company must have a minimum of \$1 million in in-state spending for a film or television program, or \$100,000 for a commercial or series of commercials, rather than a minimum of \$500,000 and \$50,000, respectively, in wages to Texas residents for those projects. Other grant qualification requirements include that at least 80 percent of the project be filmed in Texas and that at least 70 percent of the production crew, actors, and extras be Texas residents. The bill defines a Texas resident as a person who has resided in Texas for at least 120, rather than 60, days before production begins, and it defines in-state spending to include money spent in Texas during the production and completion of a project, including wages to Texas residents, and to exclude certain other wages. The bill authorizes the Music, Film, Television, and Multimedia Office in the governor's office to contract with certain entities to create a moving image industry personnel training program and to provide technical resources relating to archiving moving image projects.

**House Bill 2235**

**Effective:** 6-15-07

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 2235 amends the Government Code to require the Office of Rural Community Affairs to establish a rural technology center grant program not later than October 1, 2007, to award grants to public institutions of higher education, public high schools, and governmental entities in counties with a population of not more than 125,000 for the development and operation of certain multi-institutional technology centers. The executive committee of the office is required by rule to establish the program's procedures and guidelines, and the office is authorized to seek, receive, and spend money to implement the program. The bill requires the office to award the first grants under the program not later than January 1, 2008.

**House Bill 2542**

**Effective:** 6-15-07

**House Author:** Kolkhorst et al.

**Senate Sponsor:** Estes

House Bill 2542 amends the Government Code to continue the Office of Rural Community Affairs until September 1, 2013. It retitles the office's governing panel as a board rather than an executive committee and increases the membership from 9 to 11, with changes relating to board composition and appointments and selection of the presiding officer of the board. The bill revises the powers and duties of the office in part, mandating that it serve as a clearinghouse on state and federal programs affecting rural communities, consult with specified other parties to identify and prioritize policy issues and concerns affecting rural communities, and assist those communities in the key areas of economic development, community development, rural health, and rural housing. Certain monitoring, administration, Medicare-related, and federal funds responsibilities involving rural health and economic development remain unchanged. The bill revises and adds provisions relating to the office's community development block grant (CDBG) duties. Among other changes, it requires the office, in conjunction with the Texas Department of Agriculture, to review and evaluate the administration of the state's CDBG nonentitlement program allocation. Findings and recommendations from the evaluation and information the office is charged to compile on rural housing availability must be included in the office's report to the legislature. The bill adopts and amends certain across-the-board sunset provisions.

**House Bill 3446**  
**Effective:** 9-1-07

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

House Bill 3446 amends the Government Code to authorize the governor's office of economic development to establish the Genuine Texas program to develop and expand markets for Texas manufactured products. The bill requires the office to design and administer the use of a logo for Texas manufactured products, appoint an advisory board to assist with implementation, and take certain other actions if the office establishes the program, and it authorizes the office to adopt rules and establish procedures to administer the program. The bill establishes administrative and civil penalties for a person that uses, reproduces, or distributes the logo without the consent of the office or violates a rule or procedure established by the office. The bill provides for the enforcement of the administrative and civil penalties by the office and the authority of the office to request the attorney general or the county or district attorney of the county where the alleged violation took place to file suit for injunctive relief to prevent or abate a violation.

**House Bill 3694**  
**Effective:** 6-15-07

**House Author:** Deshotel  
**Senate Sponsor:** Janek

House Bill 3694 amends provisions of the Government Code and the Tax Code relating to the Texas enterprise zone program. Among other provisions, the bill:

- authorizes the governing body of a county with a population of 750,000 or more to nominate an enterprise project that is located within the jurisdiction of a municipality located in the county, with certain limitations
- provides that for purposes of qualifying for the program, a new permanent job is one that is created not earlier than the 90th day before the project is designated as an enterprise project, and a retained job is one that existed on the 91st day before the project's designation
- provides that the Texas Economic Development Bank may not designate more than 105, rather than 85, enterprise projects during any biennium and that any designations remaining at the end of a biennium may be carried forward to the next biennium
- provides that the designation period for an enterprise project may not be for less than one year
- authorizes the bank to lower the designation level of a nominated enterprise project if there are fewer designations available than applications received or to further the economic interests of the state
- prohibits a state benefit under the program from being obtained for jobs moved from one jurisdiction in the state to another
- provides that effective January 1, 2008, and before the expiration date of December 31, 2009, an enterprise project that was designated on or after September 1, 2001, but before January 1, 2005, and that was subject to the franchise tax on May 1, 2006, is entitled to a franchise tax credit equal to 7.5 percent of the qualified capital investment in an enterprise zone made on or after January 1, 2005, and before January 1, 2007. The total tax credit may not exceed 50 percent of the franchise tax due for a report, and the excess credit may be carried forward for not more than five consecutive reports. The comptroller is required to adopt necessary rules and forms and to submit a report to the governor, lieutenant governor, and speaker of the house of representatives relating to enterprise projects that claim a franchise tax credit.
- authorizes the governing body of a municipality to refund the local sales and use taxes paid by a qualified business on all taxable items purchased for use at the qualified business site related to the project or activity, rather than on certain items

## Economic Development

- provides that an enterprise project is eligible for a refund of state sales, excise, and use taxes on all taxable items purchased for use at the qualified business site related to the project or activity, rather than on certain items. The bill caps the total amount of tax refund that double and triple jumbo enterprise projects may apply for in a state fiscal year and receive in total.
- authorizes the comptroller, rather than the bank, to monitor qualified business or enterprise project commitments and determine whether a business or project is entitled to a refund or credit of state taxes

### **Senate Bill 1956**

**Effective:** 9-1-07

**Senate Author:** Van de Putte et al.

**House Sponsor:** Corte, Frank

Senate Bill 1956 amends the Government Code to transfer authority over grants to local areas affected by defense base restructuring from the Texas Department of Commerce to the Texas Military Preparedness Commission and to abolish the community infrastructure development revolving loan program.

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

House Bill 48 - Labor and Employment

House Bill 2092 - Transportation

House Bill 2278 - Business and Commerce

House Bill 2660 - Transportation

House Bill 4065 - Labor and Employment

Senate Bill 1089 - Transportation

Senate Bill 1509 - State Government



## Elections

This chapter covers legislation on issues relating to statewide and local election regulation, including voter rights, voter registration, election procedures, election officials, campaign contributions and expenditures, and personal financial reporting and disclosure. The chapter also includes legislation relating to local option elections on the sale of alcoholic beverages. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 556**

**Effective:** 6-15-07

**House Author:** Hilderbran

**Senate Sponsor:** Fraser

House Bill 556 amends the Election Code to authorize the secretary of state to reimburse political subdivisions for expenses incurred in conducting a special election that is held statewide.

House Bill 556 provides that, for an election other than an election of a political subdivision that is held jointly with another election in which a federal office appears on the ballot, political subdivisions that meet certain criteria are not required to provide at least one voting station at each polling place that complies with federal laws regarding accommodations for persons with disabilities. The bill repeals a provision that specified that the only polling places required to accommodate voters with disabilities were those that used an electronic voting system.

House Bill 556 amends the Special District Local Laws Code to provide that the Hickory Underground Water Conservation District No. 1, in a district election not held jointly with another election in which a federal office appears on the ballot, is not required to use a station that meets the requirements for accessibility for persons with disabilities prescribed by federal law. The board of directors of the district must notify the secretary of state if the district does not provide at least one voting station that meets those requirements at each polling place used in the election.

#### **House Bill 945**

**Effective:** 9-1-07

**House Author:** Herrero et al.

**Senate Sponsor:** Hinojosa

House Bill 945 amends the Election Code to authorize an independent school district located wholly or partly in a coastal city that is allowed to hold a general election for offices on any Saturday in April of odd-numbered years to hold its general election for trustees on the same date as a joint election with the city. The bill also amends the Education Code to authorize certain school districts that held elections for trustees jointly with the election for members of the governing body of a hospital district prior to May 2007 to continue to hold such elections in May. The bill authorizes the board of trustees of an independent school district, not later than December 31, 2007, to change the date on which it holds its general election for trustees so it may hold a joint election with a city or hospital district and to adjust the terms of office of trustees to conform to the change of the election date.

#### **House Bill 1446**

**Effective:** 6-15-07

**House Author:** Bohac

**Senate Sponsor:** Williams

House Bill 1446 amends the Election Code to allow precinct election records to be transferred to secure containers other than their original ballot boxes 60 days after an election.

**House Bill 1921**

**Effective:** 9-1-07

**House Author:** Keffer, Jim

**Senate Sponsor:** Eltife

House Bill 1921 amends the Election Code to prohibit a person from using a wireless communication device or any mechanical or electronic means of recording images or sound within 100 feet of a voting station and to permit a presiding judge to require a person in violation to turn off the device or to leave the polling place. The bill provides that, at the discretion of the presiding judge, a notice of such prohibition may be posted at one or more locations in the polling place where it can be read by persons waiting to vote. House Bill 1921 also provides that a poll watcher is considered to have served continuously if the watcher leaves the polling place to use a prohibited wireless communication device and the watcher promptly returns.

**House Bill 1987**

**Effective:** 9-1-07

**House Author:** Berman

**Senate Sponsor:** Duncan

Previous law provided that a person committed a criminal offense if the person knowingly possessed another person's official vote-by-mail ballot or official vote-by-mail carrier envelope. The law provided certain affirmative defenses to prosecution that were available unless the person possessed the ballot or carrier envelope with the intent to defraud the voter or the appropriate election authority. House Bill 1987 amends the Election Code to transform these affirmative defenses to prosecution into conditions under which a person's possession of another person's official vote-by-mail ballot or official vote-by-mail carrier envelope is not a criminal offense, unless the act is performed with the intent to defraud. The bill provides that in the prosecution of the act as a criminal offense, the prosecuting attorney is not required to negate the applicability of these conditions in the accusation charging commission of an offense.

**House Bill 2926**

**Effective:** 9-1-07

**House Author:** Van Arsdale

**Senate Sponsor:** Ellis

House Bill 2926 amends the Election Code to require school districts in a county that holds an election on the November uniform election date to use the county election precincts as the election precincts.

**House Bill 3105**

**Effective:** 6-15-07

**House Author:** Anchia

**Senate Sponsor:** Duncan

House Bill 3105 amends the Election Code to reestablish the program created in 2005 to allow participating commissioners courts to eliminate county election precincts and establish countywide polling places for certain elections. The bill requires a participating county to adopt a methodology for determining the location of each countywide polling place and to create a plan, having solicited input from organizations representing minority voters, to inform voters of the changes made to polling place locations. The bill specifies the minimum number of polling places and requires each polling place to allow a voter to vote in the same elections in which the voter would be entitled to vote in the county election precinct in which the voter resides. The bill requires the secretary of state to select for the program any county that meets certain conditions, including one that has previously participated in a similar program. The secretary of state must operate the program as a pilot program until June 1, 2009, and file a report with the legislature not later than January 1, 2009, that includes the secretary's recommendations on the future use of countywide polling places and suggestions for permanent statutory authority regarding such polling places. The program expires June 1, 2009.

**House Bill 3143**  
**Effective:** 6-15-07

**House Author:** Flynn  
**Senate Sponsor:** Patrick, Dan

House Bill 3143 amends the Election Code to prohibit a presiding election judge or an appointed special peace officer from enforcing a prohibition against electioneering and loitering outside the area specified by law.

**House Bill 3619**  
**Effective:** Vetoed

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

House Bill 3619 amends the Election Code to extend by three years the deadline for the governing body of a political subdivision other than a county to exercise the option to change the date on which it holds its general election to another authorized uniform election date.

Reason Given for Veto: "In 1993, the legislature enacted a statute requiring local political subdivisions to set a fixed date for their elections and stick to it, so voters would know each cycle when elections will be held. House Bill No. 3619 attempts to extend for the fifth time the deadline for political subdivisions, other than counties, to change the date on which the subdivision holds its general election for officers.

"In 1993, the legislature established a deadline of December 31, 1993, for setting election dates. The date was then pushed back to December 31, 1997 (by the 75th session), December 31, 1999 (by the 76th session), December 31, 2004 (by the 78th session), and December 31, 2005 (by the 79th session).

"House Bill No. 3619 would move the deadline again, to December 31, 2008.

"While some of the deadline extensions were necessary in sessions in which the legislature cut back the number of uniform election dates, we have now reached the point where the cities and other local subdivisions need to stop moving their election dates. Voters need to know when a political subdivision holds its elections.

"If Texas is serious about increasing turnout, the state must stop changing the time and place of elections, and set them permanently so voters will know when they can vote."

**Senate Bill 393**  
**Effective:** 9-1-07

**Senate Author:** Patrick, Dan  
**House Sponsor:** Callegari

Senate Bill 393 amends the Government Code to establish the second Tuesday in January of each year as Volunteers for Democracy day in honor of election volunteers.

**Senate Bill 1735**  
**Effective:** Vetoed

**Senate Author:** Shapiro  
**House Sponsor:** Jackson, Jim

Senate Bill 1735 amends the Local Government Code to provide that a local option election for or against the sale of alcoholic beverages for off-premise consumption that is held in a county or justice precinct in which is located all or part of certain home-rule municipalities does not alter, modify, or supersede a home-rule charter restriction of that municipality regardless of whether the election was held before, on, or after the effective date of this provision or the charter restriction. The bill stipulates that the charter restriction of such a municipality is in all respects validated.

Reason Given for Veto: "Senate Bill No. 1735 seeks to clarify the Town of Addison's alcoholic beverage charter amendment, which limited alcohol sales for off premises consumption within the limits of the municipality.

"I am vetoing Senate Bill No. 1735 because a municipality's wet/dry status should not affect the boundaries of a local option justice of the peace precinct election and vice versa, which this bill does."

## **Election Officials**

### **House Bill 862**

**Effective:** 9-1-07

**House Author:** Aycock et al.

**Senate Sponsor:** Fraser

Previous law required that the state executive committee of a political party appoint a temporary county party chair. House Bill 862 amends the Election Code to provide that a temporary county chair may be appointed by the state chair, as well as by the committee. The committee must ratify an appointment by the state chair or appoint another person as temporary county chair, and the action requires a favorable vote of a majority of the members of the committee voting rather than a majority of the committee's membership.

### **House Bill 1071**

**Effective:** 5-23-07

**House Author:** Aycock et al.

**Senate Sponsor:** Fraser

House Bill 1071 amends the Election Code to require the person formerly serving as the county chair of a political party to transfer to the new county chair, by a specified deadline, local party bank accounts over which the former county chair has authority and certain original records that are in the possession of the former county chair. The bill allows the former county chair to make copies of the records before transferring them.

### **Senate Bill 493**

**Effective:** 9-1-07

**Senate Author:** Duncan

**House Sponsor:** Chisum

Senate Bill 493 amends the Election Code to authorize counties and other political subdivisions to establish a joint election commission that would appoint a joint elections administrator to administer all elections for the member entities. The bill specifies powers and duties of a joint elections administrator, authorizes abolition of the position, and requires the secretary of state to assign election-related duties between a joint elections administrator and an officer of a member entity who formerly performed all election-related duties for the entity.

### **Senate Bill 1434**

**Effective:** 9-1-07

**Senate Author:** Estes

**House Sponsor:** Flynn

Senate Bill 1434 amends the Election Code to repeal and replace provisions for selecting election officers for early voting in the general election. The bill requires a county clerk to select election officers for the main early voting polling place and any branch polling place from a list of names of eligible persons, sorted in order of preference and submitted by the county chair of each political party holding a primary election in the county. The bill requires a county clerk to select election officers in a manner that provides equal representation to the extent possible for each political party holding a primary election in the county and to appoint a person listed by the party with the highest number of votes in the county as the presiding election officer and a person listed by the party with the second highest number of votes as the alternate presiding election officer. The bill provides for selection of election officers for each early voting polling place in which a list is not submitted and for rejection of a submitted list if the persons on the list do not meet the applicable eligibility requirements.

## Ethics, Reporting, and Disclosure

### House Bill 89

**Effective:** 9-1-07

**House Author:** Branch et al.

**Senate Sponsor:** Harris

House Bill 89 amends the Election Code to prohibit the Texas Ethics Commission from imposing a civil penalty on a general-purpose committee for a reporting violation if the report filed by the committee that is the subject of the violation shows that the committee did not accept political contributions totaling \$3,000 or more, accept political contributions from a single person totaling \$1,000 or more, or make or authorize political expenditures totaling \$3,000 or more during certain periods. The bill also requires the commission to submit a report to the legislature not later than December 31, 2008, on the impacts and effects of the prohibition provided by the bill.

### House Bill 1290

**Effective:** 9-1-07

**House Author:** Macias et al.

**Senate Sponsor:** Fraser

House Bill 1290 amends the Government Code to authorize only a respondent alleged to have committed a violation of a Texas Ethics Commission rule or the respondent's agent to file a petition to appeal a final decision of the commission.

### House Bill 1381

**Effective:** 9-1-07

**House Author:** McCall

**Senate Sponsor:** Shapiro

Previous law required certain first, second, runoff election, and monthly reports of political contributions and expenditures to be filed by a specific deadline. House Bill 1381 amends the Election Code to require such reports to be received by the appropriate authority, rather than filed, by the specified deadline.

### House Bill 1652

**Effective:** 6-15-07

**House Author:** Macias

**Senate Sponsor:** Fraser

Previous law required the Texas Ethics Commission to mail within a certain time frame two copies of the form for a financial statement to certain state officers, candidates for elected office, and state party chairs required to file such statements. House Bill 1652 amends the Government Code to require the commission to instead mail to each individual a notice that states that the individual is required to file a financial statement, identifies the filing dates, provides instructions for obtaining the forms and instructions from the commission's Internet website, states that a copy of the financial statement forms and instructions is available by mail upon request, and provides mailing fee information. In addition, the bill provides a deadline by which the commission is required to mail a requested copy of the financial statement forms and instructions and permits the commission to charge a reasonable mailing fee.

### House Bill 2195

**Effective:** 9-1-07

**House Author:** McCall

**Senate Sponsor:** Harris

House Bill 2195 amends the Election Code and the Government Code to extend the deadlines for submitting certain electronic reports to the Texas Ethics Commission from 5:00 p.m. to midnight on the last day permitted for filing the reports. The bill provides that additional reports filed by a certain candidate or specific-purpose committee during the period beginning the ninth day before an election and ending at 12 noon on the day before election day must be received by the commission electronically not later than midnight of the first business day after the date the contribution is accepted. The bill also requires a statement required to be filed by each candidate for speaker of the house on the day before a regular or called session convenes to actually be delivered and in the possession of the commission not later than midnight of that day.

**House Bill 2492**

**Effective:** 9-1-07

**House Author:** Berman et al.

**Senate Sponsor:** Williams

House Bill 2492 amends the Election Code to update campaign finance provisions to reflect the 2006 Texas Business Organizations Code provisions concerning for-profit and nonprofit corporate entities.

**House Bill 3066**

**Effective:** 9-1-07

**House Author:** Truitt et al.

**Senate Sponsor:** Patrick, Dan

House Bill 3066 amends the Election Code to prohibit a candidate or officeholder or a specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder from knowingly making or authorizing a payment from a political contribution for the rental or purchase of real property from a person related within the second degree by consanguinity or affinity to the candidate or officeholder or from a business in which the candidate, officeholder, or related person has a participating interest of more than 10 percent, holds a position on the governing body, or serves as an officer.

**Senate Bill 64**

**Effective:** 9-1-07

**Senate Author:** Zaffirini

**House Sponsor:** Strama

Senate Bill 64 amends the Election Code to require a general-purpose political committee to file additional reports with the Texas Ethics Commission during the period beginning the ninth day before election day and ending at 12 noon on the day before election day if the committee accepts political contributions from a person that in the aggregate exceed \$5,000 during that reporting period. Current law requires such reports only for certain political expenditures supporting or opposing a candidate or group of candidates during that time period. Senate Bill 64 requires that such contribution and expenditure reports be received by the commission not later than 5 p.m. of the first business day after the date a contribution is accepted or an expenditure is made, rather than 48 hours after an expenditure is made. The bill requires each report of contributions to include the amount of a contribution, the full name and address of the person making the contribution, and the date of the contribution. It also removes an exception for telegram reports from the provision of law requiring a determination by the commission whether a report is filed late.

## **Voter Rights, Voter Registration, and Voting Procedures**

**House Bill 343**

**Effective:** 9-1-07

**House Author:** Naishtat

**Senate Sponsor:** Carona

House Bill 343 amends the Election Code to require the clerk of each court having probate jurisdiction to prepare an abstract for the voter registrar of each application for determination of heirship and each affidavit for the collection of small estates that is filed with the court each month.

**House Bill 606**

**Effective:** 6-15-07

**House Author:** Madden et al.

**Senate Sponsor:** Shapiro

House Bill 606 amends the Education Code to apply the procedures for write-in voting prescribed for an election for trustees of an independent school district to an election for trustees of a common school district.

**House Bill 770**  
**Effective:** Vetoed

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

House Bill 770 amends the Election Code to require the Texas Department of Criminal Justice to provide written notification to a person released from custody or supervision of the person's potential voting eligibility and to provide an official voter registration application form to the person.

Reason Given for Veto: "House Bill No. 770 requires the Texas Department of Criminal Justice (TDCJ) give written notice to each convicted felon released from prison, or whose parole or probation ends, that they are eligible to vote, and requires the Texas Department of Criminal Justice to provide former inmates with a voter registration form. This legislation is objectionable for several reasons. First, registering former inmates to vote is not within the mission of TDCJ. Their role is to incarcerate and rehabilitate offenders, and we should not divert resources away from this difficult task by mandating that TDCJ register inmates that are leaving the system or track down each convict when their parole or probation is over to encourage them to vote. In the 78th regular session, I vetoed a similar piece of legislation, House Bill No. 1517, that was less onerous than this – it required that the state post notice to released felons of their right to vote. Second, the state does not currently provide this service to law-abiding citizens, such as high school graduates who are new to voting. I find it unseemly that the state would make a greater effort to register former inmates to vote than we would any other group of citizens in this state. Third, when an individual is released from prison and their rights are restored, it is imperative that they take personal responsibility for all aspects of their life, including their right to vote. Lastly, nothing in current law precludes any political party or organization from organizing a voter registration drive among released convicts. In fact, a large amount of resources is dedicated each election cycle to registering Texans not currently on the voter rolls. But government should not make it a greater priority to register to vote those who broke our laws than those who have abided by them."

**House Bill 1044**  
**Effective:** 9-1-07

**House Author:** Dutton  
**Senate Sponsor:** Ellis

Previous law required a voter registrar to deliver to an applicant the original of an initial registration certificate in time for the applicant to receive it before the effective date of the registration. House Bill 1044 amends the Election Code to require a voter registrar to deliver to an applicant an initial, replacement, or corrected certificate within 30 days of receipt of an application notice of loss, or notice of correction.

**House Bill 2823**  
**Effective:** 9-1-07

**House Author:** Bohac et al.  
**Senate Sponsor:** Patrick, Dan

House Bill 2823 amends the Election Code to allow a person to whom an early voting clerk was required to provide an early voting ballot by mail and who did not vote early by mail to cast a provisional ballot on election day if the person executes an affidavit stating that the person is a registered voter in the precinct in which the person seeks to vote and that the person did not vote early by mail. The bill provides that the provisional ballot may be accepted only if the early voting ballot board determines that the person is eligible to vote in the election and has not previously voted in that election.

**House Bill 3723**  
**Effective:** 6-15-07

**House Author:** Elkins  
**Senate Sponsor:** Janek

House Bill 3723 amends the Local Government Code to entitle residents in an area annexed for limited purposes under a strategic partnership agreement between a municipality and a certain type of water district to the same voting rights and eligibility for office as residents of an area annexed for limited purposes.

**Senate Bill 90**

**Effective:** 9-1-07

**Senate Author:** Van de Putte et al.

**House Sponsor:** Corte et al.

Senate Bill 90 amends the Election Code to require the secretary of state to implement, no later than July 1, 2008, a pilot program to evaluate the use of electronic mail to provide a ballot to military personnel who are voting from overseas. A ballot provided by electronic mail must include a signature sheet, and an electronic mail address provided for this purpose is confidential. The bill requires the secretary of state to file a report on the program with the legislature no later than February 15, 2009, including recommendations on the feasibility and expansion of the program and suggestions for permanent statutory authority. The program expires February 16, 2009.

**Senate Bill 361**

**Effective:** 9-1-07

**Senate Author:** Janek

**House Sponsor:** Davis, John

Senate Bill 361 amends the Election Code to extend the deadline for an active member of the armed forces or merchant marine of the United States, the spouse or dependent of such a member, or a state resident temporarily living outside the United States to submit a federal postcard application to vote by mail from the 30th day to the 20th day before election day. The bill provides that an application mailed from an Army/Air Force Post Office or Fleet Post Office is considered placed in the United States mail and that the date indicated by the post office cancellation mark, including a United States military post office cancellation mark, is considered to be the date the application was placed in the mail unless proven otherwise. The bill also provides that an application that does not contain a cancellation mark to indicate a submission date is considered to be timely if it is received by the early voting clerk on or before the 15th, rather than the 22nd, day before the election day. The provisions in the bill apply to an election held on or after January 1, 2008.

**Senate Bill 932**

**Effective:** 6-16-07

**Senate Author:** Jackson, Mike

**House Sponsor:** Bonnen

Senate Bill 932 amends the Election Code to require a voter registration certificate to contain the jurisdictional or distinguishing number for certain districts and precincts in which the voter resides and to allow the certificate to contain up to seven additional jurisdictional or distinguishing numbers for any other territorial units in which the voter resides. Previous law authorized an unspecified number of jurisdictional or distinguishing numbers and required none.

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

House Bill 2468 - Public Officials and Employees



## Emergency Response

This chapter covers legislation on issues relating to emergency response, including homeland security, emergency medical services providers, and natural disasters. Bills relating to emergency services districts are in the **Special Districts** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### **House Bill 88**

**Effective:** 6-15-07

**House Author:** Branch

**Senate Sponsor:** Hinojosa

House Bill 88 amends the Government Code to require the division of emergency management in the office of the governor to assist political subdivisions in developing plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in a disaster.

### **House Bill 738**

**Effective:** Vetoed

**House Author:** Bonnen

**Senate Sponsor:** Jackson, Mike

House Bill 738 amends the Government Code to exempt a person employed at a Class IV airport that holds an operating certificate issued under the Code of Federal Regulations from Texas Commission on Fire Protection training requirements for appointment to an aircraft fire fighting and rescue fire protection personnel position.

Reason Given For Veto: "House Bill No. 738 would permit a person employed by a Class IV airport, which has an Airport Operating Certificate from the Federal Aviation Administration, to be appointed to a paid position with aircraft firefighter responsibilities.

"However, this bill would unnecessarily impact the standardization of airport firefighting and the regulatory authority of the Texas Commission on Fire Protection (TCFP). I am confident the TCFP can use its existing statutory authority when necessary to address unique situations of an airport in a manner that balances the needs of the airport with its regulatory framework."

### **House Bill 1205**

**Effective:** Vetoed

**House Author:** Keffer, Jim et al.

**Senate Sponsor:** Eltife

House Bill 1205 amends the Labor Code to prohibit an employer from terminating or suspending the employment of, or in any other manner discriminating against, an employee who is a volunteer emergency responder and who is absent from, or late to, employment due to responding to an emergency. The bill provides that such an employee is not entitled to be absent more than 14 days in a calendar year unless the absence is approved by the employer and requires the employee to make a reasonable effort to notify the employer or to submit certain written verification. The employer is authorized to reduce the employee's wages or to require the employee to take existing leave time. The bill provides that an employee who is wrongfully suspended or terminated is entitled to certain actions and authorizes the employee to bring a civil action against the employer not later than the 15th business day after the date of the violation. The bill makes an exception to these provisions for employers with fewer than 50 employees and for certain critical employees, except that an employer may permit a critical employee to provide services as a volunteer emergency responder subject to these provisions.

Reason Given for Veto: "House Bill No. 1205 would mandate that private employers give volunteer emergency responders time off from work without being terminated or suspended if the employee is responding to a disaster declared by the governor or president that includes a fire, hazardous materials spill, medical emergency, or other situation that poses an imminent threat of loss of life.

## Emergency Response

“Private employers should be allowed to continue to develop their own employment leave policies free of more government mandates. Further, this bill allows for a new civil cause-of-action to be created, thereby unnecessarily increasing litigation in the state. I remain steadfast in my opposition to creating opportunities for litigation.”

### **House Bill 1471**

**Effective:** 6-15-07

**House Author:** Hancock et al.

**Senate Sponsor:** Brimer

House Bill 1471 amends the Government Code to create the Texas statewide mutual aid system to provide mutual aid assistance between local government entities. The bill requires the division of emergency management in the governor’s office to administer the system, and it divides the state into disaster districts that coincide with the geographic boundaries of the state planning regions. The bill establishes a disaster district committee for each disaster district and provides for a commanding officer from the Texas Highway Patrol to serve as chair of each committee. The bill also addresses procedures for mutual aid, requests for mutual aid assistance, assessment of the ability to render assistance, supervision and control of resources, duration of aid, rights and privileges of responding persons, license portability, and reimbursement of costs. Additionally, the bill designates emergency management directors to serve as the governor’s agent for emergency management in political subdivisions.

### **House Bill 1717**

**Effective:** 6-15-07

**House Author:** McReynolds

**Senate Sponsor:** Hegar

House Bill 1717 amends the Health and Safety Code to require the owner of any device that resembles a fire hydrant, and that is either nonfunctioning or unavailable for use in a fire emergency and is located in an area where fire emergency personnel would expect a fire hydrant, to paint the device black. The owner may place a black tarp over the device to indicate that the device is either temporarily nonfunctioning or temporarily unavailable, for a period not to exceed seven days. The bill does not apply to a governmental entity that maintains its own system for labeling such a device. The bill requires that such devices be in compliance not later than January 1, 2008.

### **House Bill 1915**

**Effective:** 9-1-07

**House Author:** Swinford et al.

**Senate Sponsor:** Duncan

House Bill 1915 amends the Government Code to require the Texas Forest Service to establish and maintain a listing of Texas fire departments to assist that agency and the firefighters’ pension commissioner, Office of Rural Community Affairs, Texas Commission on Fire Protection, Texas Engineering Extension Service, and State Fire Marshal’s Office in the Texas Department of Insurance in carrying out their responsibilities. Each fire department that provides fire protection to an area with 9-1-1 service, as determined by the Commission on State Emergency Communications, must be listed. Each such fire department must provide the Texas Forest Service with information including its name, its physical and mailing addresses, its number of firefighters and personnel whose duties involve responding to emergencies, and an itemized list, under National Incident Management System guidelines, of all firefighting equipment it uses. The bill requires the Texas Forest Service to renew a fire department’s listing annually, and requires the other state agencies listed above, and the Texas Fire Chiefs Association, Texas Fire Marshals Association, Texas State Association of Fire Fighters, State Firemen’s and Fire Marshals’ Association of Texas, and Texas State Association of Fire and Emergency Districts to coordinate and cooperate with the Texas Forest Service in the development of the listing.

**House Bill 2694**  
**Effective:** 6-15-07

**House Author:** Hamilton  
**Senate Sponsor:** Janek

House Bill 2694 amends the Government Code to authorize state agencies, local governments, and other eligible entities to request funding from the disaster contingency fund to pay for costs incurred in implementing preventive measures taken before and during an emergency and costs incurred in repairing damage suffered during a declared disaster.

**House Bill 2827**  
**Effective:** 6-15-07

**House Author:** Taylor et al.  
**Senate Sponsor:** Jackson, Mike

House Bill 2827 amends the Health and Safety Code to direct the Texas Board of Health to adopt minimum standards requiring an emergency medical services (EMS) vehicle to be equipped with an epinephrine auto-injector device or similar device used for anaphylaxis treatment and requiring EMS personnel to complete continuing education courses in anaphylaxis treatment. The bill makes conforming changes to remove minimum certification requirements limiting the type of EMS personnel authorized to carry, maintain, administer, and dispose of epinephrine auto-injector devices and authorizes a licensed physician acting as a medical director for an emergency medical services system to restrict the use and administration of the devices to certain EMS personnel.

**Senate Bill 11**  
**Effective:** See below

**Senate Author:** Carona  
**House Sponsor:** Corte, Frank

Senate Bill 11 enacts a number of provisions relating to homeland security and protection of the public. Among other provisions, the bill amends the Code of Criminal Procedure to:

- expand the list of offenses for which interception of wire, oral, or electronic communications may be authorized to include unlawful restraint, kidnapping, trafficking of persons, and laundering of money from crimes against persons
- set forth provisions regarding the collection of information relating to a criminal street gang, modify the criteria used to calculate the time period after which information from a criminal street gang intelligence database must be removed, and allow a person or parent or guardian of a child to request criminal information that has been collected or is maintained by a law enforcement agency on that person or child

The bill amends the Penal Code to:

- revise provisions relating to the offense of trafficking of persons, including changing the conditions under which such an offense is elevated from a felony of the second degree to a felony of the first degree

The bill amends the Civil Practice and Remedies Code to:

- require an establishment that rents overnight lodging to the public that is required to execute a bond to abate a common nuisance relating to prostitution to post in a conspicuous place near the room rate an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking

The bill also requires the attorney general and the Health and Human Services Commission to prepare and issue certain reports relating to the needs of victims of human trafficking.

The bill amends the Government Code to:

- designate emergency management directors of cities and counties
- revise provisions of current law relating to mutual aid assistance between local government entities and establish the Texas Statewide Mutual Aid System to provide integrated statewide mutual aid response capability between local government entities without a written mutual aid agreement

## Emergency Response

- authorize leave not to exceed 10 days per fiscal year for up to 350 state employees who hold a federal amateur radio station license to participate in specialized disaster relief services; and add a member of a state or federally authorized Urban Search and Rescue Team to the list of public officers and employees who are entitled to paid leave for up to 15 workdays when engaged in certain training or duty and who are entitled to be restored to their previous job position when relieved from such duty
- establish procedures for designating private emergency organizations that may operate emergency vehicles during a declared disaster and for designating such vehicles
- add to the list of elements that may be included in the comprehensive state emergency plan prepared by the Governor's Division of Emergency Management (GDEM) provisions relating to the education and training of local officials on activation of the Emergency Alert System
- require certain appointed public officers to complete a course of emergency management training provided or approved by the GDEM not later than the 180th day after they take office
- specify that certain aspects of a local or interjurisdictional emergency management plan take effect immediately after a local state of disaster is declared
- provide that a declaration of local disaster may include a restriction on the sale or use of fireworks beyond other restrictions authorized by law
- establish the Border Security Council to develop and recommend performance standards, reporting requirements, and other procedures to ensure that funds allocated by the governor's office for purposes related to security at or near the border with Mexico are used properly and that recipients of funds are accountable for their proper use

The bill amends the Education Code to:

- require a school district to report the results of a security audit to the Texas School Safety Center (TSSC) in the manner required by the center
- add the commissioner of higher education to the TSSC board of directors
- authorize an institution of higher education to avail itself of certain services of the TSSC relating to development of an all-hazards emergency operations plan and safety training
- authorize the governing board of a private institution of higher education to employ and commission peace officers, rather than campus security personnel, and to authorize certain private institutions of higher education to enter into mutual assistance agreements with a municipality under which the peace officers of one party to the agreement assist peace officers of the other party

The bill amends the Health and Safety Code to:

- require the Texas Department of Health (TDH) to maintain a registry of persons who receive certain immunizations to prepare for or in response to a disaster, terrorist attack, or certain other emergencies, to track adverse reactions to these immunizations, and to consult with public health departments and health care providers to identify and prepare adult immunizations that may be necessary in such emergencies
- authorize TDH or a health authority to order a group of five or more individuals exposed to or infected with a communicable disease to implement control measures to prevent the introduction, transmission, and spread of the disease in the state and set forth provisions for the isolation or quarantine of a person with a communicable disease and issuance of protective custody orders for the person

The bill amends the Transportation Code to:

- exempt an authorized emergency vehicle from payment of a toll regardless of whether it is responding to an emergency
- require the Texas Department of Transportation to develop and maintain a secure, real-time database of information on vehicles to which dealers and converters have affixed temporary cardboard registration tags and on persons to whom temporary buyer's tags are issued; further limit the reproduction, purchase, sale, or use of temporary dealer tags; and establish offenses for unauthorized production, reproduction, purchase, sale, or display of a temporary tag
- authorize the Department of Public Safety to issue an enhanced driver's license or personal identification certificate to certain applicants for the purpose of crossing the border between Texas and Mexico

Provisions of Senate Bill 11 amending the Government Code in regard to emergency management directors and mutual aid assistance are effective June 6, 2007; all other provisions of the bill are effective September 1, 2007.

**Senate Bill 61**  
**Effective:** 6-15-07

**Senate Author:** Zaffirini  
**House Sponsor:** McClendon

Senate Bill 61 amends the Government Code to authorize the governing body of a political subdivision to adopt a plan for the continuity of functions of the political subdivision to be carried out during a declared disaster or other catastrophic event. The bill also establishes an exception to the quorum requirements of local governments to allow political subdivisions to take action if a majority of the governing board members are unable to be present as a result of the disaster.

**Senate Bill 336**  
**Effective:** 5-18-07

**Senate Author:** Brimer  
**House Sponsor:** Veasey

Senate Bill 336 amends the Local Government Code to exempt from relevant notice requirements certain counties that lease real property for 95 days or less to provide short-term emergency disaster relief services.

**Senate Bill 1315**  
**Effective:** 9-1-07

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

Senate Bill 1315 amends the Government Code to create a statewide silver alert for missing senior citizens and to require the Department of Public Safety, in cooperation with the Texas Department of Transportation, the office of the governor, and other appropriate law enforcement agencies in the state, to develop and implement the program. The bill sets out provisions relating to recruiting participants, notification about a missing senior citizen, and activation, content, and termination of the silver alert.

**Senate Bill 1440**  
**Effective:** 6-16-07

**Senate Author:** Hegar  
**House Sponsor:** Hughes

Senate Bill 1440 amends the Government Code to add working with interested persons to assist volunteer fire departments and emergency services districts in rural areas to the duties of the Office of Rural Community Affairs. The bill provides that the emergency services district program established by the office may assist fire departments in rural areas with the recruitment and retention of volunteer firefighters, provide information relating to assistance programs offered to rural volunteer firefighters, and provide rural homeowners with information relating to the benefits of volunteer fire departments.

**Senate Bill 1499**

**Effective:** 6-15-07

**Senate Author:** Zaffirini

**House Sponsor:** Corte, Frank

Senate Bill 1499 amends the Government Code to provide that the sudden relocation of a large number of residents from the area of a declared disaster to a governing body's jurisdiction qualifies as a reasonably unforeseeable situation subject to the two-hour emergency meeting notice requirement under the open meetings law. The bill also requires the governmental body to provide at least one hour notice to members of the news media of an emergency meeting or the addition of an emergency item to the agenda to address such a situation.

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

House Bill 495 - Criminal Justice

House Bill 1493 - Higher Education

Senate Bill 112 - Law Enforcement

Senate Bill 622 - State Government

Senate Bill 1339 - Agriculture

## Energy Resources

This chapter covers legislation relating to fossil fuels (including clean coal projects), uranium, biofuels, and related energy industry operations. It also includes legislation on energy conservation and efficiency. Bills relating to electric power plants and gas utilities, other than bills on clean coal projects, are in the **Utilities** chapter.

### General

**House Bill 2417**  
**Effective:** 9-1-07

**House Author:** Swinford  
**Senate Sponsor:** Averitt

House Bill 2417 transfers the responsibility for and management of the fuel ethanol and biodiesel production incentive program from the Texas Economic Development and Tourism Office to the Department of Agriculture.

**House Bill 3070**  
**Effective:** 9-1-07

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

House Bill 3070 amends the Government Code to require the state energy conservation office (SECO) in the comptroller's office to conduct a study to examine methods for introducing information into the residential real property marketplace regarding energy efficiency of residential real property. The bill specifies elements to be included in the study and requires SECO to establish an advisory committee to direct the focus of the study. SECO is required to report on the results of the study to the governor, the lieutenant governor, and the speaker of the house of representatives by October 1, 2008.

**House Bill 3693**  
**Effective:** 9-1-07

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

House Bill 3693 amends provisions of several codes relating primarily to energy efficiency. The bill strengthens statutory requirements under which electric utilities must meet new electricity demand through cost-effective efficiency gains by incrementally increasing certain energy efficiency goals, measured as an increasing percentage of annual growth in demand, through the end of 2009 while limiting those goals to residential and customer demand. The Public Utility Commission of Texas (PUC) must take certain actions to allow cost recovery and establish incentives to promote meeting or exceeding the goals. Additional provisions apply to industrial customers and to energy efficiency activities among municipal utilities and electric cooperatives on which those municipal utilities and cooperatives must report to the comptroller's State Energy Conservation Office (SECO). The bill requires the PUC to study and report to the legislature on the potential for further energy efficiency in the electricity sector and on the installation and use of combined heating and power technology. In consultation with SECO, the PUC for a period of five years must compute, and report annually to the Electric Reliability Council of Texas (ERCOT), data on projected energy savings and demand impacts from specified energy management programs. The PUC may encourage retail electric providers to deliver individualized home electric energy reports to educate consumers on electricity use and energy efficiency.

It includes provisions relating to the interconnection of distributed renewable electricity generation with a capacity of up to 2,000 kilowatts provided by a renewable energy technology installed by retail electric customers. The bill requires an electric utility or transmission and

distribution utility to allow interconnection if the distributed generation has a five-year warranty against breakdown or undue degradation and its rated capacity does not exceed the utility's service capacity and to make certain metering available to the owner of the distributed generation to measure both in-flow and out-flow. A renewable energy credit earned by the owner remains his or her sole property unless the owner sells or trades the credit. The bill requires the PUC to provide information to school districts on how they may finance the installation of solar electric generation panels for school district buildings and contains provisions under which school districts may furnish surplus electricity from such panels to the grid and, like other owners of renewable distributed generation, be compensated for the surplus electricity's net value.

Efficiency provisions applicable to school districts and to certain institutions of higher education and executive branch state agencies require them to establish a goal of reducing their annual electricity consumption by five percent for each of six state fiscal years beginning September 1, 2007. School districts for purposes of instructional facilities, and institutions of higher education for purposes of educational facilities, dormitories, and certain other buildings, must purchase commercially available light bulbs, compatible with light fixtures, that use the fewest watts for the necessary illumination. An identical requirement applies to executive branch agencies and certain judicial entities, which must also purchase other equipment and appliances that meet or exceed federal energy standards whenever such purchases are cost-effective. Governmental entities must report via the Internet on the electricity, natural gas, or water that they consume and pay for and their aggregate utility services costs. The bill includes energy efficiency requirements applicable to vending machines in state-owned or state-leased buildings.

Current law establishes Texas building energy performance standards based on the 2001 editions of the International Residential Code and International Energy Conservation Code. The bill gives SECO the discretion—if it determines based on recommendations from the Energy Systems Laboratory at Texas A&M University that provisions of the latest editions are equivalent to or more stringent than the 2001 provisions—to upgrade the building standards to reflect the newest editions. Other provisions relating to the laboratory authorize it to cooperate with an industry organization or trade association to develop guidelines for home energy ratings, offer training to individuals performing or providing such ratings, and provide a registry of ratings by which to compute resultant energy savings and emissions reductions benefits of the home energy ratings program. The laboratory must include information on those program benefits in an annual report to the Texas Commission on Environmental Quality. The bill requires certain energy efficiency measures for single and multifamily dwellings that are constructed or rehabilitated with assistance awarded by the Texas Department of Housing and Community Affairs, other than dwellings that receive assistance under the weatherization or first-time homebuyer programs.

It creates a Memorial Day Weekend sales and use tax exemption for dishwashers, clothes washers, programmable thermostats, light bulbs, ceiling fans, dehumidifiers, air conditioners priced at \$6,000 or less, and refrigerators priced at \$2,000 or less, that have been designated by federal agencies as energy-efficient products. Amendments to the Texas Economic Development Act, relating to job-creating projects that are eligible for certain property tax incentives, require the comptroller to report biennially on job, wage, investment, appraisal, and other data for each agreement under that act that involves an energy-related project.

The bill includes provisions, substantially equivalent to those of House Bill 624, that require PUC approval of certain utility mergers and consolidations.



**House Bill 3837**  
**Effective:** 9-1-07

**House Author:** Gonzalez Toureilles et al.  
**Senate Sponsor:** Hegar

House Bill 3837 amends the Natural Resources Code to add exploration for minerals to the class of activities covered under the Texas Uranium Exploration, Surface Mining, and Reclamation Act and subject to the exclusive jurisdiction of and regulation by the Railroad Commission of Texas. The bill prohibits any exploration activity without an exploration permit issued by the commission and sets forth provisions for the permitting process, including provisions listing activities that fall within the scope of such permit. Under certain conditions, the bill also assigns to the commission jurisdiction over uranium exploration holes and cased exploration wells completed under a proper permit. The bill authorizes the commission to impose an application fee to cover the costs associated with the uranium exploration permitting process and requires the commission, on receiving an application for an exploration permit, to notify certain elected officials and governmental entities with jurisdiction in the area where permitted exploration will occur. The bill further requires recipients of an exploration permit to provide certain geologic, hydrologic, water quality, and well information to the commission.

**House Bill 3838**  
**Effective:** 9-1-07

**House Author:** Gonzalez Toureilles et al.  
**Senate Sponsor:** Hegar

House Bill 3838 amends the Water Code to grant the Texas Commission on Environmental Quality exclusive jurisdiction and mandatory regulation authority over in situ uranium mining wells used during the development of permit applications to obtain certain required premining information. The bill also requires an applicant for an area permit for an area located in a groundwater conservation district to share any geologic, hydrologic, and premining water quality data concerning wells with the appropriate groundwater conservation district.

**Senate Bill 831**  
**Effective:** 6-16-07

**Senate Author:** Ellis  
**House Sponsor:** Straus

An energy savings performance contract allows a school district, institution of higher education, state agency, or a municipality, county, or other political subdivision to use guaranteed benefits from energy or water conservation or usage improvements to pay for the improvements. Senate Bill 831 amends the Education, Government, and Local Government Codes to increase from 15 to 20 years the maximum term of a lease/purchase performance contract and to revise the maximum term for other contracts from 15 years after installation to the lesser of 20 years after installation or the average useful life of the conservation or usage improvement. The bill sets new job qualifications and review requirements for engineers who review the projected cost savings of a contract.

Other changes to the Local Government Code, applicable to the political subdivisions, include both new and amended definitions of terms that allow contractual provisions for improvements that not only conserve energy or water and reduce costs but increase billable revenues or increase meter accuracy or efficiency. The same changes also contemplate certain baseline calculations to establish data against which the actual performance of the adopted improvements, including metering, may be ascertained and contractually guaranteed. The bill amends the Utilities Code to allow a nonresidential customer to have an electricity meter installed, and metering services provided, on a competitive basis as part of an energy savings performance contract.

## Fossil Fuels

### House Bill 630

Effective: 5-25-07

House Author: King, Phil et al.

Senate Sponsor: Estes

House Bill 630 amends the Natural Resources Code to require an oil or gas well operator to notify a surface owner of the issuance of a permit for certain oil and gas operations on the surface owner's land. The bill prescribes the time and manner of the notice and allows the owner to waive the requirement or agree to alternative provisions.

### House Bill 1170

Effective: 9-1-07

House Author: Flynn et al.

Senate Sponsor: Deuell

House Bill 1170 amends the Natural Resources Code to require a person holding a license to install or repair a liquid propane gas (LPG) system who sells, installs, or repairs an LPG system or related components to provide a warning notice to the purchaser or owner of the system or component regarding the dangers of installation, modification, or repair of an LPG system by an unlicensed or unregistered person. The bill also limits the liability of a person licensed by or registered with the Railroad Commission of Texas for damages caused solely by the installation or modification of an LPG system that the licensee or registrant delivered for installation, installed, or serviced if the delivery, installation, or service was in compliance with commission rules and standards.

### House Bill 1920

Effective: 9-1-07

House Author: Keffer, Jim et al.

Senate Sponsor: Ogden

House Bill 1920 amends the Natural Resources Code to allow a gas producer to request from a person who gathers or transports gas for the producer an explanation of any loss of or inability to account for the gas tendered to that person by the producer and to file an informal complaint with the Railroad Commission of Texas against a gas gatherer or transporter if the gatherer or transporter provides an inadequate explanation or fails to provide any explanation as requested. If the gatherer or transporter subsequently fails to provide an accounting or explanation to the commission, the producer's complaint is considered valid, and the bill authorizes the commission to take action it considers appropriate, including issuing an order in a formal proceeding to prevent waste, and it provides that a gas producer is entitled to an audit of the books and records of the gatherer or transporter.

### House Bill 1967

Effective: 9-1-07

House Author: Farabee et al.

Senate Sponsor: Averitt

House Bill 1967 amends Natural Resources Code provisions relating to the regulation by the Railroad Commission of common carriers in the energy industry. It expands the definition of such carriers to include an owner, operator, or manager of a nonexempt pipeline or pipeline segment for the transportation of feedstock for carbon gasification or of the gasification's products or derivatives, if the owner, operator, or manager accepts common carrier status and related statutory duties and obligations. Accordingly, the bill extends the commission's jurisdiction to include the regulation of a nonexempt pipeline operated as a common carrier and transporting carbon gasification feedstock, products, or derivatives.

**House Bill 2174**  
**Effective:** 6-15-07

**House Author:** Bonnen  
**Senate Sponsor:** Janek

House Bill 2174 amends the Utilities Code to exclude a person operating a natural gas pipeline, a liquefied natural gas pipeline, or an underground storage facility from being considered a gas utility if the person certifies to the Railroad Commission of Texas that the person uses the pipeline or underground storage facility solely to deliver natural gas or liquefied natural gas to a liquefied natural gas marine terminal or from such terminal to or on behalf of the owner of the gas, or to deliver such gas for facility maintenance or operation.

**House Bill 2608**  
**Effective:** 6-15-07

**House Author:** Hughes  
**Senate Sponsor:** Eltife

House Bill 2608 amends the Education Code to direct the Texas Higher Education Coordinating Board to use money available from legislative appropriations to support applied research related to clean coal projects or certain other projects for the generation of electricity from coal.

**House Bill 3273**  
**Effective:** 9-1-07

**House Author:** Crownover  
**Senate Sponsor:** Averitt

House Bill 3273 amends the Natural Resources Code to authorize the Railroad Commission of Texas to impose an administrative penalty against a purchaser, transporter, gatherer, shipper, or seller of natural gas, or any other entity under the commission's jurisdiction who has violated a commission rule relating to unlawful discrimination or who has unreasonably discriminated against a seller of natural gas in the purchase of natural gas from the seller. The bill also authorizes the commission to impose an administrative penalty against a purchaser, transporter, or gatherer of natural gas if the commission determines that the person engaged in prohibited discrimination against a seller or shipper based on the filing of a complaint with the commission regarding the purchase, transportation, or gathering of gas. The bill allows the commission to provide for the appointment of commission staff as mediators for informal complaints while also allowing the parties to hire an independent mediator, and it allows the commission to use a cost-of-service method or a market-based rate method in setting a rate in a formal rate proceeding.

**House Bill 3385**  
**Effective:** 6-15-07

**House Author:** Chisum  
**Senate Sponsor:** Janek

House Bill 3385 amends the Natural Resources Code to authorize the General Land Office to use an amount not to exceed \$500,000 per state fiscal year from the coastal protection fund to pay for the relocation and support of the Interstate Oil and Gas Compact Commission if the commission relocates to Austin on or before December 31, 2008.

**House Bill 3732**  
**Effective:** See below

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

House Bill 3732 amends the Texas Clean Air Act, in the Health and Safety Code, to define certain advanced clean energy projects that: (1) involve the use or creation of specified fuels in connection with electricity generation or cogeneration; (2) are capable of reducing mercury, sulfur dioxide, and nitrogen oxide emissions by specified amounts; (3) render any resultant carbon dioxide (CO<sub>2</sub>) capable of capture, sequestration, or abatement; and (4) are the subject of a permit application under that act received by the Texas Commission on Environmental Quality (TCEQ) during the 2008-2019 calendar years. The specified fuels include coal, petroleum coke,

biomass, solid waste, and derivative liquid fuels or hydrogen fuel cells. The bill contains related provisions governing TCEQ air-quality permitting procedures for such a project. A permit applicant need not prove beforehand, as part of a best available control technology (BACT) analysis or lowest achievable emission rate analysis, that the proposed project technology is commercially feasible, but neither do the technology used or emission reductions achieved by an advanced clean energy project that receives an incentive set by themselves a BACT or emission benchmark for other Texas Clean Air Act permit applicants to have to match.

Among other incentives, the bill amends the Government Code to establish an advanced clean energy project grant and loan program administered by the comptroller's State Energy Conservation Office (SECO). Under the program, SECO may make or guarantee a loan to the managing entity of an eligible Texas project, or it may award a grant to that entity in an amount not to exceed 50 percent of the private industry investment in the project. The bill requires the TCEQ and SECO twice jointly, not later than September 1, 2012, and September 1, 2016, to give the legislature a status update on the program and an assessment of whether the emissions criteria for advanced clean energy projects should be adjusted. Not later than September 1, 2015, the TCEQ must report to the legislature assessing whether the program should be extended because of a continuing need for project incentives.

The bill amends the Tax Code to provide for the transfer to the program's account, each fiscal biennium through FY2020, of the first \$30 million of gross receipts tax revenues collected from electric, gas, and water utilities and allocated to the general revenue fund. The total amount of advanced clean energy program grants and loans or loan guarantees from that source may not exceed \$20 million and \$10 million, respectively, per fiscal biennium. The bill exempts sales of electricity generated by an advanced clean energy project from the gross receipts tax. It amends the Texas Economic Development Act, in the Tax Code, to qualify an advanced clean energy project for the limitation on appraised value of property subject to school district maintenance and operation taxes. The bill requires the TCEQ to prepare a nonexclusive list of facilities, devices, or methods for pollution control that may qualify for an exemption from property taxes, sets out numerous items to be included in that list, and makes related changes to provisions relating to the determination of rollback tax rates. It provides for an additional oil severance tax rate reduction—in addition to the baseline reduction for which new and enhanced oil recovery (EOR) projects are eligible—if an EOR project eligible for the baseline reduction uses CO<sub>2</sub> that: (1) is captured from anthropogenic sources; (2) would otherwise be released into the atmosphere as industrial emissions; (3) is measurable at the source of capture; and (4) is sequestered geologically. The additional tax rate reduction applies until the seventh anniversary of the date that the comptroller first approves an application for such a reduction or until the effective date of a U.S. Environmental Protection Agency final rule regulating CO<sub>2</sub> as a pollutant, whichever comes later. The reduction is adjusted proportionately for EOR projects, the CO<sub>2</sub> for which comes partly from anthropocentric sources and partly from other sources. To qualify for the additional tax rate reduction, the operator must be certified by the Railroad Commission of Texas, TCEQ, or both, and the bill sets a related standard for certification requiring a finding that at least 99 percent of the CO<sub>2</sub> will remain sequestered for at least 1,000 years.

The bill takes effect September 1, 2007, with two exceptions. Provisions authorizing issuance of state general obligation bonds to fund SECO loans or loan guarantees do not take effect at all, because a joint resolution to propose an associated constitutional amendment was not adopted by the legislature, and thus the amendment does not go before Texas voters. Provisions eliminating the transfer of gross receipts tax revenues to the advanced clean energy project program take effect September 1, 2020.

**Senate Bill 1461****Effective:** 9-1-07**Senate Author:** Seliger**House Sponsor:** Cook, Byron et al.

Senate Bill 1461 amends the Government Code to authorize the governor to contract on behalf of the state with an organization, including the FutureGen Industrial Alliance, Inc., that qualifies for a federal income tax exemption under Section 501(a) of the Internal Revenue Code of 1986 to implement a clean coal project or demonstration program. The bill allows the governor and the comptroller to jointly adopt provisions for issuing to such organization franchise tax credits to promote research and development activities related to a clean coal project, and it allows that organization, if it does not have a franchise tax liability, to assign the tax credits to a taxable entity.

The bill also amends the Natural Resources Code to require the Bureau of Economic Geology at The University of Texas at Austin to monitor, measure, and verify the permanent status of sequestered carbon dioxide to which the Railroad Commission has acquired rights. The commission's acquisition of right, title, and interest in carbon dioxide captured by a clean coal project relieves the project's owner or operator of liability with regard to certain aspects of the carbon dioxide injection location or method of injection if the location and method comply with the terms of a state permit or license or state law and regulations. The bill allows a state agency to request the attorney general to represent it in a legal proceeding that arises from an escape or migration of carbon dioxide captured or sequestered in connection with a clean coal project or, if the attorney general declines the request, to obtain outside counsel, with the attorney general's declination constituting that office's approval of the outside counsel.

**Senate Bill 1667****Effective:** 9-1-07**Senate Author:** Averitt**House Sponsor:** Corte, Frank

Senate Bill 1667 amends the Natural Resources Code to raise the maximum administrative penalty assessed by the Texas Railroad Commission for each violation of the Texas Surface Coal Mining and Reclamation Act or of the conditions of a permit issued under that act from \$5,000 to \$10,000.

**Senate Bill 1670****Effective:** 9-1-07**Senate Author:** Averitt**House Sponsor:** Crownover

Senate Bill 1670 amends the Natural Resources Code to clarify that provisions relating to the requirement for a certificate of compliance in the operation of any well under the Texas Railroad Commission's jurisdiction or that prohibit certain activities with respect to a well for which such certificate either has not been issued or has been canceled for noncompliance apply to compliance or noncompliance with the applicable statutes, commission rules and orders, and the terms of any license, permit, or other certificate issued under those statutes.

The bill also allows the commission to refuse to renew the required organization report of a well operator who uses or reports the use of a well for which the certificate of compliance has been canceled until the operator pays a \$300 fee and the commission issues a new certificate.



## Environment

This chapter covers legislation on issues relating to environmental regulation, including air quality, waste disposal, water quality, the Texas Commission on Environmental Quality, and the Texas Emissions Reduction Plan. Bills on clean coal projects are in the **Energy Resources** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 160**

**Effective:** 6-15-07

**House Author:** Menendez et al.

**Senate Sponsor:** Wentworth

House Bill 160 amends the Health and Safety Code to expand the list of infrastructure projects eligible to receive funding under the diesel emissions reduction incentive program to include a project to reduce air pollution and engine idling by relieving congestion through rail relocation or improvement at a rail intersection that is located in a nonattainment or near nonattainment area. The bill also requires the Texas Department of Transportation to conduct an economic feasibility study related to the relocation of freight trains that carry hazardous materials away from certain residential areas and to report the results of the study to the governor and the legislature not later than March 1, 2008.

#### **House Bill 1956**

**Effective:** 9-1-07

**House Author:** Hancock

**Senate Sponsor:** Brimer

House Bill 1956 amends the Water Code to require the owner or operator of an underground petroleum storage tank annually to submit proof of financial responsibility for the tank with the compliance certification required by law. The bill also requires an entity that provides insurance coverage or financial assurance to an underground storage tank owner or operator to notify the Texas Commission on Environmental Quality if the coverage or assurance is canceled or not renewed, no later than the 30th day after the date the coverage stops. The bill sets forth provisions for actions the owner or operator of a tank must take if the coverage or assurance has been terminated and the administrative and civil penalties and orders that the commission may impose upon an owner or operator who fails to maintain acceptable evidence of financial responsibility.

#### **House Bill 2654**

**Effective:** 9-1-07

**House Author:** Puente

**Senate Sponsor:** Duncan

House Bill 2654 amends the Water Code to add a permit for disposal of drinking water treatment residuals in a Class I injection well to the types of permits the Texas Commission on Environmental Quality (TCEQ) may issue under the law now applicable to desalination brine disposal in such a well and to authorize TCEQ to issue a general statewide permit for the disposal of nonhazardous brine from desalination operations or nonhazardous drinking water treatment residuals in a Class I injection well. The bill establishes related procedures, requirements, and discretionary TCEQ powers and provides that such a general permit may be issued for a maximum of 10 years. Where nonhazardous desalination brine or nonhazardous drinking water treatment residuals are used as injection fluids for enhanced recovery of oil and natural gas, the bill empowers the Railroad Commission of Texas to authorize such use without a TCEQ permit, with the proviso that, if radioactive material is involved, regulation under the Texas Radiation Control Act applies.

House Bill 2654 amends the Health and Safety Code to create an exception to its requirement of a separate permit for each solid waste facility for the general statewide permit authorized by the bill.

**House Bill 2819**

**Effective:** 9-1-07

**House Author:** Ritter

**Senate Sponsor:** Jackson, Mike

House Bill 2819 amends provisions of the Natural Resources Code relating to the management and protection of coastal public land and coastal resources. Among other provisions, the bill:

- provides for the use of the coastal erosion program account for the administration of the coastal management program
- adds provisions relating to the establishment of a building setback line by local governments
- revises requirements for General Land Office (GLO) rules and actions on local governments' beach access and use plans and requirements for forwarding development plans to the GLO for comment
- provides for administrative penalties for violation of laws and rules relating to use and maintenance of public beaches and those relating to dune protection
- authorizes the GLO to order removal of certain structures, improvements, obstructions, barriers, and hazards located on public beaches if they are inconsistent with a beach access and use plan or constitute a hazard to health, safety, or public welfare

The bill also amends the Natural Resources Code and Property Code to modify the content of disclosure notices relating to the sale of coastal real estate.

**House Bill 2910**

**Effective:** 6-15-07

**House Author:** Gattis

**Senate Sponsor:** Ogden

House Bill 2910 amends the Natural Resources Code to require certain municipalities that own or lease a rock quarry located in another municipality to obtain the consent of the governing body of the municipality in which the quarry is located before disposing of water treatment byproducts in the site of the quarry or before entering into or extending a lease to operate the quarry.

**House Bill 3220**

**Effective:** 6-15-07

**House Author:** Elkins

**Senate Sponsor:** Jackson, Mike

House Bill 3220 amends the Health and Safety Code to authorize the owner of real property on which a dry cleaning facility or drop station is or was located, or the preceding owner of such a property who by arrangement with the current owner agreed to pay the costs of cleaning up environmental contamination on the site, to participate in the benefits of the dry cleaning facility release fund by registering with the Texas Commission on Environmental Quality (TCEQ). The bill sets out the registration requirements and establishes an annual fee of \$1,500 for a registration submitted by December 31, 2007, with additional fees if the registration is submitted after that date. The bill allows a registration fee to be refunded, rather than credited against future fees, to the owner of a facility or drop station that opts not to participate in the fund and allows the owner of a nonparticipating drop station, under certain conditions, to retain that nonparticipant status if the person moves the station to a new location.

House Bill 3220 provides for a lien on a property that is subject to a corrective action for environmental contamination if the applicant does not pay a registration fee while the action is ongoing and for the lien amount to be based on the cost of the action and the unpaid fees. The bill establishes the criteria for the lien inception date and for the preparation and execution of



an affidavit by TCEQ and the recording of the affidavit by the clerk of the county where the property is located. The bill sets out conditions for foreclosing the lien and ordering the sale of the property and requires TCEQ to record a relinquishment or satisfaction of a lien that is paid or satisfied. The bill provides that the lien is not valid or enforceable if certain property interests are acquired before the affidavit is recorded unless specified conditions exist. The bill allows the property owner to file a bond with the county clerk to indemnify against the lien and sets out requirements for creating and filing the bond and issuing a bond notice after the filing. The bill authorizes TCEQ to sue on the bond within a certain period after the notice is served and entitles TCEQ to the recovery of attorney's fees if it prevails in the suit. The bill also stipulates that a real property owner must be registered with the commission for the property to be ranked as a contaminated dry cleaning site or to be exempt from certain administrative or judicial claims.

In addition, House Bill 3220 increases the delivery fee for perchloroethylene from \$15 to \$20 per gallon and reduces the delivery fee for other dry cleaning solvents from \$5 to \$3 per gallon, prohibits the use of perchloroethylene at a site for which TCEQ has completed corrective action, and provides that the owner of such a site who again uses perchloroethylene on the site is ineligible for future corrective action using money from the fund.

**House Bill 3502**

**Effective:** 9-1-07

**House Author:** Hilderbran et al.

**Senate Sponsor:** Wentworth

House Bill 3502 amends Natural Resources Code provisions relating to the protection of caves. The bill increases, from a Class A misdemeanor to a state jail felony, the penalty for vandalism against a cave, the cave surface, or any natural material in the cave without the express prior written permission of the owner. It also makes minor changes to the statutory language describing what constitutes vandalism. The bill increases, from a Class B to a Class A misdemeanor, the penalty for excavating, removing, destroying, injuring, altering, or defacing any part of a cave owned by the State of Texas without a General Land Office permit and makes a second or subsequent offense a state jail felony. The same penalty enhancements are applied to violations of the prohibition against selling or offering to sell speleothems (natural mineral formations or deposits occurring in a cave) in Texas, or exporting them for sale outside Texas, without written permission from the owner of the cave from which they were removed.

**Senate Bill 12**

**Effective:** 9-1-07

**Senate Author:** Averitt et al.

**House Sponsor:** Bonnen et al.

Senate Bill 12 amends the Health and Safety Code and related provisions in other codes to make changes to the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP), the Texas Emission Reduction Plan (TERP), and to certain energy efficiency programs in state purchasing and energy consumption.

The bill sets an income limit of not more than 300 percent of the federal poverty level for a vehicle owner to qualify for LIRAP funding, places dollar limits on the funds provided toward the purchase of different types of replacement vehicles, and sets gross weight and total cost limits for a qualifying replacement vehicle. For a vehicle to be replaced with LIRAP funds, it must be at least 10 years old, be operable, be currently registered in the county operating the program, and have passed a vehicle inspection within the preceding 15 months. The bill requires a vehicle dismantler to scrap its emission control equipment and engine and to certify that they have been scrapped and not resold, and it provides civil penalties for each violation of

these requirements. It also requires removal of any mercury switches. The bill prohibits local LIRAPs from spending more than 10 percent of their program funds on administrative costs, directs participating counties to provide an electronic means for disbursing vehicle repair or replacement funds, and allows up to \$5 million in LIRAP funds to be disbursed and matched by local funds each fiscal year for local initiatives implemented in consultation with the Texas Commission on Environmental Quality (TCEQ). The bill directs TCEQ to review current nitrogen oxide (NOx) emissions levels and determine whether a lower standard would better serve public health, to work with auto manufacturers and dealers to increase public LIRAP awareness, and to partner with the steel industry and vehicle dismantlers to develop certifiable scrapping procedures, with completion of the NOx review and the adoption of scrapping procedure rules due no later than January 1, 2008.

TERP revisions raise the cost effectiveness limit for grant eligibility under TERP's diesel emissions reduction incentive program from \$13,000 to \$15,000 per ton of NOx emissions reduction attributable to a project; make a marine vessel's electrical power unit eligible for TERP funding; allow TCEQ to provide funding to other state agencies to lease, purchase, or install idle reduction technologies and facilities for stationary vehicles and vessels; transfer administration of the TERP fund from the comptroller to TCEQ; and allow TCEQ to hire staff and consultants to ensure timely review of applications and reimbursement of grant applicants' eligible program costs. The bill further directs the TCEQ to research and report to the legislature, no later than December 31, 2007, on an Internet-based application process for rebate grants or implement such process no later than June 1, 2008. The bill makes a Houston-based college or university, as well as nonprofit organizations, eligible for a TERP fund allocation for a new technology research and development program to identify, test, and evaluate commercially viable emissions reductions technologies; sets forth board membership requirements for a nonprofit organization contracting with TCEQ for such programs; and limits such organization's use of its grant for administrative costs to no more than 10 percent of the funds provided. The bill prohibits vehicles with sleeping berths from idling in a residential area, within 1,000 feet of a public school or hospital, or from idling to power a heater or air conditioner within two miles of external heating and air conditioning connections.

The bill allows the State Energy Conservation Office to adopt more stringent energy efficiency performance standards than those specified in current law based on recommendations from the Energy Systems Laboratory at Texas A&M University and the latest edition of the International Residential Code or of the International Energy Conservation Code, and it requires public colleges and universities and executive branch state agencies to implement energy efficiency measures. It also requires those entities and certain political subdivisions to establish goals to reduce electric consumption by five percent per year for a six-year period beginning September 1, 2007, and establishes certain reporting requirements for nonattainment of those goals. The bill amends the Government Code to direct the Texas Building and Procurement Commission to develop and update a list of equipment and appliances that meet the state's energy efficiency standards, to assist state agencies in selecting products for purchase, and, if available and cost effective, to purchase equipment and appliances that exceed federal Energy Star standards.

The bill amends the Utilities Code to require TCEQ to establish a competitive bid grant program to fund solar energy demonstration projects, establishes eligibility criteria and qualifications for grant applicants, directs TCEQ to report biennially on the program's status to the governor and legislature's presiding officers, and limits the money spent by the Public Utility Commission on solar energy demonstration programs.

The bill amends the Tax Code to deduct the monetary compensation distributed under LIRAP from the definition of “total consideration” or amount paid for a motor vehicle; amends the Tax Code and Transportation Code to extend the expiration date for certain TERP fees and surcharges deposited to the TERP account from August and September 2010 to August 31, 2013; amends the Water Code to specify procedures that the TCEQ must follow in initiating formal enforcement when there are multiple violations of the Clean Air Act; and amends the Government Code to add additional notices on the application of certain concrete batch plants or construction permits to be sent to the applicable county judge or presiding officer.

**Senate Bill 1524**

**Effective:** 9-1-07

**Senate Author:** Wentworth

**House Sponsor:** Hilderbran

Senate Bill 1524 amends Natural Resources Code provisions relating to the protection of caves. The bill increases, from a Class A misdemeanor to a state jail felony, the penalty for vandalism against a cave, the cave surface, or any natural material in the cave without the express prior written permission of the owner. It also makes minor changes to the statutory language describing what constitutes vandalism. The bill increases, from a Class B to a Class A misdemeanor, the penalty for excavating, removing, destroying, injuring, altering, or defacing any part of a cave owned by the State of Texas without a General Land Office permit and makes a second or subsequent offense a state jail felony. The same penalty enhancements are applied to violations of the prohibition against selling or offering to sell speleothems (natural mineral formations or deposits occurring in a cave) in Texas, or exporting them for sale outside Texas, without written permission from the owner of the cave from which they were removed.

**Senate Bill 1604**

**Effective:** 6-15-07

**Senate Author:** Duncan

**House Sponsor:** Bonnen

Senate Bill 1604 amends the Health and Safety Code to transfer all rights, powers, duties, obligations, functions, and activities assigned by Chapter 401, Health and Safety Code, relating to the licensing and regulation of radioactive substances recovery, storage, processing, or disposal and long-term care of certain decommissioned disposal sites from the Department of State Health Services (DSHS) to the Texas Commission on Environmental Quality (TCEQ). The transfer includes all related equipment, information, documents, facilities, and other property of the Health and Human Services Commission (HHSC) or DSHS and all appropriations to HHSC or DSHS for the 2008-2009 fiscal biennium pertaining to those regulatory functions. The bill requires TCEQ to regulate and license the recovery, processing, disposal, or storage of certain radioactive sources, waste, and by-product material.

The bill also requires a holder of a license to treat radioactive waste issued by TCEQ to remit each quarter an amount equal to 10 percent of the license holder’s gross receipts received from disposal operations that occur after the effective date of the act, with the remittance allocated equally between the comptroller for deposit in the general fund and the host county. The bill allows TCEQ to audit a license holder’s financial records and waste manifest information to ensure that the fees imposed are paid and to assess additional fees as necessary.

The bill directs TCEQ, HHSC, and the Railroad Commission of Texas to adopt memoranda of understanding defining their respective duties. The bill also amends the Water Code to authorize TCEQ to issue injection well permits for uranium mining that will have a 10-year term if issued after September 1, 2007. The bill requires the holder of a permit issued before September 1, 2012, to submit a renewal application before September 1, 2012, or the permit expires.

## Air Quality

### **House Bill 1526**

**Effective:** 6-15-07

**House Author:** Smith, Wayne

**Senate Sponsor:** Seliger

House Bill 1526 amends the Health and Safety Code to require the Texas Commission on Environmental Quality to establish an incentive program that allows and encourages an owner or operator of a facility regulated under the Texas Clean Air Act to use voluntarily as a supplemental detection method certain alternative technologies to detect leaks and emissions of air contaminants. The bill specifies regulatory incentives the commission may provide and establishes conditions and requirements for the use of the alternative technologies. The bill also limits enforcement action against a program participant for a leak or emission that would be punishable as a violation either of the law or of the facility's permit if the leak or emission was detected with an alternative technology and would not have been detected otherwise.

### **Senate Bill 1665**

**Effective:** 5-8-07

**Senate Author:** Averitt

**House Sponsor:** Bonnen

Senate Bill 1665 amends the Health and Safety Code to prohibit the Texas Commission on Environmental Quality from adopting or enforcing a rule, determination, or order that relates to a standard for emissions of residential water heaters that is below 40 nanograms of NOx per joule unless a lower standard is established by federal law. The bill also repeals previous more stringent emission standards.

### **Senate Bill 1672**

**Effective:** 5-10-07

**Senate Author:** Averitt

**House Sponsor:** Bonnen

Senate Bill 1672 amends the Health and Safety Code to delete superseded references to the issue dates for certain provisions of the federal Clean Air Interstate Rule (CAIR) and the Clean Air Mercury Rule with which the state is required to comply. The bill postpones the start date of a CAIR-related control period from 2016 to 2018, allowing the Texas Commission on Environmental Quality an additional two years to adjust certain baseline data for nitrogen oxides allocations, and it increases from seven to nine the number of preceding control periods from which the baseline data are to be derived.

### **Senate Bill 1673**

**Effective:** 5-22-07

**Senate Author:** Averitt

**House Sponsor:** Bonnen

Under current law, a preconstruction permit issued by the Texas Commission on Environmental Quality under the Texas Clean Air Act on or after December 1, 1991, is subject to review every 10 years after the date of issuance. Senate Bill 1673 amends the Health and Safety Code to allow for review of such a permit at the time that an application for an amendment to the permit is filed, if the filing occurs within three years of the permit expiration date and if certain other conditions apply.

### **Senate Bill 2000**

**Effective:** 6-15-07

**Senate Author:** Eltife

**House Sponsor:** Bonnen

Senate Bill 2000 amends the Health and Safety Code to establish a grant program to help certain facilities finance the installation of nonselective catalytic reduction systems or other control systems to reduce nitrogen oxides emissions from certain stationary, gas-fired compressor engines. The bill directs the Texas Commission on Environmental Quality (TCEQ) to develop the program and, among other provisions, prescribes specific emissions-reduction standards that

must be met by the installed system before the facility is eligible for a grant. The bill requires the grant program to provide for a partial reimbursement of the capital costs of installing a system for reducing nitrogen oxides emissions, with the amount of reimbursement based on the date by which the system is installed and the reductions verified, and it prohibits the TCEQ from paying or otherwise providing a grant after August 31, 2008.

## Waste Disposal

### House Bill 1457

Effective: 9-1-07

House Author: McReynolds

Senate Sponsor: Nichols

House Bill 1457 amends the Water Code to eliminate the cooking of poultry carcasses for swine food as an acceptable option for poultry carcass disposal. The bill also makes an exception to the prohibition against storing poultry carcasses on poultry facility sites for more than 72 hours, allowing such extended storage if the carcasses are frozen or refrigerated.

### House Bill 2482

Effective: 9-1-07

House Author: Cook, Robby

Senate Sponsor: Estes

Changes made by the 79th Legislature to the regulation of residential on-site sewage disposal systems allowed homeowners anywhere in the state, not just those in sparsely populated counties, to maintain their own septic systems rather than contracting with a maintenance company for the systems' upkeep. House Bill 2482 amends the Health and Safety Code to delete or repeal certain provisions relating to a homeowner's maintenance of an on-site aerobic treatment sewage disposal system for a single-family residence. The bill requires the owner of a single-family residence in a county with a population of at least 40,000 who maintains a disposal system and is found guilty of certain violations to correct the violation or enter into a contract for the system's maintenance. A second violation within three years of the first requires that owner to enter into such contract, and any violation also subjects the system's owner to administrative penalties. The bill also allows the Texas Commission on Environmental Quality to implement a program to register persons who service or maintain on-site sewage disposal systems for compensation.

### House Bill 2541

Effective: 9-1-07

House Author: Leibowitz et al.

Senate Sponsor: Uresti

House Bill 2541 amends the Health and Safety Code to authorize the Texas Commission on Environmental Quality (TCEQ) to respond to or remediate fires or other emergency situations that involve solid waste, use revenue generated by the solid waste fee, and recover costs related to the remediation action from a person responsible for the solid waste. The bill further directs the TCEQ to adopt specific rules for the regulation of a municipal solid waste recycling facility that stores combustible materials to produce mulch or compost and is located in a county with a population of more than 1.3 million that includes a particular aquifer recharge or transition zone.

### House Bill 2714

Effective: 9-1-07

House Author: Bonnen et al.

Senate Sponsor: Watson

House Bill 2714 amends the Health and Safety Code to establish a computer equipment recycling program. The bill requires a computer manufacturer, before offering computer equipment for sale in Texas, to establish an equipment recovery program for its brand of computers, and it requires that plan to provide for the collection of computer equipment

for recycling that is reasonably convenient and available to Texas consumers and for the dissemination of information to the consumer on how and where to return the manufacturer's computer equipment. The bill requires computer retailers to sell only visibly branded computer equipment from manufacturers that appear on a list prepared by the Texas Commission on Environmental Quality of manufacturers with equipment recovery programs.

Other provisions of the bill direct the commission to educate the public regarding the computer recycling program, adopt certain recycling and reuse standards for the program, enforce requirements for recycling computer equipment in conjunction with the attorney general's office, and compile and issue an annual electronic report to the legislature.

The bill also amends the Water Code to provide penalties for a manufacturer that does not label its products or implement an equipment recovery program as required by law.

## Water Quality

### House Bill 2018

**Effective:** 5-25-07

**House Author:** Brown, Betty

**Senate Sponsor:** Deuell

Previous law allowed a person, including a local government, to obtain a municipal setting designation from the Texas Commission on Environmental Quality that exempts that person from having to remove certain contaminants from groundwater on the person's property only if the property is located within the corporate limits or extraterritorial jurisdiction of a municipality with a population of at least 20,000. House Bill 2018 amends the Health and Safety Code to remove the restriction on the population size of the municipality in which the property is located.

### House Bill 3098

**Effective:** 9-1-07

**House Author:** Puente

**Senate Sponsor:** Averitt

Rules of the Texas Commission on Environmental Quality (TCEQ) include provisions relating to the Edwards Aquifer and its contributing zone, the area or watershed from which runoff contributes to aquifer recharge. The rules require various types of plans for regulated activities, including water pollution abatement plans, sewage collection plans, hydrocarbon or hazardous substance storage facility plans, and contributing zone plans. State law authorizes the TCEQ to impose fees for processing the first three types of plans or plan amendments and for undertaking related inspections. House Bill 3098 amends the Water Code to extend TCEQ's fee authority to also include contributing zone plans. Additionally, the bill increases the maximum fee for a plan from \$5,000 to \$6,500, except in the case of a fee for a water pollution abatement or contributing zone plan for a development of more than 40 acres, for which the bill sets a maximum fee of \$13,000. Other provisions revise the criteria on which fee amounts are based and the purposes for which fee proceeds may be used by the TCEQ.

### House Bill 3554

**Effective:** See below

**House Author:** Isett, Carl

**Senate Sponsor:** Duncan

House Bill 3554 amends the Water Code to require the Texas Commission on Environmental Quality (TCEQ) to use risk-based corrective action, as defined by TCEQ, in response to leaks in petroleum storage tanks. The bill extends the operating period of the petroleum storage tank remediation account by extending various deadlines for activities relating to the fund, including claims for reimbursement and the collection of fees that constitute a portion of the fund, and it expands the permissible uses of funds from the account to include certain regulatory activities to ensure compliance with TCEQ requirements. The extended deadlines include two relating to

the petroleum storage tank state-lead program, which allow an eligible owner or operator to be reimbursed from the petroleum storage tank remediation account for certain corrective action performed before August 31, 2011, and allow an eligible owner or operator who is granted an extension to apply not later than July 1, 2011, to have a site subject to corrective action placed in the state-lead program. The bill reduces the fees imposed for the delivery of various quantities of petroleum products and extends the collection of those fees, which were set to expire at the end of the 2007 state fiscal year, until August 31, 2011. The bill also eliminates the annual facility fee but allows the TCEQ to reinstate the fee if the petroleum products delivery fee is discontinued.

The provision extending the two deadlines relating to the petroleum storage tank state-lead program is effective June 15, 2007. Other provisions of the bill are effective August 27, 2007.

**Senate Bill 1037**  
**Effective:** 9-1-07

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

Under state law, the Railroad Commission of Texas regulates saltwater disposal pits that are used to store or evaporate oil field brines, geothermal resource water, or other mineralized water. Senate Bill 1037 addresses evaporation pits that are not regulated by the commission and that are operated for the commercial production of brine, water, minerals, salts, or other substances that naturally occur in groundwater. The bill amends the Water Code to require the owner or operator of such an evaporation pit to ensure that it has a liner that is designed by a licensed engineer to minimize surface water and groundwater pollution risks and that meets standards at least as stringent as those adopted by the Texas Commission on Environmental Quality (TCEQ) for Type 1 landfills to manage Class I industrial solid waste. It includes requirements and prohibitions relating to storm-water runoff, pit location, discharge control, and pollution prevention and requires the owner or operator to provide the TCEQ with proof of financial assurance adequate to ensure satisfactory closure of the pit. The owner or operator also must supply the TCEQ with proof of third-party pollution liability insurance that meets specified criteria and is in an amount of at least \$3 million. The bill authorizes the TCEQ to impose fees against evaporation pit owners to recover the agency's costs of administering the new law.

**Senate Bill 1932**  
**Effective:** 9-1-07

**Senate Author:** Uresti  
**House Sponsor:** Puente

State law authorizes a county with a population of 2.8 million or more, a conservation and reclamation district that has boundaries coterminous with such a county and is authorized to provide stormwater drainage and flood control facilities, or a county with a population of 1.3 million or more for which the primary source of drinking water is an underground aquifer, to take certain actions to comply with the requirements of the stormwater permitting program under the national pollutant discharge elimination system (NPDES). Senate Bill 1932 amends the Local Government Code to include, as part of that authorization, the power to assess reasonable charges to fund the implementation, administration, and operation of that program as necessary to comply with federal or state program requirements. The county or conservation and reclamation district may not assess a charge against property that is exempt from ad valorem taxation or that is subject to an assessment for the same purpose by another entity.

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

House Bill 1254 - State Government

House Bill 1719 - Agriculture

House Bill 2293 - Government Purchasing

House Bill 2565 - Transportation

House Bill 3732 - Energy Resources

House Bill 3837 - Energy Resources

House Bill 3838 - Energy Resources

Senate Bill 1461 - Energy Resources



## Family Law and Juvenile Justice

This chapter covers legislation on issues relating to family law, including the marriage relationship, spousal support, child custody and support, adoption, foster care, parental rights, and family violence. The chapter also includes legislation on juvenile justice, juvenile delinquency, and county juvenile boards. Bills relating to the Department of Family and Protective Services' response to reports of child abuse and neglect are in the **Human Services** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 2685**

**Effective:** 9-1-08

**House Author:** Chisum et al.

**Senate Sponsor:** Estes

House Bill 2685 amends the Family Code to waive the required waiting period after the issuance of a marriage license for an applicant who completes a premarital education course and presents a completion certificate. The bill increases the duration of a recommended premarital education course from four to eight hours, and it eliminates a provision specifying the acceptable methods of instruction. The bill establishes requirements relating to the content of such a course, course providers, and curriculum, and it requires a course provider to issue a completion certificate with prescribed content. The bill requires the Health and Human Services Commission to maintain an Internet website where course providers may register to indicate their curriculum, and it eliminates a requirement that the county clerk maintain a similar roster and a requirement that a course provider notify the county clerk to provide professional credentials or evidence of religious affiliation.

House Bill 2685 amends the Local Government Code to increase the fee for a marriage license from \$30 to \$60, and it waives the fee for an applicant who completes a premarital education course and provides a completion certificate. Of the proceeds from a marriage license fee, the comptroller is required to deposit \$20, rather than \$12.50, in the child abuse and neglect prevention trust account and to deposit \$10 in the family trust fund account.

#### **Senate Bill 432**

**Effective:** 9-1-07

**Senate Author:** Harris

**House Sponsor:** Phillips

Senate Bill 432 amends Family Code provisions relating to parental consent to marriage for a minor to replace references to "a managing conservator or guardian" with references to "a person who has the court-ordered right to consent to marriage for the applicant." The bill repeals a provision relating to the annulment of a licensed marriage of a person under 16 years of age.

### Adoption and Foster Care

#### **House Bill 2702**

**Effective:** See below

**House Author:** Truitt

**Senate Sponsor:** Shapiro

House Bill 2702 amends the Education Code and the Family Code to clarify eligibility requirements for a college tuition exemption and for health benefits coverage subsidies for adopted students formerly in foster care or other residential care. The bill amends the Education Code to exempt a student from payment of tuition and fees if the student was adopted subject

to an adoption assistance agreement that provided monthly payments and medical assistance benefits and that was not limited to the reimbursement only of nonrecurring expenses, including those directly related to the legal adoption.

The bill amends the Family Code to require the Department of Protective and Regulatory Services to pay a monthly \$150 subsidy for health benefits coverage premiums for a legally adopted child if the child was in the department's conservatorship at the time of the adoptive placement, is not eligible for medical assistance after the adoption, and is younger than 18 years of age. The bill requires the Health and Human Services Commission's executive commissioner to adopt implementation rules that, among other provisions, limit eligibility for the subsidy to a child whose adoptive family income is less than 300 percent of the federal poverty level.

Except for the provisions amending the Family Code, which take effect September 1, 2007, this bill takes effect June 13, 2007.

**House Bill 3008**

**Effective:** 6-15-07

**House Author:** Pierson et al.

**Senate Sponsor:** Nelson

House Bill 3008 amends the Family Code to direct the Department of Family and Protective Services to establish a pilot program to pair children in foster care in Tarrant County, Denton County, Dallas County, and Collin County who are 14 years of age or older with volunteer adult mentors. The bill includes provisions relating to administration of the program under contract and the required qualifications for participation by children in foster care and individuals who volunteer as mentors. House Bill 3008 also directs the department to contract with a public institution of higher education in the area served by the program to evaluate the program's effectiveness. Both the department and the institution of higher education that conducts the evaluation are required to submit certain reports to the legislature and legislative leadership not later than January 1, 2011.

**House Bill 3537**

**Effective:** 6-15-07

**House Author:** Garcia

**Senate Sponsor:** Hinojosa

House Bill 3537 amends the Family Code to prohibit, in a suit for adoption, the court or any other person performing a social study or home screening from considering the fact that the petitioner is a military service member as a negative factor in determining whether the adoption is in the best interest of the child or whether the petitioner would be a suitable parent.

**Senate Bill 450**

**Effective:** 9-1-07

**Senate Author:** Uresti et al.

**House Sponsor:** Turner

Senate Bill 450 amends the Family Code to establish procedures for the enrollment and participation of certain foster children in clinical trials, clinical investigations, drug studies, or active medical or clinical research regarding an investigational new drug or the efficacy of an approved drug. The bill provides for the issuance of a court order to authorize a child's enrollment or participation, including the appointment of an independent medical advocate to assess each case. The Department of Family and Protective Services is required to annually report to the governor, lieutenant governor, speaker of the house of representatives, and relevant legislative committees on the number of children who enrolled or participated in research programs, the purpose of the programs, and the number of related court orders issued.

**Senate Bill 640**

**Effective:** 6-15-07

**Senate Author:** West, Royce et al.

**House Sponsor:** Hilderbran

Senate Bill 640 amends the Government Code to establish Texas Adoption Day, to be held on the Saturday before Thanksgiving Day of each year, to celebrate and encourage adoption, adoptive families, and adoption workers in Texas. The bill requires Texas Adoption Day to be regularly observed by appropriate ceremonies and activities that encourage participation in and raise awareness about the adoption process and that honor adoptive families and adoption workers in Texas. The Department of Family and Protective Services is required to create a statewide awareness campaign to promote Texas Adoption Day and to coordinate ceremonies and activities held throughout the state.

## **Child Custody and Parental Rights**

**House Bill 555**

**Effective:** 9-1-07

**House Author:** Phillips et al.

**Senate Sponsor:** Harris

House Bill 555 amends provisions of the Family Code relating to the use of parenting plans and parenting coordinators in suits affecting the parent-child relationship. The bill authorizes a court, after notice and hearing, to order a parenting plan that the court finds to be in the best interests of the child, rather than to render an order for the conservatorship and possession of the child, if the parties do not submit a revised parenting plan that is satisfactory to the court. The bill authorizes, rather than requires, an agreed parenting plan to contain an alternative dispute resolution procedure, and it establishes that the dispute resolution process can include any method of voluntary dispute resolution. It also provides certain exceptions to a parenting plan requirement that a party engage in a dispute resolution process before filing a court action. It revises provisions relating to the content of a parenting plan in a final court order, and provides that a parenting plan is not required in certain court orders. The bill authorizes, rather than requires, a party to file with the court and serve a proposed parenting plan if the parties have not reached agreement on a final plan within 30 days of going to trial, and it removes a provision specifying that failure to do so could result in the court adopting the other party's proposed plan if it finds the plan to be in the best interests of the child.

The bill requires notice and hearing and a showing of good cause before a court appoints a parenting coordinator, and it requires, rather than authorizes, a court to remove a parenting coordinator under certain circumstances. The bill adds to the list of duties of a parenting coordinator to include aiding the parties in understanding parenting plans and reaching agreements about parenting issues to be included in a parenting plan, and it requires that any agreement made with the assistance of a parenting coordinator must be written and signed by the parties and their attorneys, if any. The bill establishes that provisions for confidentiality of alternative dispute resolution procedures apply equally to the work of a parenting coordinator, the parties, and any other person who participates in the parenting coordination. The bill repeals a provision relating to the modification of a final parenting plan and a provision relating to a prohibition against compelling a parenting coordinator to disclose certain information, submit evidence, or testify in court.

**House Bill 567**

**Effective:** 6-15-07

**House Author:** Puente

**Senate Sponsor:** Wentworth

Under current law, a man who desires to be notified of a proceeding for the adoption of or the termination of parental rights regarding a child he may have fathered may register not later than the 31st day after the birth of the child, but elsewhere in the law, the registration is

considered untimely if it is filed later than the 30th day after the birth of the child. House Bill 567 amends the Family Code to conform the untimely registration provisions to the provision relating to registration for notification.

Also, under current law, if the father-child relationship had not been established, a petitioner for the adoption of or the termination of parental rights regarding the child is required to obtain a certificate of the results of a search of the state registry of paternity. House Bill 567 permits the petitioner to request a search of the registry on or after the 32nd day after the date of the birth of the child, and prohibits the bureau of vital statistics from imposing a waiting period after the registry deadline that must elapse before it will conduct the search.

**House Bill 568**

**Effective:** 9-1-07

**House Author:** Puente

**Senate Sponsor:** Harris

House Bill 568 amends the Family Code to require that an affidavit of voluntary relinquishment of parental rights contain the county of residence, rather than the address, of each parent. The bill amends the Texas Probate Code to authorize a probate court to declare that the parent of a child under 18 years of age may not inherit from or through the child if the court finds that the parent voluntarily abandoned the child and failed to support the child for at least three years before the child's death, or voluntarily abandoned the child's mother during pregnancy and failed to provide support or medical care for the mother, or was convicted or placed on community supervision for causing the death or serious injury of a child under certain sections of the Penal Code or Family Code. The bill requires that the parent be treated as if the parent predeceased the child for the purposes of inheritance or any other cause of action based on parentage.

**House Bill 772**

**Effective:** 9-1-07

**House Author:** Dutton

**Senate Sponsor:** Harris

House Bill 772 amends provisions of the Family Code relating to a social study of the circumstances and condition of a child and the home of any person requesting conservatorship of, possession of, or access to the child. Among other provisions, the bill provides for minimum qualifications for a person who conducts a social study and provides that if an individual who meets these requirements is not available in the county served by a court, the court may authorize an individual who is determined to be otherwise qualified to conduct a social study. It requires a social study evaluator to report certain adoption placements to the department and addresses the handling of a conflict of interest or bias on the part of a social study evaluator. The bill specifies elements to be included in a social study and sets out requirements for conducting a study and preparing the report.

House Bill 772 also authorizes a county domestic relations office to provide and charge a fee for alternative dispute resolution services and parenting coordinator services. The bill amends the Government Code to authorize such an office to obtain criminal history record information relating to a person who has court-ordered possession of a child or has filed suit to adopt a child.

**House Bill 930**

**Effective:** 6-15-07

**House Author:** Chavez

**Senate Sponsor:** Uresti

Previous law authorized an associate judge, except as limited by an order of referral, to render and sign certain orders in a suit affecting the parent-child relationship. House Bill 930 amends the Family Code to specify that a judge must render and sign orders without prejudice to the right of appeal to the referring court. In addition, the bill expands an associate judge's authority to include rendering and signing a final order in a case in which a party files an unrevoked waiver

of notice to the party of the final hearing or unrevoked waiver of the party's appearance at the final hearing. An associate judge also may sign a final order that includes a waiver of the right of appeal to the referring court. The bill further provides that an answer filed by or on behalf of a party who previously filed an unrevoked waiver of notice or of the party's appearance at the final hearing shall revoke that waiver. The bill requires a court reporter to be provided for a final termination hearing presided over by an associate judge when it is a contested hearing, and in certain other circumstances, including on the agreement of the parties, it allows the court record to be preserved by any means approved by the associate judge.

**House Bill 1481**

**Effective:** 6-15-07

**House Author:** Castro

**Senate Sponsor:** Uresti

House Bill 1481 amends the Family Code to allow an adult sibling, grandparent, aunt, or uncle of a child to file an original suit or a suit for modification requesting managing conservatorship of the child not later than the 90th day after the date the parent-child relationship is terminated in a case filed by the Department of Family and Protective Services.

The bill also provides that previous deadlines for completing or dismissing a suit affecting the parent-child relationship apply only if the court has not commenced the trial on the merits.

**House Bill 1747**

**Effective:** 6-15-07

**House Author:** Morrison

**Senate Sponsor:** Nelson

House Bill 1747 amends the Family Code to provide that there is a rebuttable presumption that a parent who delivers a child to a designated emergency infant care provider intends to waive the right to notice of the suit terminating the parent-child relationship. The bill further provides that certain actions that the Department of Family and Protective Services is required to take must occur before the court may render an order terminating parental rights, rather than before the department may file a petition to terminate the parental rights, with regard to a child taken into the department's custody.

**House Bill 1864**

**Effective:** 6-15-07

**House Author:** Gonzales

**Senate Sponsor:** Hinojosa

House Bill 1864 amends the Family Code to authorize a court to award a conservator of a child reasonable periods of electronic communication with the child to supplement the conservator's periods of possession of the child and delineates the factors that the court must consider in determining whether to award electronic communication. The bill sets out certain requirements to which each conservator subject to the court's order must adhere if a court awards a conservator periods of electronic communication with a child. The bill prohibits the court from considering the availability of electronic communication as a factor in determining child support and clarifies the conditions under which the court may award periods of electronic communication in a suit in which the court's order contains provisions related to a finding of family violence.

House Bill 1864 also clarifies provisions relating to possession of a child by a possessory conservator who resides 100 miles or less from the primary residence of the child and changes the date holiday possession of a child ends from December 26 to December 28.

The bill revises provisions relating to a possessory conservator or a joint managing conservator of a child who does not have the exclusive right to designate the primary residence of the child and who is a member of the armed forces deployed under a military deployment. That conservator is permitted to designate a person who may exercise possession on behalf of the conservator if the conservator is deployed where access to the child is not possible, rather

than outside the United States. The designated person may exercise possession for the periods and in the manner in which the deployed conservator otherwise would be entitled to exercise possession, rather than only limited possession. The designated person is considered to be the possessory conservator and subject to the general terms and conditions of possession. The bill makes conforming changes in provisions relating to a modification of an existing court order or portion of a decree that sets the terms and conditions for the possession of or access to a child based on a possessory conservator's deployment.

**House Bill 1995**  
**Effective:** 9-1-07

**House Author:** Gonzalez Toureilles  
**Senate Sponsor:** Watson

House Bill 1995 amends the Family Code to provide that a notice to appeal a report by an associate judge in a suit affecting the parent-child relationship must be filed no later than the seventh working day, rather than the third day, after the party receives notice of the substance of the report.

**House Bill 2501**  
**Effective:** 9-1-07

**House Author:** Gonzalez Toureilles  
**Senate Sponsor:** Watson

House Bill 2501 revises and updates provisions of the Family Code relating to certain suits affecting the parent-child relationship referred to an associate judge. The bill deletes a provision requiring an associate judge to certify the date of mailing of certain notices and requires that a request for a de novo hearing before the referring court be timely filed. It requires a party requesting a hearing to file the request not later than the seventh working day, rather than the third day, after the date the party receives notice of the substance of the associate judge's report, and requires any other party that then files a request for a de novo hearing to do so not later than the seventh working day, rather than the seventh day, after the date the initial request was filed. The bill establishes that denial of relief after a de novo hearing, rather than denial of an appeal for a hearing, does not affect the right of the party to file certain post-trial motions. It provides that, for purposes of continuing a final order that places a child under care of the Department of Family and Protective Services, a proposed order or judgment rendered by an associate judge in a suit filed by the department that meets certain requirements is considered a final order.

**House Bill 3997**  
**Effective:** 9-1-07

**House Author:** Puente  
**Senate Sponsor:** Harris

House Bill 3997 amends provisions of the Family Code relating to the determination of paternity and termination of an alleged father's parental rights. The bill provides that, if a child is under one year of age when a petition for termination of the parent-child relationship or for adoption is filed and an alleged father has not registered with the paternity registry as required under the Uniform Parentage Act, the parental rights of the alleged father may be terminated. The bill provides that a termination of parental rights that is rendered on or after January 1, 2008, does not require personal service of citation or citation by publication on the alleged father, and there is no requirement to identify or locate an alleged father who has not registered with the paternity registry. The bill replaces a provision relating to evidence a court must consider before rendering an order to terminate parental rights with a provision prohibiting such an order without a search of the registry that indicates that no man has registered the intent to claim paternity. A search is not required if a parent-child relationship exists between a man and the child and the man has been served notice of the proceeding for terminating the parent-child relationship. The bill provides that a waiver in any affidavit of interest in a child is irrevocable, and removes provisions relating to an affidavit of status of child with no presumed father. It

establishes a rebuttable presumption that a parent who abandons a child by delivering the child to a designated emergency infant care provider intends to waive the right to notice of the suit terminating the parent-child relationship.

## **Child Support and Spousal Maintenance**

### **House Bill 448**

**Effective:** 9-1-07

**House Author:** Phillips

**Senate Sponsor:** Harris

House Bill 448 amends the Family Code to require that a court, in calculating expenses for health insurance coverage for an obligor's child, if the obligor has other minor dependents insured under the same plan, to divide the total cost for the insurance by the total number of minor dependents covered. The bill also increases the threshold amount of an obligor's monthly net resources that govern the application of child support guidelines from \$6,000 to \$7,500 and provides for this amount to be adjusted for inflation every six years, using a prescribed method to compute the adjusted amount. The first adjustment is to take effect on September 1, 2013.

### **House Bill 779**

**Effective:** 6-15-07

**House Author:** Dutton

**Senate Sponsor:** Gallegos

House Bill 779 amends the Family Code to prohibit a court from finding a respondent in contempt of court for failure to pay child support if the respondent appears at the hearing in a motion for enforcement with a copy of the payment record or other satisfactory evidence showing that the respondent is current in the payment of child support.

### **Senate Bill 228**

**Effective:** 9-1-07

**Senate Author:** Harris

**House Sponsor:** Eiland

Senate Bill 228 amends provisions of the Family Code, Labor Code, and Transportation Code relating to the establishment and enforcement of child support obligations, jurisdiction over child support cases, and conservatorship and possession of and access to a child. Among other provisions, the bill provides for retroactive orders for child support, modifications of a support order, the contents of a child support lien, withholding pay and other income to meet child support obligations, establishing paternity in cases of assisted reproduction, the child support work group, and fees for providing child support enforcement services. Senate Bill 228 clarifies the authority of the office of the attorney general with respect to child support cases, including the authority to suspend or deny the renewal of certain licenses and registrations to enforce child support obligations. The bill authorizes a court to permit a conservator to communicate electronically with a child to supplement the conservator's periods of possession of the child and clarifies the meaning of military deployment for purposes of determining possession of a child and modifying a court order for possession.

### **Senate Bill 303**

**Effective:** 9-1-07

**Senate Author:** Harris

**House Sponsor:** Eiland

Senate Bill 303 updates and revises Family Code provisions relating to health care coverage in a child support order. Among other provisions, the bill clarifies that the cost of cash medical support is included in the items deducted from resources to determine the net resources available for child support, and it prescribes a method for calculating the amount of the deduction for health care coverage if an obligor has other minor dependents covered under the same health care plan. The bill establishes that health care coverage is available at a "reasonable cost" only if it does not exceed nine percent of the responsible parent's specified annual resources, rather than

10 percent of the parent's net income in a month. If the obligor is ordered to pay cash medical support in lieu of health care coverage, the bill provides that the amount is not to exceed nine percent of the obligor's monthly resources, and the obligor must be allowed to discontinue the cash payment if health insurance for the child becomes available at a reasonable cost. The bill requires, rather than allows, a court to increase the amount of child support paid by an obligor to include the actual cost of health insurance coverage provided by the obligee, if the child support order requires the obligee to maintain coverage for the child.

**Senate Bill 430**

**Effective:** 9-1-07

**Senate Author:** Harris

**House Sponsor:** Phillips

Under current law, a marital property right can be established with a claim for reimbursement for unsecured liabilities and inadequate compensation of a spouse, and one spouse can make a claim for reimbursement that offsets a claim by the other spouse. Senate Bill 430 amends the Family Code to establish that the party seeking an offset to a claim for reimbursement has the burden of proof with respect to the offset.

**Senate Bill 617**

**Effective:** 9-1-07

**Senate Author:** Wentworth

**House Sponsor:** Dutton

Senate Bill 617 amends the Family Code and the Texas Probate Code to establish that if a child support obligor dies before the child support obligation terminates, the balance of the obligation becomes payable on the date the obligor dies, and the obligee has a claim, on behalf of the child, against the obligor's estate for the unpaid obligation. The bill authorizes a court to order an obligor to obtain a life insurance policy for the benefit of the child that will satisfy the child support obligation, and the court may require the obligor to provide proof of compliance. The bill sets forth certain factors that the court is required to consider in determining the amount of the child support obligation that is due from an obligor's estate or that is to be funded by insurance, and it provides that a child support order terminates if the child enlists in the armed forces of the United States, unless otherwise agreed or provided in the order.

## **Domestic Violence; Child Abuse and Neglect**

**House Bill 764**

**Effective:** 6-15-07

**House Author:** Dutton

**Senate Sponsor:** West, Royce

House Bill 764 amends the Government Code to change the maximum amount of a family protection fee that may be adopted by the commissioners court of a county from \$30 to \$15 and repeals the provision that directs the district or county clerk to pay one-half of such fees to the comptroller for deposit in the child abuse and neglect prevention trust fund account.

**House Bill 1972**

**Effective:** 6-15-07

**House Author:** Delisi et al.

**Senate Sponsor:** Duncan

House Bill 1972 amends the Family Code to authorize a court to permit an attorney ad litem appointed to represent a child in a child abuse proceeding to confer with the child or an individual with whom the child normally resides by telephone or video conference to satisfy the requirement that the attorney meet with the child or individual before each hearing.



**House Bill 3593**  
**Effective:** 9-1-07

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

House Bill 3593 amends the Family Code to provide that a person found to have engaged in family violence who is subject to a protective order and required to attend a program or counseling must file a statement with the court that the person completed the program not later than the 30th day before the expiration of the protective order or the 30th day before the first anniversary of the date the protective order was issued, whichever date is earlier.

**Senate Bill 44**  
**Effective:** 9-1-07

**Senate Author:** Nelson et al.  
**House Sponsor:** Gonzalez Toureilles

Senate Bill 44 amends the Code of Criminal Procedure and the Family Code to require a certain statewide nonprofit organization that contracts with the community justice assistance division of the Texas Department of Criminal Justice to assist the division in developing program guidelines and in accrediting programs that provide battering intervention and prevention services. The bill requires the division to notify and invite comment from certain licensing authorities before adopting the guidelines and to adopt the guidelines by April 1, 2008, and it requires the division to award contracts for programs that are operated by nonprofit organizations. Beginning on September 1, 2009, the bill requires a program or provider serving as a referral option for the courts to be accredited under the guidelines and any other eligibility requirements adopted by the department. The division is required to collect a one-time application fee from each program or provider that applies for accreditation in an amount set by the department. The bill prohibits the department from using funds specifically appropriated for grants to battering intervention and prevention programs to implement these provisions.

Senate Bill 44 authorizes a court to order a person convicted of a family violence offense to perform acts that the court determines are necessary or appropriate to prevent or reduce the likelihood of family violence, including completion of a program accredited by the division. Beginning on September 1, 2008, the bill requires a court, if an accredited program is unavailable, to refer a person to a program that has begun the accreditation process. If no provider has begun the accreditation process at that time, the bill requires a court to refer a person to certain practitioners who have completed training approved by the division following consultation with certain licensing authorities and experts in the field of family violence.

## **Juvenile Justice**

**House Bill 425**  
**Effective:** 9-1-07

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

House Bill 425 amends the Education Code to require the commissioner of education, in coordination with the Texas Juvenile Probation Commission and the Texas Youth Commission, to determine the instructional requirements for educational services provided by a school district or open-enrollment charter school in certain secure juvenile detention or correctional facilities. The requirements must ensure that courses are offered to enable a student to complete high school graduation requirements. The bill also requires that standards be established for ensuring security in the provision of education services in the facilities and access to education services for the children.

**House Bill 776**  
**Effective:** 9-1-07

**House Author:** Dutton  
**Senate Sponsor:** Janek

House Bill 776 amends the Family Code to provide that, if a child who is a student is taken into custody under the juvenile justice system while the child's school is in session, the child may be delivered to the principal, the principal's designee, or a peace officer at the school if the school official agrees to assume responsibility for the child for the remainder of the day.

**House Bill 953**  
**Effective:** 6-15-07

**House Author:** Farabee  
**Senate Sponsor:** Estes

House Bill 953 amends the Human Resources Code to require the chief juvenile probation officer, rather than the family court services department administrator, to appoint the superintendent of each juvenile detention facility in Wichita County.

**House Bill 1113**  
**Effective:** 6-15-07

**House Author:** Turner  
**Senate Sponsor:** Uresti

House Bill 1113 amends the Human Resources Code to require the Texas Juvenile Probation Commission to keep certain records relating to children within the juvenile probation system who participate in research programs or studies. The bill requires the commission to submit a report that contains the information in these records to the governor, lieutenant governor, speaker of the house of representatives, and members of the senate and house of representatives, and provides that the report is public information.

**House Bill 1500**  
**Effective:** 6-15-07

**House Author:** Frost  
**Senate Sponsor:** Eltife

House Bill 1500 amends the Human Resources Code to expand the composition of the Cass County Juvenile Board to include the judge of the County Court at Law of Cass County.

**House Bill 1960**  
**Effective:** 9-1-07

**House Author:** Ortiz, Jr. et al.  
**Senate Sponsor:** Hinojosa

House Bill 1960 amends the Family Code to authorize a child who is subject to the juvenile justice system or the child's parent or guardian to inspect and copy law enforcement records and files concerning the child. The bill requires the custodian of the information to redact any personally identifiable information in the file that is about a juvenile suspect, offender, victim, or witness other than the child or any information that is excepted from required disclosure under Texas law.

**House Bill 2291**  
**Effective:** 6-15-07

**House Author:** Farias  
**Senate Sponsor:** Uresti

House Bill 2291 amends the Human Resources Code to require the Texas Juvenile Probation Commission to conduct a study of established victim-offender mediation programs for juvenile offenders in Texas for the purpose of determining the potential effect on the state's juvenile justice system of establishing guidelines for and expanding the implementation of victim-offender mediation programs for juvenile offenders. The bill requires the commission to provide a report on the results of the study to each member of the legislature not later than January 1, 2009.

**House Bill 2502**  
**Effective:** 6-15-07

**House Author:** Gonzalez Toureilles  
**Senate Sponsor:** Hinojosa

House Bill 2502 amends the Human Resources Code to set out the requirements regarding the composition of the Jim Wells County Juvenile Board and revises the pay and duties of the members of the Wood County Juvenile Board.

**House Bill 2884**  
**Effective:** 9-1-07

**House Author:** Dutton  
**Senate Sponsor:** West, Royce

House Bill 2884 amends the Family Code, Education Code, Human Resources Code, and Penal Code to update and revise provisions relating to juvenile delinquency. The bill includes provisions relating to procedures governing the transfer of probation supervision between counties, admissibility of a child's statement as evidence in court proceedings, the use of a pseudonym by a victim in criminal cases, procedures for requesting a jury for a disposition hearing involving a juvenile, procedures for handling of restitution payments, the release of a child alleged to have committed certain offenses from a residential care facility for more than 48 hours, and the juvenile boards of Duval, Jim Hogg, and Starr Counties. House Bill 2884 authorizes the Texas Juvenile Probation Commission to share information with other agencies for research, audit, and analytical purposes, to participate and assist in the creation and maintenance of a statewide juvenile information and case management system, and to issue subpoenas, receive evidence, and gather information relating to certain investigations, complaints, and audits of juvenile probation programs services and facilities. The bill also provides that it is an offense for an employee of the Texas Youth Commission or a local juvenile probation department to engage in certain sexual conduct with an individual who is under the supervision of the commission or probation department.

**House Bill 3993**  
**Effective:** 10-1-07

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

House Bill 3993 amends the Human Resources Code to establish that the compensation of the members of the juvenile board of Parker County is a minimum, rather than a maximum, of \$6,000.

**House Bill 4040**  
**Effective:** 6-15-07

**House Author:** Anderson  
**Senate Sponsor:** Averitt

House Bill 4040 amends the Human Resources Code to include the county court at law judges in the composition of the McLennan County Juvenile Board.

**Senate Bill 1976**  
**Effective:** 9-1-07

**Senate Author:** Averitt  
**House Sponsor:** Anderson

Senate Bill 1976 amends the Human Resources Code to revise the composition of the McLennan County Juvenile Board to include the judge of each county court at law.

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

- House Bill 814 - Criminal Justice
- House Bill 2151 - Criminal Justice
- House Bill 2176 - Public Education
- House Bill 2580 - Human Services
- House Bill 2949 - Criminal Justice
- House Bill 3505 - Courts
- Senate Bill 322 - Law Enforcement
- Senate Bill 723 - Human Services
- Senate Bill 759 - Human Services
- Senate Bill 1161 - Public Education



## Financial Institutions

This chapter covers legislation relating to banks, credit unions, trust companies, and other regulated lenders and financial services companies and to the products and services offered or administered by those entities. The chapter also includes legislation relating to functions and operations of the Finance Commission, the Credit Union Commission, and the Texas Department of Banking.

### **House Bill 944**

**Effective:** 5-25-07

**House Author:** Solomons et al.

**Senate Sponsor:** Fraser

House Bill 944 amends the Finance Code to prohibit a state bank or a depository institution other than a savings bank from maintaining a branch in this state on the premises or property of an affiliate of that financial institution if the affiliate engages in a commercial activity not permitted under federal law for a bank holding company, financial holding company, national bank, or national bank financial subsidiary. The bill prohibits a savings bank from establishing or maintaining a branch on the premises or property of an affiliate if the affiliate engages in a commercial activity not permitted for a state savings bank or a subsidiary of such a bank.

### **House Bill 1344**

**Effective:** 9-1-07

**House Author:** Villarreal et al.

**Senate Sponsor:** Van de Putte

House Bill 1344 amends the Finance Code to establish registration requirements for a person who, individually or in conjunction or cooperation with another person, acts as a facilitator for a tax refund anticipation loan. The bill sets out the registration criteria and procedures and requires a facilitator to disclose certain information to the borrower relating to the loan. The bill requires the consumer credit commissioner to make available to the public a list of registered facilitators, to monitor a registered facilitator's operations to ensure compliance with these provisions, and to receive and investigate complaints against a facilitator or a person acting in that capacity. The bill authorizes the commissioner to revoke the registration of a facilitator who violates these provisions and to assess an administrative penalty of \$500 for each knowing and wilful violation, and it establishes hearing and appeal procedures for a facilitator whose registration has been revoked. The bill specifies that these provisions preempt a local ordinance or rule that regulates a refund anticipation loan.

### **House Bill 1716**

**Effective:** 9-1-07

**House Author:** Solomons

**Senate Sponsor:** Van de Putte

House Bill 1716 amends the Finance Code to establish registration requirements for a registered financial services company and to authorize such a company to perform the services of a licensed mortgage broker through individuals who are exclusive agents of the company. The bill sets out the eligibility requirements for such a company, requires payment of original and renewal registration fees, and specifies that the company is subject to the same license revocation and suspension requirements and administrative and judicial review procedures as a mortgage broker. The bill prohibits a person from being an exclusive agent without the prior consent of the savings and loan commissioner if the individual has a history of certain criminal actions or has had a professional license revoked or suspended in this state or any other jurisdiction. The bill requires the company, prior to permitting an exclusive agent to perform mortgage loan services, to submit to the commissioner information necessary for a criminal background check of that person, the cost of which may be assessed to the company. The bill requires the commissioner

to notify the person and the company of his determination of eligibility and allows a person deemed ineligible to appeal that decision. The bill exempts from this bill's provisions a person who is a licensed mortgage broker or loan officer at the time of becoming an exclusive agent of such a company and exempts from mortgage broker licensing requirements an exclusive agent who by written agreement with the company is prohibited from performing mortgage loan services for a person other than that company or its affiliates.

**House Bill 1795**

**Effective:** 6-15-07

**House Author:** Veasey

**Senate Sponsor:** Shapleigh

House Bill 1795 amends the Finance Code to authorize the Finance Commission and the Credit Union Commission, when establishing security requirements to be implemented by a financial institution for the operation of an unmanned teller machine, to provide for a system that enhances customer security, taking into account emerging technologies, the availability of networks to exchange information, and the potential compliance costs for the institutions and other unmanned teller machine service providers.

**House Bill 1962**

**Effective:** 9-1-07

**House Author:** Orr

**Senate Sponsor:** Fraser

House Bill 1962 amends the Finance Code to apply provisions of the Business Organizations Code enacted during the 78th Texas Legislature, Regular Session, 2003, to certain financial institutions and their regulation by the Texas Department of Banking and to make technical and conforming changes. The bill provides that a state bank or trust company organized before January 1, 2006, is governed by previous law unless it elects to be governed by the Business Organizations Code. The bill also modifies requirements relating to the operations of a limited banking association and to the ability of certain bank holding companies to allocate assets among subsidiary trust companies.

**House Bill 2002**

**Effective:** 9-1-07

**House Author:** Giddings et al.

**Senate Sponsor:** Fraser

House Bill 2002 amends the Business & Commerce Code to require the Finance Commission of Texas to adopt rules for the registration of check verification entities and the establishment of an electronic notification system for notification of such entities by financial institutions. The bill requires a financial institution, upon notification by a customer who is a victim of identity theft, requests that an account be closed, and presents certain documentation relating to the offense, including written authorization for the submission of information to the electronic notification system, to submit that information to the electronic notification system within two business days of receiving the documentation. The information must include the customer's identifying information, the account number of any account that has been compromised, the financial institution routing number, and the number on any check that has been lost, stolen, or compromised. The bill requires a check verification entity to maintain reasonable procedures to prevent the acceptance or approval of a check from an account that has been identified in a notification received through the electronic notification system or a customer.

**House Bill 2007**

**Effective:** 9-1-07

**House Author:** Solomons

**Senate Sponsor:** Fraser

House Bill 2007 amends the Finance Code to require the Texas Department of Banking to create a financial literacy program to educate state residents about financial matters and encourage participation in the conventional finance system. The bill authorizes the department to establish rules for examining state banks and removes provisions that set out specific examination

requirements and permitted the banking commissioner to defer such an examination in some circumstances. The bill makes changes to the amount and type of capital and surplus a state bank may expend on certain investments and loans and authorizes a state bank to pledge its assets to secure a deposit of another state, a federally recognized Indian tribe, or certain other entities. The bill allows a state bank that meets specified criteria to hold nonworking mineral or royalty interests and authorizes the commissioner to order the divestiture of such interests that are considered detrimental to the bank. The bill allows the commissioner to authorize the establishment of temporary bank branches or offices in an emergency and to coordinate with other state or federal agencies or affiliated organizations to restore banking services after such an event.

**House Bill 2138****Effective:** 9-1-07**House Author:** Paxton**Senate Sponsor:** Wentworth

House Bill 2138 amends the Finance Code to regulate the activities of property tax lenders. Effective March 1, 2008, the bill requires that any person providing to a property owner in Texas a property tax loan in connection with the transfer of a property tax lien or receiving compensation over a certain amount in connection with such a loan be licensed by the consumer credit commissioner and pay the appropriate fees. It requires the licensee to deposit a surety bond that meets certain criteria if the commissioner deems such a bond necessary and authorizes the commissioner to impose certain sanctions for violations. The bill requires a licensee to obtain and display a separate license for each office at which such loans are provided and to maintain for each office net assets of at least \$25,000, and places certain restrictions on moving an office and transferring or assigning a license. The bill stipulates that the licensee is not limited to making loans to residents of the community in which its office is located, may provide loans by mail from a licensed office, and must file with the commissioner an annual report containing relevant information concerning its loan transactions. The bill requires a transferee of a tax lien to provide certain information to the taxing unit having power to tax the property and allows a licensee to receive compensation from a party other than the loan applicant upon the closing of the loan and to have affiliated or controlled business arrangements or loan origination services with other professionals. The bill makes conforming changes to the Tax Code.

**House Bill 2219****Effective:** 9-1-07**House Author:** Solomons**Senate Sponsor:** Harris

House Bill 2219 amends the Civil Practice and Remedies Code to allow a citation in an action against a financial institution to be served by serving the institution's registered agent or, in the absence of a registered agent, the president or a branch manager at any office located in this state or, for a credit union, the president or vice president. If a citation has not been served according to these requirements, the institution may maintain an action to set aside the default judgment or any sanctions entered against the institution. The bill prohibits serving a citation on a credit union located in a place of worship during a worship service. The bill amends the Finance Code to make conforming changes.

**House Bill 2754****Effective:** 9-1-07**House Author:** Anchia et al.**Senate Sponsor:** Fraser

House Bill 2754 amends the Finance Code to modify the filing, confidentiality, and charter protest requirements for state banks and trust companies. The bill also makes changes to the authority of such a bank or company to purchase the assets of or sell assets to another financial or trust institution or other entity.

**House Bill 2783**

**Effective:** 9-1-07

**House Author:** Solomons et al.

**Senate Sponsor:** Seliger

Previous law allowed a corporation, partnership, or certain other business entities to act as a mortgage broker without a mortgage broker's license provided that its mortgage brokers and loan officers were licensed. House Bill 2783 amends the Finance Code to prohibit, as of January 1, 2008, a corporation, limited liability company, or limited partnership from acting as a mortgage broker without a mortgage broker license and specifies that certain licensing requirements apply only to an individual mortgage broker. The bill requires a mortgage broker doing business under an assumed name to file an assumed name certificate and specifies that a licensed mortgage broker is not required to obtain a consumer loan license to handle a mortgage loan. The bill changes the eligibility and continuing education requirements for a mortgage loan officer license, increases the application fee for such a license from \$175 to \$275, and provides for a provisional loan officer license if specific conditions are met. The bill allows the savings and mortgage lending commissioner to take certain disciplinary actions against the holder of a mortgage broker or loan officer license and to adopt rules establishing standards and fees for continuing education courses, providers, and instructors relating to mortgage lending.

**House Joint Resolution 72**

**For Election:** 11-6-07

**House Author:** Solomons

**Senate Sponsor:** Carona

House Joint Resolution 72 proposes an amendment to the state constitution to clarify certain provisions relating to the making of a home equity loan and the use of home equity loan proceeds. The proposed amendment prohibits such a loan from closing, without the borrower's consent, sooner than one business day after the borrower receives a copy of the loan application if not previously provided and a final itemized disclosure of the actual closing costs. It allows the borrower to secure a loan within one year of obtaining a loan on the same homestead if the owner on oath requests an earlier closing because of a declared state of emergency that applies to the area where the homestead is located. In addition, the proposed amendment clarifies that a restriction on the use of an agricultural homestead property to secure a home equity loan refers to a homestead designated for agricultural use on the closing date, that the borrower may not be required to execute an instrument containing unfilled blanks for substantive terms of agreement, and that a solicitation check prohibited for obtaining an advance under a home equity line of credit is a preprinted check unsolicited by the borrower.

**Senate Bill 884**

**Effective:** 9-1-07

**Senate Author:** Eltife

**House Sponsor:** McCall

Senate Bill 884 amends the Finance Code to remove a requirement allowing only tax-exempt nonprofit organizations to provide debt management services. The bill includes new requirements relating to registration of debt management service providers and authorizes the finance commission to establish maximum fair and reasonable fees for debt management services.



## Government Purchasing

This chapter covers legislation on issues relating to the procurement of goods and services by state and local governmental entities, including contracting, leasing, and public works projects. Related bills that are summarized in other chapters are listed at the end of this chapter.

**House Bill 119**  
**Effective:** 9-1-07

**House Author:** Brown, Fred  
**Senate Sponsor:** Ogden

Previous law required competitive bidding for certain purchases by a state agency that exceed \$2,000 and required an evaluation of at least three catalog offers for catalog purchases or leases of automated information systems that exceed \$2,000. House Bill 119 amends the Government Code to apply the competitive bidding and evaluation requirements to purchases that exceed \$5,000 or are made under a written contract.

**House Bill 447**  
**Effective:** Vetoed

**House Author:** Callegari et al.  
**Senate Sponsor:** Jackson, Mike

House Bill 447 adds a chapter to the Government Code to set out contracting and delivery procedures for construction projects that are applicable to most governmental and quasi-governmental entities, repeals similar separate provisions elsewhere in state law that were applicable to specific types of entities, and specifies entities to whom the chapter is not applicable.

The bill amends the Government Code to provide that a reverse auction procedure may not be used to obtain services related to certain public works contracts for which a bond is required and to make changes to interlocal contract provisions. It makes provisions relating to the small contractor participation assistance (SCPA) program applicable to public works projects that will involve contracts with an aggregated cost of more than \$1 million, rather than \$20 million, adds a method to assist small contractors in preparing bond applications or obtaining bonds to the program components, requires the Texas Building and Procurement Commission to appoint an employee as SCPA coordinator to perform specified duties, and requires the agency's technical assistance plan to include assistance in small contractor safety training to ensure compliance with federal job site safety standards.

House Bill 447 amends the Education Code to provide an exception to the prohibition against use of school district resources for improvements to non-district property if the improvements benefit property owned or leased by the district. It also adds provisions applicable to school districts relating to competitive bidding, competitive sealed proposals, change orders, and actions brought for defective design, construction, renovation, or improvement of an instructional facility.

The bill also amends a Local Government Code provision relating to change orders for certain municipal public works contracts.

Reason Given for Veto: "House Bill No. 447 would discourage competition in public sector capital project development by limiting how government may contract for design and construction services. The limitations and extra contracting requirements contained in this bill would likely result in increased costs and project delays for tax payers."

**House Bill 576**

**Effective:** 6-16-07

**House Author:** Smith, Wayne

**Senate Sponsor:** Ellis

House Bill 576 amends a general-law water district provision of the Water Code relating to bid bonds for contracts for construction work to provide that, for a contract for more than \$250,000, a district must accept a bid bond in the amount required by the district as a bid deposit if the bid bond meets other applicable requirements of the law.

**House Bill 1179**

**Effective:** Vetoed

**House Author:** Flores

**Senate Sponsor:** Nelson

House Bill 1179 amends the Government Code to repeal certain provisions relating to the procurement practices of the Texas Lottery Commission and to provide that general state laws governing purchasing and contracts by state agencies apply to the commission.

Reason Given for Veto: "House Bill No. 1179 would require the Texas Lottery Commission to adhere to the general procurement policies of the state that are governed by the Texas Building and Procurement Commission (TBPC).

"Since its creation, the Lottery Commission has been allowed to independently negotiate purchases rather than going through the TBPC procurement process. Although it has proceeded independently, the Lottery has followed the same practices as the TBPC, resulting in effective evaluation and selection of contractors and contracts that include the required statutory provisions.

"I support the philosophy behind House Bill No. 1179 of promoting competition in the marketplace and protecting the state's interests with respect to procurement practices. However, I am vetoing House Bill No. 1179 because the Lottery negotiated many of its contracts based on its current procurement process. Eliminating the purchasing flexibility in the Texas Lottery Commission's procurement process could jeopardize its future success.

"The Lottery should retain its flexibility in purchasing because the agency is contracting for and operating a unique business that deals with a limited vendor community qualified to operate the games. These purchases are different from consumable goods, such as office supplies, that other agencies purchase and which TBPC rules are designed to cover."

**House Bill 1491**

**Effective:** 5-25-07

**House Author:** Woolley

**Senate Sponsor:** Williams

House Bill 1491 amends Chapter 176 of the Local Government Code, which relates to the disclosure of information about certain relationships between local government officers and persons who contract with local governmental entities. The bill establishes that a charter school is a local governmental entity subject to the provisions of the chapter and revises definitions to clarify terms used in the chapter. The bill specifies that the employees of a local governmental entity who may be required to file a conflicts disclosure statement include any employee who has the authority to approve contracts on behalf of the governmental entity. The bill also requires the entity to identify each employee it makes subject to the filing requirement and to provide a list of the identified employees on request to any person.

House Bill 1491 modifies the criteria used to determine whether a vendor must file a conflict of interest questionnaire and whether an employee must file a conflicts disclosure statement. The bill provides that a local governmental entity is not required to ensure that a vendor files a conflict of interest questionnaire and that the validity of a contract between a vendor and a local governmental entity is not affected solely because the vendor fails to comply with requirements related to filing such a questionnaire. If a local governmental entity maintains an Internet website, the website must provide access to the questionnaires and statements filed under this chapter. The bill sets out a retention schedule for filings under this chapter.

**House Bill 1764**

**Effective:** 9-1-07

**House Author:** Kuempel

**Senate Sponsor:** Wentworth

House Bill 1764 amends the Local Government Code to delete language providing that a county purchasing contract valued at more than \$25,000 is subject to competitive bidding procedures if the contract is to be paid through anticipation notes. The bill limits the amount for which an anticipation note can be issued.

**House Bill 1886**

**Effective:** 9-1-07

**House Author:** Callegari

**Senate Sponsor:** West, Royce

House Bill 1886 amends the Local Government Code to establish design-build procedures for civil works projects that are primarily civil engineering projects. The bill includes a hospital district, a water district or authority created by law, and a conservation and reclamation district in the definition of "governmental entity" as it applies in state law governing alternative project delivery methods for certain facility construction projects. It amends the Local Government Code, Education Code, and Water Code to require a governmental entity, school district, institution of higher education, navigation district, or port authority to select or designate an architect or engineer to prepare the construction documents for a facility.

House Bill 1886 also amends the Education Code to require any portable, modular building capable of being relocated that is purchased or leased after September 1, 2007, for use as a school building to be inspected to ensure compliance with the mandatory building codes or approved designs, plans, and specifications.

**House Bill 2293**

**Effective:** 9-1-07

**House Author:** Noriega, Rick et al.

**Senate Sponsor:** Watson

House Bill 2293 amends the Government Code to require a state agency that purchases 10 or more vehicles in a state fiscal biennium to ensure that at least 10 percent of the passenger vehicles purchased in any biennium meet or exceed emissions standards for a vehicle rating as a Tier II, Bin 3, emissions standard vehicle that has a greenhouse gas score of eight under the Environmental Protection Agency regulations as they exist on September 1, 2007. The bill provides a state agency exemption if a vehicle that meets both these standards and the agency's operational needs is not commercially available.

**House Bill 2411**

**Effective:** 6-15-07

**House Author:** Strama

**Senate Sponsor:** Ogden

Previously, a school district was limited to a competitive bidding process when selecting a bank depository. House Bill 2411 amends the Education Code to allow districts to choose a request for proposal (RFP) process for awarding district depository contracts. The bill requires a district to choose whether to use competitive bidding or an RFP not later than the 60th day before the date its current depository contract expires. If a district chooses to use an RFP, the bill requires the district, not later than the 30th day before the date the current contract expires, to mail to each bank in the district and, if desired, to other banks, a notice of the time and place in which proposals will be received for selecting a depository or depositories. The bill also allows a district and its depository bank to extend a depository contract for two additional two-year terms rather than only one additional term as before.

**House Bill 2626**

**Effective:** 6-15-07

**House Author:** Murphy

**Senate Sponsor:** Janek

House Bill 2626 amends the Education Code to lower the student population threshold for a school district that meets other criteria to be exempt from purchasing contract requirements. The bill exempts a district with a student enrollment of 180,000 or more, rather than an average daily attendance of 190,000 or more, that has formally adopted a site-based decision-making plan delegating purchasing decisions to the campus level.

**House Bill 2918**

**Effective:** 9-1-07

**House Author:** Isett, Carl

**Senate Sponsor:** Deuell

House Bill 2918 amends the Government, Education, and Water Codes to revise and clarify information technology contracting and procurement practices and to allow an assistance organization to use a procurement contract entered into by the Department of Information Resources.

**House Bill 3291**

**Effective:** 6-15-07

**House Author:** Otto

**Senate Sponsor:** Averitt

House Bill 3291 amends the Education Code to prohibit the board of regents of a public college or university from entering into a contract for a permanent improvement project at the college or university under which the college or university makes contractual payments that are not reflected on its financial statement unless the board of regents is specifically authorized to enter into the contract by other law or receives prior approval by the Texas Higher Education Coordinating Board.

**House Bill 3517**

**Effective:** 9-1-07

**House Author:** Creighton

**Senate Sponsor:** Watson

House Bill 3517 amends the Local Government Code to remove certain restrictions on a municipality with a population of less than 25,000 regarding the purchase of insurance and to expand a municipality's authority to use the competitive sealed proposal procedure to apply to the purchase of any goods or services. The bill authorizes the commissioners court of a county to exempt vehicle and equipment repairs from certain requirements relating to electronic bids or proposals. The bill also adds a conservation and reclamation district in a county with a population of 250,000 or more to the local governmental entities to which certain provisions relating to alternative project delivery methods apply.

The bill amends the Health and Safety Code to increase from \$25,000 to \$50,000 the threshold expenditure for certain items or services that would require an emergency services district board to use competitive bidding.

**House Bill 3560**

**Effective:** 9-1-07

**House Author:** Swinford

**Senate Sponsor:** Janek et al.

House Bill 3560 amends the Government Code and other law to transfer to the comptroller the duties of the Texas Building and Procurement Commission that do not primarily concern state facilities and to rename the commission the Texas Facilities Commission (TFC). The Sunset Advisory Commission (SAC) is required to evaluate the transfer and report its evaluation to the 82nd Legislature. Unless the transfer is made permanent by subsequent law, the duties transferred revert to the Texas Facilities Commission on September 1, 2011. The SAC also is required to study certain topics relating to the functions of the TFC and report to the 81st Legislature.

The bill establishes that purchasing transactions, processes, and the performance of related functions are subject to audit by the state auditor. With respect to both the comptroller and the TFC, the Texas Ethics Commission is required to implement and enforce provisions prohibiting conflicts of interest, and the bill establishes a procedure to be used by the comptroller in awarding certain contracts. The bill creates the Statewide Procurement Advisory Council to advise the chief clerk of the comptroller in awarding contracts, and it provides that the comptroller must adopt rules describing the purpose and tasks of the council. Rulemaking authority is delegated to both the comptroller and the TFC to administer certain functions.

House Bill 3560 also requires certain local governments and nonprofit organizations to make available to the public an online searchable database containing information about historically underutilized businesses (HUBs), and it expands the list of actions that a state agency must take to demonstrate an effort to hire HUBs to include the requirement that the agency establish goals for contracting with HUBs. The hiring goals must be included in the agency's legislative appropriations request, along with certain information regarding its success in achieving the goals. The bill prohibits a political subdivision that owns and operates a waste collection, transportation, treatment, or disposal system and certain nonprofit, county, or municipal airports from entering into a contingent fee contract for legal services without review and approval by the comptroller. It requires that all state agencies making purchases give preference to goods produced or offered by a Texas bidder that is owned by a service-disabled veteran who is a Texas resident, and it authorizes state agencies making purchases of food for consumption in a public cafeteria to give preference to contractors who provide foods of higher nutritional value.

**Senate Bill 297****Effective:** 9-1-07**Senate Author:** West, Royce**House Sponsor:** Lucio III

Senate Bill 297 amends the Government Code to change the composition of the committee appointed by the Texas Building and Procurement Commission to review the uniform general conditions of state building construction contracts. Two members, each representing a different minority contractors association, are added to the committee, and the member selected from a list of nominees submitted by the executive director of the National Association of Minority Contractors is removed from the committee.

**Senate Bill 608****Effective:** 9-1-07**Senate Author:** Ellis**House Sponsor:** Callegari

Senate Bill 608 amends the Government Code to prohibit state agencies from contracting with individuals who have been convicted of violating federal law in connection with contracts relating to relief, recovery, or reconstruction as a result of Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

**Senate Bill 657****Effective:** 9-1-07**Senate Author:** Seliger**House Sponsor:** Puente

Senate Bill 657 amends Water Code general-law water district provisions to increase threshold dollar amounts relating to district contracts for construction work. The bill increases the maximum contract amount for which no advertisement or competitive bidding is required, the contract amount range for which a district board must solicit written competitive bids, the minimum contract amount for which the board must advertise the letting of the contract, and the minimum contract amount for which the district must obtain a deposit or bid bond. The bill gives a district created by special law the option to contract for certain construction, repair, and renovation of district facilities and improvements in accordance with general-law contracting provisions, notwithstanding a conflict in the district's special law.

**Senate Bill 704**

**Effective:** 9-1-07

**Senate Author:** Lucio et al.

**House Sponsor:** Lucio III

Senate Bill 704 amends the Government Code to provide that the small contractor participation assistance (SCPA) program applies only in relation to a public works project that will involve contracts with an aggregated cost of more than \$1 million, rather than \$20 million, adds to the program components a method to assist small contractors in preparing bond applications or obtaining bonds, requires the Texas Building and Procurement Commission to appoint an employee as SCPA coordinator to perform specified duties, and requires the agency's technical assistance plan to include assistance in small contractor safety training to ensure compliance with federal job site safety standards.

**Senate Bill 757**

**Effective:** 9-1-07

**Senate Author:** Hegar

**House Sponsor:** Callegari

Senate Bill 757 amends the Government Code to require the Department of Information Resources to establish plans and policies for telecommunications services it manages and operates and to consult with the telecommunications planning and oversight council in the performance of certain duties relating to state telecommunications services.

**Senate Bill 924**

**Effective:** 9-1-07

**Senate Author:** Brimer

**House Sponsor:** Solomons

Senate Bill 924 amends the Government Code to prescribe certain requirements for rules or policies adopted by a state agency relating to the recovery of costs arising from an engineering or architectural error or omission by a private design professional.

**Senate Bill 1618**

**Effective:** 6-15-07

**Senate Author:** West, Royce

**House Sponsor:** Veasey

Senate Bill 1618 amends the Local Government Code to authorize a joint board of certain county and municipal airports, in determining the best value for the board for purposes of awarding a contract, to consider the impact on the ability of the board to comply with laws, rules, and programs relating to contracting with a small business.

**Senate Bill 1765**

**Effective:** 9-1-07

**Senate Author:** Watson

**House Sponsor:** Martinez Fischer

Senate Bill 1765 amends the Local Government Code to raise the maximum value of a contract that may be entered into by a municipality without competitive bidding from \$25,000 to \$50,000. The bill requires a municipality, when making an expenditure of more than \$3,000 but less than \$50,000, rather than \$25,000, to contact at least two historically underutilized businesses on a rotating basis. The bill also adds expenditures for advertising, other than legal notices, to the list of expenditures not subject to provisions of the Local Government Code governing the purchasing and contracting authority of municipalities.

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

House Bill 2618 - Local Government

House Bill 2625 - Labor and Employment

House Bill 2667 - Labor and Employment

# Health and Medical Occupations

This chapter covers legislation on issues relating to health and medical occupations, including occupational regulation, licensing and registration requirements, and education requirements. The chapter also includes legislation on higher education degree programs for these occupations and on the manufacture, compounding, distribution, and dispensing of certain prescription drugs. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 1427

**Effective:** Vetoed

**House Author:** Alonzo et al.

**Senate Sponsor:** Zaffirini

House Bill 1427 amends the Education Code to allow the University of Houston's college of optometry to operate an optometry career summer program for highly qualified, economically and academically disadvantaged junior-level, senior-level, and graduate students from any public or private college or university. The bill outlines program content that may be included but requires the college of optometry, to the extent practicable and consistent with the program's goals, to operate the program in a manner designed to help students earn course credit for the program from their respective colleges or universities. The bill establishes requirements for student recruitment and admission, program implementation, and the development of student support services.

Reason Given for Veto: "House Bill No. 1427 would authorize the University of Houston to create a summer learning program for the College of Optometry through funding identified as a special item. This program has existed since 1987 with federal funding. In 2002, the federal grant ended, leading the university to request additional state funding in order to sustain the program. I believe the university should solicit other funds, or use some of the \$6.4 million it was appropriated for Institutional Enhancement, to fund this program identified as a priority.

"Higher education special item funding has ballooned out of control, increasing from \$66.9 million in FY 1986-87 to more than \$1 billion in FY 2008-09, an increase of 1,406 percent. I have several concerns about these items. First, many of them are advertised to the legislature as one-time requests, but funding of these projects - many of which have limited value to a school's educational mission - often continues indefinitely. Second, there is limited accountability for these funds, because institutions usually do not report on their performance. Third, many of them address local projects instead of statewide needs. Lastly, some of them are not priorities for the institutions; therefore, they don't request them. In fact, funding for this item was not requested in the University of Houston Legislative Appropriations Request."

### House Bill 1973

**Effective:** 6-15-07

**House Author:** Delisi

**Senate Sponsor:** Nelson

House Bill 1973 amends provisions of the Occupations Code relating to certain duties of the Texas Medical Board. The bill directs the board to perform an annual assessment relating to delays in the licensing process. House Bill 1973 directs the executive director of the board to annually review the board's license issuance policies and procedures and to report to the governor, the Legislative Budget Board, and relevant legislative committees certain information relating to the board's projected annual budget, specialty certification of license applicants, where each applicant intends to practice, and criminal convictions of applicants. The bill requires the board to ensure that the average time to process license applications does not exceed 51 days. The bill also requires applicants to submit certain criminal record information. House Bill 1973 removes language providing for expedited applications for applicants who indicate they have requested and are eligible for an immigration visa waiver and prohibits a member of the board from serving as an expert witness in a suit involving certain health care liability claims.

**House Bill 2644**

**Effective:** 9-1-07

**House Author:** Rose

**Senate Sponsor:** West, Royce

House Bill 2644 amends provisions of the Occupations Code and Civil Practice and Remedies Code relating to the licensing and regulation of massage therapists. The bill adds a peace officer to the list of persons authorized to enter the premises of a massage therapist license holder or an applicant for a license to ensure compliance with certain law. The bill also includes exceptions to license requirements for certain places of business at which a licensed massage therapist practices. House Bill 2644 increases the minimum number of hours of instruction to receive a massage therapist license, clarifies that the instruction must be provided at a massage school, and adds new course requirements in kinesiology and pathology. The bill contains provisions relating to injunctive relief to restrain certain violations of law and adds to the list of activities that constitute a public nuisance offering massage therapy or massage services in violation of law.

**Senate Bill 29**

**Effective:** 3-1-08

**Senate Author:** Nelson

**House Sponsor:** Truitt

Senate Bill 29 amends the Health and Safety Code to require the creation of a minimum data set for the collection of information on certain health professionals by the Statewide Health Coordinating Council. The bill requires the Department of Information Resources, through TexasOnline and in consultation with the council and the Health Professions Council, to revise the electronic application or renewal form for a license, certificate, or registration in order to gather the information and to work with health occupation regulatory agencies to minimize the costs of obtaining the information. The bill requires the council to store the information and conduct certain workforce studies, and it requires the relevant members of the council to encourage licensees to submit application and renewal information through the electronic system and ensure that specified information is submitted to the council.

**Senate Bill 141**

**Effective:** 6-16-07

**Senate Author:** Nelson

**House Sponsor:** Morrison

Senate Bill 141 amends the Education Code to authorize the Texas Higher Education Coordinating Board, in consultation with each agency represented on the Health Professions Council and with representatives of private or independent colleges and universities, to study the feasibility of a public or private college or university providing joint health science courses in which students enrolled in different health science or health profession education programs may enroll to study basic health science curricula together.

**Senate Bill 155**

**Effective:** See below

**Senate Author:** Zaffirini

**House Sponsor:** Madden

Senate Bill 155 amends provisions of the Health and Safety Code, Government Code, and Occupations Code relating to licensing provisions for chemical dependency counselors. The bill directs the Department of State Health Services to approve one or more peer assistance programs designed to assist a chemical dependency counselor whose ability to perform is impaired by drugs or alcohol. The bill requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules providing for the registration of clinical training institutions and for the certification of clinical supervisors, and it requires counselor interns to obtain work experience at a registered institution under the supervision of a certified clinical supervisor. Senate Bill 155 authorizes a license to be issued to a person convicted of



certain drug- or alcohol-related offenses if the person successfully completes an approved peer assistance program, and the bill establishes procedures for license renewal for a person who has completed an approved program.

Provisions of the bill requiring supervised work experience and directing the executive commissioner of HHSC to adopt rules relating to the certification of clinical supervisors and the registration of clinical training institutions take effect September 1, 2007. Other provisions take effect September 1, 2008.

**Senate Bill 870**

**Effective:** 9-1-07

**Senate Author:** Uresti

**House Sponsor:** Hughes

Senate Bill 870 amends the Health and Safety Code to update a statutory reference to the Texas State Board of Medical Examiners to reflect the entity's new name as the Texas Medical Board.

**Senate Bill 1832**

**Effective:** 9-1-07

**Senate Author:** Duncan

**House Sponsor:** Gattis

Senate Bill 1832 amends the Occupations Code to provide that if a person, either a physician or an entity, presents a bill for certain medical laboratory services that the person did not directly supervise or perform, and the person does not provide an itemized bill that shows who performed the services and how much the services cost, the person is subject to disciplinary action and penalties. The bill authorizes the Texas Medical Board to adopt rules to implement this provision.

## **Pharmacists and Pharmacies**

**House Bill 948**

**Effective:** 9-1-07

**House Author:** Davis, Yvonne

**Senate Sponsor:** Ellis

House Bill 948 amends the Occupations Code to require the Texas Board of Pharmacy to adopt rules requiring the label on a prescription drug dispensing container to be in plain language and printed in an easily readable size for the consumer. The bill also requires the board to adopt similar rules relating to self-administration information a pharmacist is required to provide a consumer when dispensing a prescription.

**Senate Bill 625**

**Effective:** 6-15-07

**Senate Author:** Janek

**House Sponsor:** Davis, John

Senate Bill 625 amends the Occupations Code to prohibit a pharmacist from interchanging an immunosuppressant drug or formulation of an immunosuppressant drug for the treatment of a patient following a transplant without prior consent from the prescribing practitioner. The bill establishes the process by which a pharmacist can obtain permission for a drug interchange. Senate Bill 625 directs the Texas State Board of Pharmacy and the Texas Medical Board to establish a joint committee to recommend drugs to which the prohibition should apply and includes a list of certain drugs required to be considered by the committee. The bill also sets out procedures relating to a drug manufacturer's request that the committee conduct a hearing and make recommendations regarding a drug specified by the bill for consideration.

**Senate Bill 943**

**Effective:** 9-1-07

**Senate Author:** Janek

**House Sponsor:** Truitt

Senate Bill 943 amends provisions of the Texas Food, Drug, and Cosmetic Act in the Health and Safety Code relating to the licensing and regulation of wholesale prescription drug distributors. The bill prohibits the receipt of a drug that is adulterated, misbranded, or illegally obtained and prohibits tampering with the labeling of a drug that results in misbranding. The bill provides an exception to certain prohibitions for a prescription drug manufacturer for the sole purpose of testing the drug's authenticity. Senate Bill 943 clarifies terms under the act, requires inspections and consideration of federal licensing qualifications before a wholesale distributor license can be issued, and requires certain information to be included in a license application. The bill also includes provisions relating to license renewal notifications, exemptions from certain requirements for retail pharmacies and pharmacy warehouses, the distribution of nonsalable drugs returned to a wholesale distributor, the potential targeted implementation date for electronic track and trace pedigree technology, and grounds for license revocation or suspension.

**Senate Bill 994**

**Effective:** 9-1-07

**Senate Author:** Nelson

**House Sponsor:** Delisi

Senate Bill 994 amends the Health and Safety Code to permit oral and telephonically or electronically communicated prescriptions for the dispensing of certain controlled substances. The bill also clarifies provisions relating to applicability of state and federal laws to certain prescriptions and refills of an original prescription.

**Senate Bill 1274**

**Effective:** 9-1-07

**Senate Author:** Van de Putte et al.

**House Sponsor:** Hopson

Senate Bill 1274 amends the Occupations Code to authorize the Texas State Board of Pharmacy to adopt rules governing the procedures for a pharmacist to compound a drug or device by adding flavoring at the request of a patient.

**Senate Bill 1658**

**Effective:** 9-1-07

**Senate Author:** Nichols et al.

**House Sponsor:** Hopson

Senate Bill 1658 amends the Occupations Code and the Health and Safety Code to limit to a 30-day supply the amount of a drug a pharmacist is authorized to dispense without a prescription in the event of a natural or manmade disaster.

**Senate Bill 1896**

**Effective:** 6-15-07

**Senate Author:** Lucio

**House Sponsor:** Delisi

Senate Bill 1896 amends the Occupations Code to authorize a licensed health care professional responsible for the administration of drugs in a penal institution to return certain unused drugs to a pharmacy. The bill also amends the Health and Safety Code to include a licensed pharmacy that is a community pharmaceutical access program provider as an authorized recipient of unused drugs under the drug donation program.

## Physicians, Dentists, and Nurses

### House Bill 643

**Effective:** 9-1-07

**House Author:** Hughes et al.

**Senate Sponsor:** Nelson

House Bill 643 amends the Occupations Code to authorize the Texas State Board of Dental Examiners to renew a dental license that has been expired for one year or more without requiring compliance with procedures for an original license if the dentist's sole practice is voluntary charity care and if the renewed license is placed on retired status.

### House Bill 2426

**Effective:** 9-1-07

**House Author:** Truitt et al.

**Senate Sponsor:** Deuell

House Bill 2426 amends the Occupations Code, Education Code, Family Code, Government Code, Health and Safety Code, and Human Resources Code to continue the Board of Nurse Examiners as the Texas Board of Nursing until September 1, 2017. In addition to across-the-board sunset recommendations, the bill includes provisions relating to accreditation for schools of nursing and related educational programs, authorizes the formation of advisory committees to provide independent expertise to the board, requires a jurisprudence examination on licensing requirements to be passed by each applicant for a registered nurse license, and adopts the National Council of State Boards of Nursing Uniform Advanced Practice Registered Nurse Compact. The bill entitles a student who successfully completes a diploma program of study on or after December 31, 2004, to a degree and requires a president of a medical and dental unit to determine full-time employment status for a nurse for purposes of determining eligibility for certain benefits. House Bill 2426 creates the Texas Hospital-Based Nursing Education Partnership Grant Program, provides for the administration of the program, establishes priorities for program funding, and requires a single application process under which a partnership can apply for approval as a pilot program for innovative applications in the practice and regulation of professional nursing and for a grant under the partnership program.

### House Bill 3443

**Effective:** 6-15-07

**House Author:** Howard, Donna

**Senate Sponsor:** West, Royce et al.

House Bill 3443 amends the Education Code to establish a grant program administered by the Texas Higher Education Coordinating Board, whereby the board makes grants to hospital-based nursing education partnerships to help meet the state's needs for registered nurses. The bill establishes conditions and limitations on grant awards, including a requirement that a partnership meet applicable standards for instruction and student competency for the associate, bachelor of science, or master of science nursing degrees granted. Other conditions and limitations include a minimum enrollment in each program as determined by the board and a marginal cost per program graduate, excluding reasonable start-up costs, comparable to the marginal cost per graduate of a nonparticipating program. The bill also establishes criteria for the board to consider in giving priority for awarding grants to a hospital-based nursing education partnership, and it requires each partnership that receives a grant to submit to the board narrative and financial reports that include information concerning the extent to which it has complied with accountability standards.

### House Bill 3876

**Effective:** 9-1-07

**House Author:** Menendez et al.

**Senate Sponsor:** Nichols

House Bill 3876 amends the Occupations Code to require certain dental practices to designate a dental custodian of records to provide records to the State Board of Dental Examiners or a dentist who has provided dental treatment. The bill makes it a Class B misdemeanor for

violations of law relating to dental records; a subsequent violation is a Class A misdemeanor. The bill also prohibits a member of the board from serving as an expert witness in a suit involving a health care liability claim against a dentist in certain circumstances.

**Senate Bill 36**

**Effective:** 6-15-07

**Senate Author:** Nelson et al.

**House Sponsor:** Eiland

Senate Bill 36 amends the Occupations Code to provide that an applicant for a medical license who held a physician-in-training permit or a pending application for that permit on September 1, 2005, must meet certain requirements in passing each part of the licensing examination. The bill provides an exception for an applicant who is specialty board certified and has completed an additional two years of postgraduate medical training and for a physician who has been licensed in good standing in another state for at least five years and who does not hold a license that has any restrictions, disciplinary orders, or probation.

**Senate Bill 138**

**Effective:** 9-1-07

**Senate Author:** Nelson

**House Sponsor:** King, Susan

Senate Bill 138 amends the Education Code to require the Texas Higher Education Coordinating Board to consider and develop methods to promote improved student retention and graduation rates in professional nursing programs and to adopt rules to implement the methods it considers feasible, including recommendations on financial aid. The bill further requires the board to establish a program to recognize a professional nursing program that achieves a graduation rate of 85 percent or more.

**Senate Bill 139**

**Effective:** 6-15-07

**Senate Author:** Nelson

**House Sponsor:** Kolkhorst

Senate Bill 139 amends the Education Code to require the Texas Higher Education Coordinating Board, in consultation with the Board of Nurse Examiners, to conduct a study to identify methods to improve the curricula of professional and vocational nursing programs, focusing on ways to improve instruction on providing safe and high-quality nursing care. The bill requires the board, not later than December 31, 2008, to complete the study and submit to each Texas college or university or other entity that offers a professional or vocational nursing program, the governor, and the legislature a report including specific, detailed recommendations for improving the nursing school curricula, including instruction relating to patient care.

**Senate Bill 140**

**Effective:** 6-15-07

**Senate Author:** Nelson

**House Sponsor:** Kolkhorst

Senate Bill 140 requires the Department of State Health Services and the Texas Higher Education Coordinating Board jointly to study the feasibility of and potential methods for providing free or discounted immunizations to economically disadvantaged students enrolled in health professional degree programs at Texas colleges and universities and to report their findings and recommendations to the legislature not later than January 15, 2009.

**Senate Bill 289**

**Effective:** 6-15-07

**Senate Author:** Nelson

**House Sponsor:** Morrison

Senate Bill 289 amends the Education Code to allow a professional nursing program, or another entity involved with a professional nursing program in preparing students for initial licensure as registered nurses, to use a grant from the professional nursing shortage reduction program for part-time faculty to provide clinical instruction and address the need for qualified faculty to accommodate increased student enrollment in the program.

**Senate Bill 776**  
**Effective:** 6-15-07**Senate Author:** Jackson, Mike  
**House Sponsor:** Smith, Wayne

Senate Bill 776 amends the Occupations Code to clarify certain educational requirements applicable to the regulation of the practice of chiropractic. The bill adds language to distinguish between a chiropractic school and a doctor of chiropractic degree program. The bill includes provisions relating to eligibility to serve as a member of the Texas Board of Chiropractic Examiners, records required to be preserved by the board, and certain minimum educational requirements.

**Senate Bill 992**  
**Effective:** 6-16-07**Senate Author:** Nelson  
**House Sponsor:** Howard, Donna

Senate Bill 992 amends the Education Code to continue the dedication of money from the permanent health fund for higher education to provide grants to nursing education programs until the biennium ending on August 31, 2011.

**Senate Bill 993**  
**Effective:** 9-1-07**Senate Author:** Nelson  
**House Sponsor:** McReynolds

Senate Bill 993 amends the Nursing Practice Act in the Occupations Code to revise the nursing peer review process and procedures for reporting nurses to the Board of Nurse Examiners. It includes provisions relating to conduct that is subject to reporting, mandatory and optional reporting procedures, the duties of a peer review committee, circumstances that require a committee to be formed, and the formation of a patient safety committee. The bill increases the minimum amount of damages a person is entitled to recover for wrongful suspension or termination of employment or other retribution as a result of making a good-faith report or refusing to engage in certain conduct. Senate Bill 993 removes certain limitations on nursing continuing education requirements. It also includes provisions relating to determinations of employment for purposes of benefits, leave, and longevity pay, and contributions to certain insurance coverage.

**Senate Bill 1601**  
**Effective:** 6-15-07**Senate Author:** West, Royce  
**House Sponsor:** Brown, Fred

The Texas Legislature created the Joint Admission Medical Program in 2001 to support and encourage qualified, economically disadvantaged students to prepare for and attend medical school. Each year, the Joint Admission Medical Program Council selects a number of eligible undergraduate students from the state's public and private or independent four-year colleges and universities for admission into the program. Senate Bill 1601 amends the Education Code to eliminate a provision that allocated 10 percent of the total program openings on a rotating basis to students at the private or independent institutions; the bill instead allocates program openings to admit two students from each public college or university and one student from each private or independent college or university per year. If there are insufficient openings to accommodate those allocations, the bill requires the council to allocate not more than 15 percent of the total openings to students at the private or independent institutions. The bill amends student eligibility provisions by eliminating a requirement for the student to have enrolled in a four-year senior college or university upon graduating from high school and eliminates provisions for the admission of certain nontraditional students. The bill also allows each four-year public, private, or independent institution to select an academic or health professions advisor, instead of a faculty director, to assist in implementing the program at the institution and implementing or expanding its degree programs as necessary.

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

House Bill 2005 - Civil Remedies and Procedures

House Bill 2827 - Emergency Response

Senate Bill 201 - Higher Education

Senate Bill 1879 - Health and Safety

## Health and Safety

This chapter covers legislation on issues relating to health and safety, including diseases and medical conditions, organ donation, immunizations, and health code enforcement. The chapter also includes legislation relating to health care facilities, health districts and municipal and county hospital authorities, medical records, and personal health information. Bills relating to Medicaid, Medicare, CHIP, indigent health care, nursing homes, assisted living facilities, and related facilities are in the **Human Services** chapter. Bills relating to medical professions are in the **Health and Medical Occupations** chapter. Bills relating to hospital districts are in the **Special Districts** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

**House Bill 92**  
**Effective:** 5-8-07

**House Author:** Branch  
**Senate Sponsor:** Nelson

House Bill 92 amends the Health and Safety Code to exempt automated external defibrillators that have been approved by the United States Food and Drug Administration for over-the-counter sale from certain prescription requirements and criminal penalties relating to the possession of a dangerous drug.

**House Bill 416**  
**Effective:** 9-1-07

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

House Bill 416 amends the Health and Safety Code to require a retail establishment that has a toilet facility for its employees but no public restroom to provide access to the facility for a customer with certain medical conditions. The bill outlines certain conditions that must be met before access is required to be provided and makes it a misdemeanor offense for an employee to refuse to comply.

**House Bill 709**  
**Effective:** 5-17-07

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

House Bill 709 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission, not later than January 1, 2008, to prepare a brochure about the options relating to the donation of umbilical cord blood for use in stem cell research after the delivery of an infant. The bill requires that the brochure contain certain information explaining the uses, risks, benefits, collection, and costs of donating and storing the blood and requires the Department of State Health Services to make the brochure available on its website and on request to physicians and other persons legally permitted to attend a woman during pregnancy or delivery. The bill sets out certain requirements for the presentation of the brochure to a pregnant woman by her attending medical professional, provides exceptions to those requirements, and specifies that a failure to distribute the brochure will not subject a medical professional to regulatory discipline or create a cause of action. The bill also requires the executive commissioner to update the brochure as necessary.

## Health and Safety

### **House Bill 755**

**Effective:** 9-1-07

**House Author:** Dutton

**Senate Sponsor:** Nelson

House Bill 755 amends the Health and Safety Code to prohibit disciplinary action from being taken against a person required to file a death certificate for failure to timely file the certificate if the person supplies written documentation that the person made a good faith effort to file the certificate but was unable as a result of circumstances beyond the person's control.

### **House Bill 1064**

**Effective:** 9-1-07

**House Author:** Laubenberg

**Senate Sponsor:** Hegar

House Bill 1064 amends the Health and Safety Code to exempt a food manager certificate from two year renewal requirements.

### **House Bill 1066**

**Effective:** 6-15-07

**House Author:** Delisi

**Senate Sponsor:** Nelson

House Bill 1066 amends the Health and Safety Code to create the Texas Health Services Authority as a public-private collaborative to implement the state-level health information technology functions identified by the Texas Health Information Technology Advisory Committee. The bill provides for the authority's powers and duties, organization, and funding. House Bill 1066 specifically prohibits the authority from engaging in activities relating to the collection, analysis, and use of certain health-related information and to performance measures of physicians. The authority is required to submit an annual report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate legislative committees.

### **House Bill 1396**

**Effective:** 9-1-07

**House Author:** Dukes et al.

**Senate Sponsor:** Zaffirini

House Bill 1396 amends the Health and Safety Code to rename the Office of Minority Health as the Office for the Elimination of Health Disparities and transfer responsibility for administration of the office from the Department of State Health Services to the executive commissioner of the Health and Human Services Commission. The bill also moves administrative responsibility for the health disparities task force from the department to the commission and clarifies the task force's duties.

### **House Bill 1585**

**Effective:** 9-1-07

**House Author:** King, Susan

**Senate Sponsor:** Deuell

House Bill 1585 amends the Health and Safety Code to authorize a public health district or a county commissioners court to impose an administrative penalty on certain food service establishments, retail food stores, and food vendors for violations of health and safety provisions. The bill establishes the penalty for a violation and procedures for contesting a penalty.

### **House Bill 1614**

**Effective:** 9-1-07

**House Author:** Gattis

**Senate Sponsor:** Ogden

House Bill 1614 amends the Health and Safety Code to exempt a columbarium that is located on the campus of certain religiously supported or affiliated private or independent institutions of higher education from restrictions relating to the location of a cemetery.

### **House Bill 1676**

**Effective:** 5-14-07

**House Author:** Delisi et al.

**Senate Sponsor:** Van de Putte

House Bill 1676 amends the Government Code to require the office of the attorney general to develop a public awareness campaign concerning solicitations for the sale of prescription drugs



that are made using e-mail or the Internet. The bill requires the office of the attorney general to consult with certain entities, including the Texas State Board of Pharmacy, and specifies methods that may be used to distribute the information developed for the campaign.

**House Bill 1739**  
**Effective:** 9-1-07

**House Author:** Hartnett  
**Senate Sponsor:** Nelson

House Bill 1739 amends the Health and Safety Code to require a person in charge of interment or in charge of removal of a body to file the death certificate electronically as specified by the state registrar. The bill also deletes language authorizing a person who completes a medical certification of death to submit the information by signature rather than an electronic process approved by the state registrar.

**House Bill 2168**  
**Effective:** 6-16-07

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

House Bill 2168 amends the Health and Safety Code to authorize a municipal hospital authority or county hospital authority to form and sponsor a nonprofit corporation under the Texas Nonprofit Corporation Law to own and operate all or part of one or more ancillary health care facilities consistent with the hospital authority's purposes. The bill requires the hospital authority's board of directors to appoint a board of directors of the nonprofit corporation, authorizes the hospital authority to contribute or solicit money for the corporation, and provides for the corporation's general powers and duties and its compliance with prevailing wage rate provisions. The bill further authorizes a municipal or county hospital authority, directly or through any nonprofit corporation formed by the authority, to contract, collaborate, or enter into a joint venture with a public or private entity as necessary to carry out the functions of or provide services to the authority. House Bill 2168 also confers on a hospital district created under general or special law similar authority to form and sponsor a nonprofit corporation to own and operate all or part of ancillary health care facilities consistent with the district's purposes, with a nonprofit corporation created by a hospital district having the same powers and duties and subject to the same statutory provisions as a nonprofit corporation created or formed by a municipal or county hospital authority.

**House Bill 2285**  
**Effective:** 9-1-07

**House Author:** Chisum  
**Senate Sponsor:** Seliger

House Bill 2285 amends the Health and Safety Code to exempt a license or registration related to radioactive materials and other sources of radiation issued by the Department of State Health Services from certain fee and renewal requirements. The bill also clarifies that the department is prohibited from assessing a fee on a local law enforcement agency for the licensing and registration of an x-ray machine used to screen packages for explosives or other items that would pose a danger to the public health and safety.

**House Bill 2471**  
**Effective:** 9-1-07

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

House Bill 2471 amends the Health and Safety Code to define bedding that has not been used for a purpose other than as a floor model as new bedding for purposes of state regulation.

**House Bill 2935**  
**Effective:** See below

**House Author:** King, Phil et al.  
**Senate Sponsor:** West, Royce

House Bill 2935 amends the Health and Safety Code to establish cigarette fire safety standards. The bill requires a manufacturer of cigarettes that are sold in the state to test the

flammability of its product using prescribed methods and to certify to the state fire marshal that the cigarettes have been tested and meet the required performance standard. The bill specifies the information that is required in a certification, provides that a cigarette must be recertified every three years, and imposes a certification fee of \$250. The manufacturer is required to mark the cigarette packaging to indicate compliance using a marking that has been approved by the fire marshal. However, cigarettes used for testing consumer satisfaction and cigarettes that are sold outside the state or the United States are exempted. The bill requires the manufacturer to retain and provide copies of test results for three years and imposes a civil penalty for non-compliance. It authorizes the fire marshal to adopt rules to administer these provisions and to inspect records and cigarette inventories to establish compliance. In addition, the fire marshal must provide a copy of certifications to the comptroller, who is authorized to inspect cigarettes for the required marking and report to the fire marshal. Violations of these provisions are subject to civil penalties, and the attorney general is authorized to bring an action in a district court for injunctive relief, or a civil penalty, or both. The bill creates the Fire Prevention and Public Safety Account in the general revenue fund to contain the penalties collected, and provides that these funds may be appropriated only to the state fire marshal to support fire safety and prevention programs. Finally, the bill requires the fire marshal, not later than January 1 of each odd-numbered year, to report to the governor and presiding officers of the legislature regarding the administration and effectiveness of these provisions and to make recommendations to improve effectiveness. The bill takes effect January 1, 2009, and cigarettes must be marked and brought into compliance with these provisions by January 1, 2010.

**House Bill 3064**

**Effective:** 9-1-07

**House Author:** Delisi

**Senate Sponsor:** Nelson

House Bill 3064 adds provisions to the Health and Safety Code to regulate discount health care programs that offer members discounts on health care services. The bill prohibits certain advertisements, solicitations, and marketing materials and requires a program to disclose certain information to prospective members. House Bill 3064 prescribes elements required to be contained in a contract between a program operator and health care service providers. The bill establishes a registration process for discount health care programs to be administered by the Department of State Health Services and includes provisions relating to disciplinary action against a program found to be in violation of the law. The bill authorizes the executive director of DSHS to suspend or revoke a registration or halt operation of a person subject to regulation under the act.

**House Bill 3558**

**Effective:** 9-1-07

**House Author:** Zedler

**Senate Sponsor:** Brimer

Previous law authorized each city or county to designate one code enforcement official to whom a search warrant for fire, health, and safety code inspections may be issued. House Bill 3558 amends the Code of Criminal Procedure to authorize each county or city to designate one or more such officials.

**House Bill 3581**

**Effective:** 6-15-07

**House Author:** Howard, Charlie

**Senate Sponsor:** Wentworth

House Bill 3581 amends the Health and Safety Code to expand the definition of a “public nuisance” to include discarding refuse on property that is not authorized for that activity and to expand a county or district court’s authority in an unincorporated area of the county to address such a nuisance to include abatement and other remedies. The bill clarifies that management, remediation, storage, transportation, disposal costs, damages, and other expenses incurred by the county in abating the nuisance can be assessed by the county.

**House Bill 3672****Effective:** 9-1-07**House Author:** Bohac et al.**Senate Sponsor:** Ellis

House Bill 3672 amends the Health and Safety Code to provide that a county with a population of at least 2.8 million, or a municipality or public health district in the county, must require a mobile food unit to return to the food service establishment or commissary of operation within the 24-hour period preceding operation to be cleaned and have other services performed and to obtain, on completion of an inspection, written documentation that the unit has been serviced daily. The bill includes the written documentation of inspection of a mobile food unit as a governmental record under provisions of the Penal Code relating to the offenses of perjury and other falsification.

**Senate Bill 91****Effective:** 9-1-07**Senate Author:** Van de Putte**House Sponsor:** Zedler

Senate Bill 91 amends the Health and Safety Code to require that point-of-sale health warnings for tobacco products include information relating to health risks of smoking for pregnant women.

**Senate Bill 143****Effective:** 9-1-07**Senate Author:** West, Royce et al.**House Sponsor:** Veasey

Senate Bill 143 amends the Health and Safety Code to authorize a local health authority or the Department of State Health Services to establish a fetal and infant mortality review team to compile statistics on fetal and infant mortality, analyze the causes of fetal and infant mortality, and recommend measures to decrease fetal and infant mortality to a community action team, state or local government officials, or other appropriate members of the community. The bill clarifies that these provisions do not apply to a voluntary or therapeutic termination of pregnancy. It requires that a review team be culturally diverse and represent multiple disciplines, and it lists persons who are eligible members of a review team. It authorizes a review team to request information regarding a deceased fetus or infant or the family of the deceased, and a health care provider or other custodian of the requested information is required to provide the information without the authorization of the deceased's parent or guardian and is immune from liability for providing true information. The bill provides that certain information acquired by a review team is confidential, and it establishes that a team's work products are not subject to an open records request and are immune from subpoena and discovery. In addition, a review team is considered to be a governmental unit for purposes of tort liability claims, and its meetings are closed to the public. The bill further provides that a member of a review team and any person employed by or advising a review team is immune from civil or criminal liability arising from information presented in a review team meeting or recommendations resulting from a meeting if certain conditions are met. However, the bill creates an offense for unauthorized disclosure or inspection of confidential information by a review team member. Senate Bill 143 also amends the Health and Safety Code to change the text of the sign required to be posted by sellers of cigarettes or tobacco products warning that sales to a minor are prohibited by law to include additional warnings for pregnant women. The bill authorizes the comptroller to accept gifts or grants to cover the cost of changing the signs and requires the comptroller to adopt necessary rules within 90 days after the bill takes effect.

**Senate Bill 552**

**Effective:** 9-1-07

**Senate Author:** Deuell

**House Sponsor:** Truitt

Senate Bill 552 amends the Health and Safety Code to authorize the Department of State Health Services to accredit an education or training program for basic food safety for food handlers. The bill includes provisions relating to defining the program's course curriculum, requires successful completion of an exam to attain certification, and authorizes the course to be administered via the Internet.

**Senate Bill 555**

**Effective:** 6-15-07

**Senate Author:** Lucio

**House Sponsor:** Hilderbran

Senate Bill 555 amends the Government Code to designate April as Texas Fruit and Vegetable Month to promote awareness of the health benefits of fruits and vegetables and to encourage Texans to consume more fruits and vegetables. The bill requires Texas Fruit and Vegetable Month to be regularly observed by appropriate celebrations and activities.

**Senate Bill 680**

**Effective:** 6-15-07

**Senate Author:** Williams

**House Sponsor:** Murphy

Senate Bill 680 amends provisions of the Health and Safety Code relating to certain swimming pools as a public nuisance. The bill expands the means by which a swimming pool located on abandoned and unoccupied property must be secured to include a locked gate. The bill allows a county to abate the nuisance of an unsecured abandoned pool by prohibiting and controlling access to the pool and installing a cover over the entire swimming pool or draining and filling the swimming pool. The county, before conducting a hearing on the nuisance, may secure an abandoned pool.

**Senate Bill 760**

**Effective:** 9-1-07

**Senate Author:** Nelson

**House Sponsor:** Delisi

Senate Bill 760 amends the Government Code to require the Health and Human Services Commission to encourage all health care providers, rather than a limited number of providers listed in previous law, to participate as telemedicine medical service providers.

**Senate Bill 802**

**Effective:** 9-1-07

**Senate Author:** Nichols

**House Sponsor:** King, Susan

Senate Bill 802 amends Family Code provisions relating to the child fatality review process. The bill changes the composition of the child fatality review team committee to add representatives from the Department of Public Safety and Texas Department of Transportation and increases the term of service for committee members from two to three years. The bill also clarifies that a committee member is eligible for reappointment to the committee and changes the sources of funding for reimbursing expenses related to service on the committee. Senate Bill 802 changes the date by which the committee is required to publish and submit to executive and legislative leaders a compilation of reports and findings relating to preventable child death from December 1 of each year to April 1 of each year.

**Senate Bill 814**

**Effective:** 9-1-07

**Senate Author:** Janek et al.

**House Sponsor:** Dukes

Senate Bill 814 amends the Health and Safety Code to authorize the Department of State Health Services to conduct an environmental lead investigation of certain dwellings and facilities on receiving a report of a child with a confirmed blood lead level warranting the investigation.

The bill includes procedures relating to obtaining consent for an investigation, standards for follow-up care for children with a certain blood lead level, and investigation procedures that meet certain federal requirements.

**Senate Bill 1380**  
**Effective:** 9-1-07

**Senate Author:** Shapleigh  
**House Sponsor:** Naishtat

Senate Bill 1380 amends the Health and Safety Code to authorize the establishment of a uniform fee to be charged for public health services in the jurisdiction of a public health district regardless of which governmental entity charges the fee. The bill authorizes the fee to be set at an amount up to the highest amount charged by any governmental entity of the district.

**Senate Bill 1500**  
**Effective:** 5-17-07

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

Senate Bill 1500 amends the Health and Safety Code to designate the Donor Education, Awareness, and Registry Program of Texas as the Glenda Dawson Donate Life-Texas Registry.

**Senate Bill 1714**  
**Effective:** 9-1-07

**Senate Author:** Seliger  
**House Sponsor:** Smithee

Senate Bill 1714 amends the Health and Safety Code to authorize the Texas Board of Health to define what constitutes certain dairy products and milk products used for manufacturing purposes and directs the board to sample, test, or inspect those products. The bill increases the amount of certain permit, processing, and distribution fees relating to the production, processing, and delivery of dairy products. The bill increases the term for a permit to sell milk or milk products from one to two years. Senate Bill 1714 also repeals a provision requiring the board to mail a copy of each rule or specification it adopts to county and municipal health authorities.

**Senate Bill 1731**  
**Effective:** 9-1-07

**Senate Author:** Duncan  
**House Sponsor:** Isett, Carl et al.

Senate Bill 1731 amends provisions of the Health and Safety Code, Occupations Code, and Insurance Code relating to requirements and procedures for reporting, collecting, and compiling certain health care information and providing consumer access to that information. The bill directs the Department of State Health Services (DSHS) to make available on the department's website a consumer guide to health care that includes information about pricing practices and charge comparisons for certain ambulatory surgical centers, birthing centers, and hospitals. The bill also requires certain health care facilities and physicians to develop, implement, and enforce written billing policies relating to charges, discounts, and third-party payors of health care services and supplies. Among other provisions, facilities are required to provide itemized billing statements to a consumer and a third-party payor on request and to establish and implement procedures for informal resolution of consumer complaints. Physicians are required to provide an estimate of charges, an itemized statement, and a written explanation of charges to certain patients on request. The bill requires health benefit plans and certain facility-based physicians to disclose to plan enrollees and patients information relating to services provided at a health care facility that may not be covered by the plan and for which the enrollee or patient may be financially responsible. The bill also directs the commissioner of insurance to appoint an advisory committee to study the adequacy of health benefit plan facility-based provider networks.

Senate Bill 1731 authorizes DSHS to collect and disseminate health benefit plan reimbursement rate data and requires certain group health benefit plan issuers to submit the data to the department. The bill provides for the data's confidentiality and publication in

aggregate form and establishes an administrative penalty for an issuer's failure to submit data as required. In addition, the bill adds new requirements for health maintenance organization and preferred provider benefit plan annual reports to the commissioner of insurance and includes provisions relating to the collection of certain radiological procedure data by the Texas Health Care Information Council.

**Senate Bill 1879**

**Effective:** See below

**Senate Author:** Williams et al.

**House Sponsor:** Hamilton

Senate Bill 1879 amends the Texas Controlled Substances Act in the Health and Safety Code to expand certain controlled substance monitoring protocols to include Schedule III, IV, and V prescription drugs. The bill requires a person who administers or dispenses certain controlled substances to record the prescribing practitioner's Texas Department of Public Safety (DPS) registration number in certain emergency situations and requires the registration number to be included on certain prescriptions for a controlled substance. The bill authorizes the DPS director to charge a late fee relating to a renewal application to manufacture, distribute, prescribe, possess, analyze, or dispense a controlled substance, and requires a dispensing pharmacist to send information about the prescription filled to the director within a certain amount of time. Advanced practice nurses and physician assistants are added to the list of persons authorized to inquire about a patient's prescription history under certain circumstances. Senate Bill 1879 establishes an administrative penalty and notification and disposition procedures for violations relating to the manufacture, distribution, and dispensation of controlled substances, chemical precursors, and chemical laboratory apparatus.

The bill creates the pain treatment review committee to study the statutes that relate to the administration of prescription medication, controlled substances, and the needs of patients for effective pain control and management. The bill also creates an advisory committee to advise DPS on implementation of the act. The bill directs DPS, the Texas Medical Board, the Texas State Board of Pharmacy, the State Board of Dental Examiners, and the Board of Nurse Examiners to submit a report detailing the number and type of actions relating to the prosecution of violations of the controlled substances act.

Provisions of the bill relating to information to be included on a prescription for a controlled substance take effect September 1, 2008, except that provisions relating to the use of a practitioner's DPS registration number take effect only after the department establishes a means for pharmacies to electronically access and verify the accuracy of the registration numbers. Provisions of the bill relating to information required to be sent to the director of DPS by dispensing pharmacists also take effect September 1, 2008. All other provisions of the bill take effect on September 1, 2007.

## **Diseases and Medical Conditions**

**House Bill 14**

**Effective:** See below

**House Author:** Keffer, Jim et al.

**Senate Sponsor:** Nelson et al.

House Bill 14 amends provisions of the Health and Safety Code, Labor Code, and Transportation Code to create the Cancer Prevention and Research Institute of Texas, provide for the financing of cancer research, and provide access to information relating to certain cancer treatments. House Bill 14 eliminates the Texas Cancer Council and transfers responsibility for the development and implementation of the Texas Cancer Plan to the new institute. The bill sets out the powers and duties of the institute, including authorization to make grants and support institutions of learning and advanced medical research facilities and collaboration in Texas

relating to the causes of and cures for all types of cancer and problems of access to advanced cancer treatment. The bill provides for the governing body of the institute, authorizes the issuance of general obligation bonds to fund the institute's operations, and establishes guidelines for awarding grants. The bill also creates the lung cancer advisory council, requires the Department of State Health Services to publish a summary of viable alternatives for the treatment of lung cancer, and repeals provisions relating to breast cancer screening currently provided through the Office of Rural Community Affairs. House Bill 14 takes effect contingent on voter approval of the constitutional amendment proposed by House Joint Resolution 90.

**House Bill 246****Effective:** 9-1-07**House Author:** Alonzo**Senate Sponsor:** Zaffirini

House Bill 246 amends the Health and Safety Code to require a public health authority to report weekly to the Texas Department of State Health Services (DSHS) all cases of acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection reported to the authority during the previous week. The bill prescribes the information required to be contained in each report and requires DSHS to compile and analyze the information submitted. House Bill 246 requires DSHS, not later than January 1, 2009, to prepare and submit a report to the legislature relating to emerging technologies used to detect, test for, treat, and prevent AIDS and HIV infection.

**House Bill 1082****Effective:** 6-15-07**House Author:** Straus et al.**Senate Sponsor:** Van de Putte

House Bill 1082 amends the Health and Safety Code to direct the executive commissioner of the Health and Human Services Commission to develop, and the Department of State Health Services to establish, a pilot program to research and implement procedures for reporting cases of methicillin-resistant *Staphylococcus aureus* (MRSA). The bill directs the department to select a local health authority that meets certain conditions to administer the program and prescribes the objectives of the program. The department, in consultation with the administering health authority, is required to submit a report to the legislature concerning the effectiveness of the pilot program not later than September 1, 2009.

**House Bill 1370****Effective:** 9-1-07**House Author:** Coleman**Senate Sponsor:** Zaffirini

Under statutory authority granted by the 78th Texas Legislature to the executive commissioner of the Health and Human Services Commission, the Interagency Coordinating Council for HIV and Hepatitis was eliminated. House Bill 1370 amends the Health and Safety Code to re-create the council, effective January 1, 2008, and update the council's composition to reflect changes from the reorganization in health and human services agencies and to add a representative from the Texas Higher Education Coordinating Board. The bill includes provisions relating to the council's meeting schedule, public access to council meetings, and the council's duties. House Bill 1370 also changes reporting requirements to direct the Department of State Health Services to report annually to the legislature and the governor policy recommendations relating to certain information compiled and assessed by the council.

**House Bill 1373****Effective:** 6-15-07**House Author:** Guillen**Senate Sponsor:** Zaffirini

House Bill 1373, the Glenda Dawson Act, amends the Health and Safety Code to create the Chronic Kidney Disease Task Force. The bill provides for the task force's composition and

duties, including the development of plans relating to early screening, diagnosis, and treatment of chronic kidney disease, end-stage renal disease education, and early renal replacement therapy. Not later than January 1, 2009, the task force is required to submit its findings and recommendations to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the Senate Committee on Health and Human Services and the Public Health Committee of the house of representatives.

**House Bill 1379**

**Effective:** 9-1-07

**House Author:** Deshotel et al.

**Senate Sponsor:** Nelson

House Bill 1379 amends the Health and Safety Code to require the Texas Department of State Health Services, using existing resources, to produce and distribute informational materials regarding certain vaccines against human papillomavirus (HPV). The bill further requires the department to collaborate with the Texas Cancer Council to develop educational and awareness programs relating to HPV and preventive services for cervical cancer and to develop and maintain a website to provide related information to public and health care professionals. House Bill 1379 also requires that information regarding HPV be included in the course materials and instruction for model public health education programs for school-age children developed by the department.

**House Bill 1449**

**Effective:** 9-1-07

**House Author:** Bohac et al.

**Senate Sponsor:** Deuell

House Bill 1449 amends the Government Code to designate November as Lung Cancer Awareness Month.

**House Bill 2132**

**Effective:** 6-15-07

**House Author:** Straus

**Senate Sponsor:** Van de Putte

House Bill 2132 directs the Department of State Health Services in coordination with a public health district to develop and implement a diabetes mellitus registry pilot program. The bill specifies qualifications required of the participating district and directs the department and the participating district to compile certain information submitted under the program and to promote discussion and public information regarding diabetes mellitus. The bill also includes provisions relating to confidentiality of the information obtained by the program and requires the department, not later than December 1, 2009, to submit a report regarding the program to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature.

**House Bill 2313**

**Effective:** 6-15-07

**House Author:** Rose et al.

**Senate Sponsor:** Nichols

House Bill 2313 amends the Government Code to designate the second full week in September as obesity awareness week.

**House Bill 3618**

**Effective:** 6-15-07

**House Author:** Raymond et al.

**Senate Sponsor:** Zaffirini

House Bill 3618 amends the Health and Safety Code to require the Department of State Health Services, in consultation with the Texas Education Agency, to adopt criteria for the development of a diabetes intervention pilot program for school districts that are located on the Texas-Mexico border and that have a population of less than 600,000. The bill requires the program to include certain components, provides for an evaluation of the program's effectiveness in the first year, and requires the department to distribute funds appropriated for that purpose to each school



district that chooses to implement a pilot program. The bill also requires the department to employ a grant writer to help school districts in the Texas-Mexico border region obtain grants and other funds for school-based health centers and limits the funds to certain uses.

**House Bill 3735**

**Effective:** 6-15-07

**House Author:** McReynolds et al.

**Senate Sponsor:** Nichols

House Bill 3735 directs the Department of State Health Services and the Texas Diabetes Council to assist in the establishment of a diabetes demonstration pilot program at the Memorial Health System of East Texas to promote the prevention and treatment of acanthosis nigricans and diabetes. The bill includes a provision relating to gifts and grants for the use of the pilot program and requires the system to submit a report to the Texas Diabetes Council.

**Senate Bill 288**

**Effective:** 6-15-07

**Senate Author:** Nelson et al.

**House Sponsor:** Delisi

Senate Bill 288 amends the Health and Safety Code to require the Department of State Health Services to establish, not later than June 1, 2008, the Texas Health Care-Associated Infection Reporting System to provide for the reporting of infections by health care facilities, the public reporting of this information, and the training of health care facility staff regarding the reporting system. The commissioner of state health services is required to establish the Advisory Panel on Health Care-Associated Infections to guide the implementation, development, maintenance, and evaluation of the reporting system. The bill requires a health care facility, pediatric and adolescent hospital, or general hospital to report the incidence of infections occurring in specified procedures, and it requires the department to ensure that the data provided is valid and does not suggest implausible infection rates. The bill makes these reporting requirements subject to the enforcement provisions of the Health and Safety Code. It requires the department to annually compile a risk-adjusted summary of the data that compares infections by health care facility and make the summary available to the public on an Internet website. A health facility is allowed to submit concise written comments regarding the information that relates to the facility as part of the public report. The bill provides that all information reported by a facility, other than the summary contained in the required report or information used for internal research within the department, is confidential and not subject to disclosure under open records provisions, discovery, subpoena, or other means of legal compulsion, and it may not be used as evidence in any proceeding or in a civil action to establish a standard of care applicable to a facility. It prohibits a department summary from containing information about certain individuals in connection with a specific infection incident. The bill requires the department to provide education and training for health care facility staff regarding these provisions. The executive commissioner of the Health and Human Services Commission is authorized to adopt rules to implement these provisions, modify the list of reportable procedures based on the recommendations of the advisory panel, and establish the frequency of reporting by health care facilities.

**Senate Bill 415**

**Effective:** 9-1-07

**Senate Author:** Lucio et al.

**House Sponsor:** McReynolds

Senate Bill 415 amends the Health and Safety Code and Education Code to expand the acanthosis nigricans screening program established by the 77th Legislature into a risk assessment program for Type 2 diabetes and make related conforming changes. The bill creates the Type 2 Diabetes Risk Assessment Program Advisory Committee to make recommendations to The University of Texas-Pan American Border Health Office, which is responsible for the coordination of the program. The bill establishes procedures for the administration of the risk assessment,

including a requirement that the Board of Nurse Examiners be consulted regarding the training necessary to conduct the assessment. The bill requires assessment reports to be sent to the parent or guardian of a student identified to be at risk of Type 2 diabetes. The reports are required to be submitted to the office by the school and compiled, analyzed, and summarized for each year by the office, with the annual summary delivered to school officials. Senate Bill 415 also includes provisions relating to the composition and duties of the advisory committee.

**Senate Bill 556**

**Effective:** 6-16-07

**Senate Author:** Lucio et al.

**House Sponsor:** McReynolds

Senate Bill 556 amends the Health and Safety Code to require the commissioner of agriculture, commissioner of state health services, and commissioner of education, or a staff member designated by each of those commissioners, to meet at least once a year as an interagency obesity council. The bill specifies the duties of the council and requires the council to submit a report on certain activities of the council to the governor, lieutenant governor, and the speaker of the house of representatives not later than January 15 of each odd-numbered year.

**Senate Bill 1566**

**Effective:** 6-15-07

**Senate Author:** Patrick, Dan

**House Sponsor:** Jackson, Jim

Senate Bill 1566 creates the Texas Bleeding Disorders Advisory Council to study and advise certain state agencies on issues that affect the health and wellness of persons living with hemophilia and other bleeding or clotting disorders. The bill includes provisions relating to the composition, duties, and required meetings of the council. The bill provides for administrative support for the council and lists specific issues to be addressed by the council. Not later than December 1, 2008, the council is required to report any findings and recommendations to the governor, lieutenant governor, and speaker of the house of representatives. The commissioner is also required to report on efforts to implement any recommendations in the council's report. The council is abolished September 1, 2009.

## **Immunizations**

**House Bill 1098**

**Effective:** 5-8-07

**House Author:** Bonnen et al.

**Senate Sponsor:** Hegar

House Bill 1098 amends the Education Code to clarify that immunization against human papillomavirus (HPV) is not required for a person's admission to any elementary or secondary school. The bill requires the Health and Human Services Commission to make available to parents or legal guardians certain educational material about HPV using existing commission resources. House Bill 1098 further authorizes the executive commissioner of the Health and Human Services Commission rather than the Texas Board of Health to determine which immunizations may be required for admission to any elementary or secondary school. The provisions of the bill relating to immunization against HPV and associated educational materials expire January 11, 2011.

**House Bill 3184**

**Effective:** 6-15-07

**House Author:** Coleman

**Senate Sponsor:** Deuell

House Bill 3184 amends the Health and Safety Code to direct the Department of State Health Services to increase immunization awareness and participation in the state's early childhood vaccination program among parents of children in certain child-care facilities. The bill requires specific methods to be employed by the department in its efforts and directs the department to

work in conjunction with the Department of Family and Protective Services. House Bill 3184 also requires the executive commissioner of the Health and Human Services Commission to conduct a study to determine the feasibility of a system designed to give priority for influenza vaccine orders to physicians and other licensed health care providers over retail establishments. The commissioner is authorized to implement such a system if it is determined to be feasible.

**Senate Bill 204****Effective:** 6-15-07**Senate Author:** Nelson et al.**House Sponsor:** Delisi

Senate Bill 204 amends the Health and Safety Code to require a person who sells, leases, or otherwise provides an electronic medical records software system to a person who administers immunizations in Texas, or to an entity that manages records for that person, to design or equip the software with the ability to electronically interface with the statewide immunization registry and to generate reports that contain data fields necessary to populate the registry. The bill directs the executive commissioner of the Health and Human Services Commission to specify the data fields and standards necessary to comply with the requirements of the bill and authorizes the attorney general to file an injunction against a violation of provisions of the bill.

**Senate Bill 811****Effective:** 6-15-07**Senate Author:** Janek**House Sponsor:** Dukes

Senate Bill 811 amends the Health and Safety Code to require the Department of State Health Services to permit health care providers participating in the federal vaccines for children program to select influenza vaccines from a list of all available vaccines that meet certain criteria. The bill also requires the department to procure an equal supply of a vaccine, excluding the influenza vaccine, from each manufacturer that produces an equivalent vaccine that satisfies certain cost and federal approval conditions, for use under the program.

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

House Bill 1059 - Public Education

House Bill 1060 - Transportation

House Bill 1168 - Human Services

House Bill 2542 - Economic Development

House Bill 3261 - Human Services

House Joint Resolution 90 - Appropriations and State Finance

Senate Bill 1119 - Transportation



## Higher Education

This chapter includes legislation relating to the governance of the state's public colleges and universities and junior and community college districts in general; the mission, operation, and funding of specific institutions; and the admission and enrollment of students at such institutions. The chapter also includes legislation on tuition, fees, student financial aid, and other higher education funding issues. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 2371**

**Effective:** 6-15-07

**House Author:** Morrison

**Senate Sponsor:** Zaffirini

Previous law allowed the Texas Workforce Commission to set a hearing on whether to issue a cease and desist order against the operator of a career school or college if the commission had reason to believe that the person was operating without a certificate issued by the commission and the person had not responded to more than one written notice from the commission regarding that noncompliance. House Bill 2371 amends the Education Code to delete the person's repeated failure to respond to notice from the conditions that must be met before the commission may set a hearing.

#### **House Bill 3382**

**Effective:** 6-15-07

**House Author:** Naishtat et al.

**Senate Sponsor:** Uresti

House Bill 3382 amends the Education Code to require a college textbook publisher or manufacturer to provide a public college or university, on request, an electronic copy of a textbook assigned by that institution for use in a particular course to aid the institution in producing a Braille, large print, audio format, or digital text version of that textbook for use by a blind, visually impaired, or dyslexic student taking the course. The bill requires the publisher or manufacturer to provide the requested electronic copy not later than the 15th business day after the date it receives the request. The request must certify that for each student who will use special instructional material based on the requested electronic copy at the institution, either the institution or the student has purchased a printed copy of the textbook, and it must be signed by the person at the institution primarily responsible for services for students with disabilities. The bill includes both copyright protection and content requirement provisions for the requested electronic copy and the instructional material on which it is based, allows the Texas Higher Education Coordinating Board to impose a reasonable administrative penalty against a publisher or manufacturer that knowingly violates the law, and provides exceptions where a publisher or manufacturer is not required to comply with certain provisions of this law.

#### **House Bill 3826**

**Effective:** 6-15-07

**House Author:** Morrison

**Senate Sponsor:** Zaffirini

House Bill 3826 amends the Education Code to require an applicant for admission to a public college or university to have completed the recommended or advanced high school program at a public high school or a curriculum that is equivalent in content and rigor at a high school to which those requirements do not apply or to have met the applicable ACT's College Readiness Benchmarks on the ACT or earned a score of at least 1,500 on the SAT or its equivalent. The bill provides an exception for an applicant who completes only the part of a curriculum specified above that was available to the student but who was unable to complete the rest of the curriculum

solely because the required courses were unavailable to the student at the appropriate times because of factors not within the student's control. The bill applies these high school curriculum requirements to public college admissions generally, to policies that require public colleges and universities to admit automatically applicants graduating in the top 10 percent of their high school classes, and to policies at selected institutions that automatically admit applicants graduating in the top 25 percent of their high school classes.

The bill also establishes an automatic admissions policy for an undergraduate student who is the child of a public servant killed or fatally injured in the line of duty and who meets the minimum academic requirements, if any, established for this purpose by the public college or university where the student is applying, and it requires the Texas Higher Education Coordinating Board to establish certain standards regarding private high school accreditation and curriculum equivalency.

**House Bill 3851**

**Effective:** 6-15-07

**House Author:** Morrison

**Senate Sponsor:** Shapiro

House Bill 3851 amends the Education Code to require the Texas Higher Education Coordinating Board to establish a standard method for computing a high school grade point average (GPA) that is based on a four-point scale; assigns additional weight for honors, advanced placement, international baccalaureate, or dual credit courses as the board considers appropriate; and may result in a GPA higher than 4.0 on a four-point scale as a result of the added weighting. The bill requires that method to be used in determining a student's eligibility for university admission under the state's uniform admission policy. The bill changes from July 1 to December 1 the deadline for the annual report required of each public college and university on the composition of its incoming freshman class, requires each institution to post the report on its website, and requires the report to include a breakdown of the class by high school class standing and a description of the institution's plans, policies, or programs to recruit and retain students from underrepresented groups such as racial or ethnic minority groups. The bill also requires each public college and university to adopt a written undergraduate transfer policy that provides for outreach and recruiting directed at junior colleges and other lower-division campuses and that may include incentives to encourage transfer applications and retain and promote transfer students.

**Senate Bill 469**

**Effective:** 6-16-07

**Senate Author:** Brimer et al.

**House Sponsor:** Patrick, Diane

Senate Bill 469 amends the Education Code to require the Texas Higher Education Coordinating Board to design and produce a certificate of recognition for a college or university to present to a person who in any year contributes to the institution one or more gifts or donations in a total amount of at least \$10,000 for the support of any institutional purposes, programs, or activities.

**Senate Bill 480**

**Effective:** 6-15-07

**Senate Author:** Janek et al.

**House Sponsor:** Gattis

Senate Bill 480 amends the Education Code to include within the definition of "private or independent institution of higher education" a private or independent college or university that is accredited by the American Bar Association.

**Senate Bill 1231**  
**Effective:** 6-16-07

**Senate Author:** Zaffirini  
**House Sponsor:** Morrison

Senate Bill 1231 amends the Education Code to limit the number of courses that an undergraduate student may drop without incurring an academic penalty while remaining enrolled at a public college or university. The bill prohibits a public college or university governing board from allowing an undergraduate student to drop more than six courses, including courses dropped at another college or university by a transfer student, and it authorizes the board to adopt a policy setting a lower limit. The bill requires the Texas Higher Education Coordinating Board to adopt rules under which a college or university must permit a student to drop more than six courses or more than the number permitted to be dropped under a policy adopted by a particular college or university if the student shows good cause for dropping more than the maximum number otherwise permitted. The bill also expands provisions for refunding tuition and fees to a student who withdraws from school to include procedures for determining the percentage of the tuition and fees to be refunded to a student who withdraws during a summer session term of five weeks or less and to allow a college or university to credit a portion of the amount to be refunded toward the payment of any outstanding tuition and mandatory fees that the student may owe.

**Senate Bill 1233**  
**Effective:** 6-15-07

**Senate Author:** Zaffirini  
**House Sponsor:** Morrison

The Education Code previously allowed a public college or university to collect from each student a general property deposit, but the deposit could only be used to cover losses, damages, and breakage in libraries and laboratories. Senate Bill 1233 amends the Education Code to expand the purpose of a general deposit so that it also may be used to cover any other amounts owed by the student to the institution. The bill also requires each institution to return the deposit, less any amount owed by the student, within a reasonable period after the student's withdrawal or graduation, not to exceed 180 days.

**Senate Bill 1446**  
**Effective:** 6-15-07

**Senate Author:** Duncan  
**House Sponsor:** McCall

Senate Bill 1446 amends the Education Code to eliminate indirect cost recovery fees from the list of items that must be accounted for as educational and general funds by public institutions of higher education.

## **Governance and Policy**

**House Bill 317**  
**Effective:** Vetoed

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

House Bill 317 amends the Education Code to require the Texas Higher Education Coordinating Board to conduct a study to determine the merits of allowing public colleges and universities to issue revenue bonds or other obligations to finance capital projects at branch campuses, extension centers, system centers, and multi-institutional teaching centers, regardless of campus or center student enrollment levels. The bill requires the study also to determine any enrollment levels that may be appropriate to serve as a statutory prerequisite for issuing the revenue bonds or obligations to finance capital projects at those campuses and centers.

The bill repeals provisions that prohibited The Texas A&M University System and the University of North Texas System from issuing revenue bonds to finance facilities at Texas A&M University—San Antonio, Texas A&M University—Central Texas, and the University of North Texas Dallas Campus.

Reason Given for Veto: "House Bill No. 317 would repeal sections of the Texas Education Code that set enrollment requirements for the issuance of tuition revenue bonds (TRBs) for three small branch campuses, or "centers." The bill as filed would lower enrollment requirements for Tarleton State University System Center - Central Texas. House Bill No. 317 was amended to remove requirements completely for that center, as well as the University of North Texas System Center at Dallas and the Texas A&M University System Center at San Antonio.

"The TRBs for the centers were authorized during the Third Called Special Session of the 79th Legislature with the understanding that the enrollment requirement necessary for their issuance would be set at 1,500 students for one semester, at which point they would have already become stand-alone institutions of higher education. It is my position that the centers should reach stand-alone status prior to the issuance of TRBs.

"Furthermore, the centers have not experienced significant growth. In fact, their enrollment has remained relatively flat. This indicates that the centers are appropriately serving their area's educational needs without additional facilities. The repeal of the enrollment requirements necessary for the issuance of TRBs would result in greater state appropriations and sets a bad precedent for the future."

**House Bill 3827**

**Effective:** 6-15-07

**House Author:** Morrison

**Senate Sponsor:** Zaffirini

House Bill 3827 amends the Government Code to allow a junior college district's governing board to hold an open or closed meeting by telephone conference call but only if a quorum is physically present at the location where board meetings are usually held. The bill provides that the telephone conference call meeting is subject to notice requirements applicable to other meetings, and it requires each part of the telephone conference call meeting that is required to be open to the public to be audible to the public at the location where the quorum is present. The meeting also must be tape-recorded and the recording made available to the public. The bill stipulates that a board member who participates in a meeting by telephone conference call but is not physically present at the meeting location is considered absent for purposes of individual board member attendance requirements.

**Senate Bill 276**

**Effective:** 5-23-07

**Senate Author:** Wentworth

**House Sponsor:** Rose

Senate Bill 276 amends the Education Code to modify the time frame for the selection process for student members of the boards of regents of universities and university systems and to provide for reimbursement of a student regent's actual expenses in attending meetings. It adds an eligibility requirement for a student to be in good academic standing at the time of appointment, requires a student regent to maintain a grade point average of at least 2.5 on a four-point scale throughout the student regent's term, and provides for the removal and replacement of a student regent who fails to maintain the necessary qualifications.

**Senate Bill 1007**

**Effective:** 9-1-07

**Senate Author:** West, Royce et al.

**House Sponsor:** Giddings

Senate Bill 1007 amends the Education Code to provide for the appointment of a student representative to the Texas Higher Education Coordinating Board and establishes an application, selection, and nomination procedure for such appointment similar to that for the appointment of student regents to university and university system governing boards. The bill also requires the coordinating board to provide each public college and university a list of available positions



for student representatives on board advisory committees and the effective term, duties, and requirements for each position and the maximum number of nominees that each institution may submit for each position. The board must appoint a total of not less than four student representatives to certain designated advisory committees of the board or any other advisory committee created to address the needs of higher education, including committees addressing financial aid, student services, and undergraduate education needs.

Qualifications for appointment as a student representative either to the coordinating board or to a board advisory committee are the same as for appointment as a student regent. The student representative may not vote or make or second any motion and is not counted in determining whether a quorum exists.

**Senate Bill 1046**

**Effective:** 9-1-07

**Senate Author:** Wentworth

**House Sponsor:** Morrison

Senate Bill 1046 amends the Education Code to reduce from 30 days to seven days the minimum amount of advance notice of a board meeting that the Texas Higher Education Coordinating Board must provide in the form of a detailed agenda mailed to the chairman of each governing board and the chief administrative officer of each public college and university. The bill amends the Government Code to extend to the coordinating board the same authority given college and university governing boards and the Board for Lease of University Lands to hold an open or closed meeting by telephone conference call under certain circumstances. The notice of a telephone conference call meeting must specify as the meeting location a conference or meeting room at the coordinating board's offices or at an institution of higher education.

**Senate Bill 1053**

**Effective:** Vetoed

**Senate Author:** Zaffirini

**House Sponsor:** Aycock

Senate Bill 1053 amends the Education Code to require the Texas Higher Education Coordinating Board, in consultation with college and university representatives, including academic advisors and other professionals the board considers appropriate, to establish a method for assessing the quality and effectiveness of academic advising services available to students at each public college and university. The bill requires that assessment method to include the use of student surveys and to identify objective, quantifiable measures of an academic advising service's quality and effectiveness.

Reason Given for Veto: "Senate Bill No. 1053 requires the Texas Higher Education Coordinating Board to develop a methodology to assess quality and effectiveness of higher education academic advising services to students. The bill is silent as to what is to be done with the assessment methodology once it is developed. The bill is an unfunded mandate and will distract the agency from higher priorities."

**Senate Bill 1234**

**Effective:** Vetoed

**Senate Author:** Zaffirini et al.

**House Sponsor:** Rose

Previous law required the Texas Higher Education Coordinating Board to develop a five-year master plan for higher education in Texas but did not provide the board with specific direction regarding the purpose or focus of the plan. Senate Bill 1234 amends the Education Code to require the board to develop a master plan for a period of years determined by the board, rather than a five-year plan, and to set forth a number of specific requirements for the board's consideration in developing the plan.

Reason Given for Veto: "Senate Bill No. 1234 would add 14 specific elements to the currently required 5-year higher education master plan prepared by the Texas Higher Education Coordinating Board (THECB).

## Higher Education

“The bill is unnecessary and duplicative. THECB is currently authorized to include in its plan these or any other elements it deems necessary.

“The Governor’s Business Council’s House Concurrent Resolution No. 159 creates a joint select commission on higher education and global competitiveness to develop the long-term vision and step-by-step plan to attain specific goals. This commission should be allowed to complete its work before modifying the existing statutory planning requirements of THECB.”

### **Senate Bill 1325**

**Effective:** 9-1-07

**Senate Author:** West, Royce

**House Sponsor:** McCall

Senate Bill 1325 amends the Education Code to render a person ineligible to receive a scholarship from a college or university or a university system if the person is related to a current member of the institution’s governing board unless the scholarship is granted by an organization or party not affiliated with the institution or university system, is awarded solely on the basis of prior academic merit, or is an athletic scholarship, or the relationship is sufficiently remote. The bill requires an applicant for a scholarship from a college or university or university system to file a statement with the application indicating any relationship within the specified levels of proximity by consanguinity or affinity to a current governing board member and makes it a Class B misdemeanor offense for a person to knowingly file a false statement in this regard.

## **Specialized Curricula and Programs**

### **House Bill 1493**

**Effective:** 6-15-07

**House Author:** Bonnen

**Senate Sponsor:** Janek

House Bill 1493 amends the Education Code to require the regional planning commission, council of governments, or similar regional planning agency, whose membership includes the most populous county bordering on the Gulf of Mexico or on a bay or inlet of the gulf, to create a severe storm research and planning center to facilitate research and develop plans, programs, and technology associated with the impact of and response to hurricanes and other severe storms in the Gulf Coast Region and adjacent areas. The bill establishes research and planning goals for the center, including enhancement of forecasting ability, warning systems, and evacuations, and it requires the commission to appoint an advisory committee to advise it in the development of applicable priorities, guidelines, and procedures. To the extent funding is available, the bill requires the commission to contract with a private college or university that meets certain criteria to operate, manage, and provide services or facilities for the center.

### **House Bill 1748**

**Effective:** 6-15-07

**House Author:** Morrison

**Senate Sponsor:** Shapiro

House Bill 1748 amends the Education Code to transfer all powers and duties relating to the Texas governor’s schools program from the Texas Education Agency and the commissioner of education to the Texas Higher Education Coordinating Board. The bill also expands the scope of the program to allow the inclusion of a fine arts curriculum, as well as the mathematics and science and humanities curricula, and it requires that the criteria for admission include grade point averages, academic standing, and extracurricular activities.

**House Bill 2198**  
**Effective:** 6-15-07

**House Author:** Flores et al.  
**Senate Sponsor:** Janek

Previous law established a pilot program under which public junior colleges could offer baccalaureate degrees in the fields of applied science and applied technology. House Bill 2198 amends the Education Code to require the Texas Higher Education Coordinating Board to authorize public junior colleges to offer such degrees.

**House Bill 2639**  
**Effective:** 9-1-07

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

House Bill 2639 amends the Education Code to require each public, private, or independent college and university, including a junior college, to provide a risk management program at least once during each academic year to address possession and use of alcoholic beverages and illegal drugs, hazing, sexual abuse and harassment, and behavior at parties and other events held by a student organization, as well as other issues deemed appropriate. It sets out attendance requirements for members and advisors of student organizations and requires sanctions to address absences from compulsory meetings. The bill also requires the Texas Department of Insurance to study various issues involving the levels and types of insurance coverage required of and available to college and university fraternities.

**House Bill 2978**  
**Effective:** 6-12-07

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

House Bill 2978 amends the Education Code to require the Texas Higher Education Coordinating Board to establish and administer a one-week summer program for middle and high school students on the campus of each public college and university that offers an engineering degree program. The program must be designed to expose students to math, science, and engineering concepts that a student in an engineering degree program may encounter. The bill requires the board to establish program admission requirements, taking into consideration the state's demographics, and to adopt rules that encourage the program to enroll students that reflect those demographics. The bill also requires the board to establish and administer scholarships for students pursuing a degree in engineering at a public college or university and sets forth the academic requirements for a student to qualify for a scholarship.

**Senate Bill 649**  
**Effective:** 9-1-07

**Senate Author:** Shapleigh  
**House Sponsor:** Morrison

Senate Bill 649 amends the Education Code to authorize the Texas Higher Education Coordinating Board to conduct a study to determine whether public colleges and universities, including component institutions of different university systems, may effectively enter into partnership agreements to develop joint degree programs and joint research programs, make joint appointments of faculty or other personnel to the partnership and to either or both institutions, and maintain joint facilities for purposes of conducting joint programs.

**Senate Bill 1050**  
**Effective:** 6-15-07

**Senate Author:** Zaffirini  
**House Sponsor:** Patrick

Senate Bill 1050 amends the Education Code to require the Texas Higher Education Coordinating Board to develop a work-study mentorship program under which eligible college students may be employed by participating colleges and universities, school districts, or certain nonprofit organizations to mentor students at those colleges and universities, mentor high school students in participating school districts, or counsel high school students at GO Centers or similar

high-school-based recruiting centers designed to improve student access to higher education. The bill sets forth certain requirements with regard to the board's administration of the program and establishes conditions and requirements for colleges and universities, school districts, and nonprofit organizations participating in the program, including detailed reporting requirements regarding the progress resulting from their program participation.

**Senate Bill 1051**

**Effective:** 6-16-07

**Senate Author:** Zaffirini

**House Sponsor:** Guillen

The state-mandated core curriculum requires six semester credit hours of government or political science and six semester credit hours of American history for graduation from a Texas public college or university. Senate Bill 1051 amends the Education Code to allow a public college or university that offers a joint bachelor's degree program under a contract with a foreign university to exempt a student in the joint degree program from the government, political science, and history requirements if the student (1) enrolled in the foreign university before enrolling in the joint degree program or is otherwise considered primarily a student of the foreign university and (2) completes the American Way course. The bill establishes certain content requirements for the American Way course, which must consist of at least four semester credit hours and be designed to provide a foreign student with a familiarity and understanding of United States government and civic life and their sources, development, and character.

The bill also allows the college or university that offers a joint bachelor's degree program under a contract with a foreign university, in consultation with that foreign university, to identify and approve courses offered by the foreign college or university that are equivalent to, and may substitute for, core curriculum courses of a student in the joint degree program who is considered primarily a student of the public college or university.

**Senate Bill 1138**

**Effective:** 9-1-07

**Senate Author:** Duncan

**House Sponsor:** Smithee

Senate Bill 1138 amends the Education Code to require each public, private, or independent college and university, including a junior college, to provide a risk management program at least once during each academic year to address possession and use of alcoholic beverages and illegal drugs, hazing, sexual abuse and harassment, and behavior at parties and other events held by a student organization, as well as other issues deemed appropriate. It sets out attendance requirements for members and advisors of student organizations and requires sanctions to address absences from compulsory meetings. The bill also requires the Texas Department of Insurance to study various issues involving the levels and types of insurance coverage required of and available to college and university fraternities.

## Specific Institutions

**House Bill 589**

**Effective:** Vetoed

**House Author:** Aycock et al.

**Senate Sponsor:** Fraser

The Education Code prohibits Texas A&M University—Central Texas, Texas A&M University—San Antonio, and the University of North Texas at Dallas from operating as stand-alone general academic teaching institutions until the Texas Higher Education Coordinating Board certifies that their predecessor institutions, currently operating as system centers, have reached a certain enrollment. House Bill 589 amends the Education Code to require an enrollment equivalent of 1,000 full-time students for one semester or one academic year and

requires the board, in computing each institution's full-time student enrollment equivalent for an academic year, to include all semester credit hours completed during the fall and spring semesters and the summer session of the academic year.

Reason Given for Veto: "House Bill No. 589 again would reduce enrollment requirements for three small branch campuses, or "centers," to become free-standing general academic teaching institutions. The bill as filed would lower enrollment requirements for Tarleton State University System Center - Central Texas. House Bill No. 589 was amended to decrease requirements at the University of North Texas System Center at Dallas and the Texas A&M University System Center at San Antonio.

"These enrollment changes expedite eligibility for independent status and greater state appropriations. The bill thwarts the Higher Education Coordinating Board's longstanding policy of requiring 3,500 full-time student equivalents necessary to determine when and where to establish new universities. The bill leads to seriously inefficient levels of appropriations to the centers.

"My position concerning further reductions to enrollment requirements for independent status was made clear in 2005 with the signing statements to Senate Bill No. 296 and House Bill No. 495, in which I said it was 'my intention that no future deviation from the Coordinating Board standards occur.'

"Furthermore, it is disturbing that the Legislative Budget Board (LBB) fiscal note stated that there would be no implication to the state from the bill's passage. This fiscal note is seriously misleading and prevented the legislature from acting with any knowledge of the bill's cost. The Coordinating Board told the LBB that the bill would cost \$7.6 million for the 2008-09 biennium and another \$15 million in 2010-11 just for the Central Texas center. Dallas and San Antonio add to this cost exponentially. All of this information was ignored by the LBB.

"Taxpayers, members of the legislature, and I deserve to have honest fiscal notes that allow legitimate determination as to the true costs of bills so that realistic consideration of legislation can occur."

**House Bill 1374**

**Effective:** 6-15-07

**House Author:** Swinford

**Senate Sponsor:** Seliger

House Bill 1374 amends the Education Code to transfer the portion of Moore County in the Dumas ISD from the Borger Junior College District service area to the Amarillo Junior College District service area. It transfers Terrell County and Iraan from the Odessa College District service area to the Midland Community College District service area.

**House Bill 1418**

**Effective:** 6-15-07

**House Author:** Kolkhorst et al.

**Senate Sponsor:** Ogden

House Bill 1418 amends the Education Code to prohibit the Texas State University System board of regents from changing the name of Sam Houston State University.

**House Bill 1775**

**Effective:** 6-15-07

**House Author:** Christian

**Senate Sponsor:** Zaffirini et al.

House Bill 1775 amends the Education Code to authorize the Stephen F. Austin State University board of regents to issue additional tuition revenue bonds in the aggregate principal amount not to exceed \$13 million to finance the acquisition or construction of and capital improvements to facilities, roads, or related infrastructure for the expansion of school of nursing facilities.

**House Bill 2074**

**Effective:** 6-15-07

**House Author:** Krusee

**Senate Sponsor:** Ogden

House Bill 2074 amends the Education Code to allow the Temple Junior College District to establish the East Williamson County Multi-Institution Teaching Center in conjunction with one or more of the following: Tarleton State University, Tarleton State University System Center—Central Texas, Texas State Technical College—Waco, or another public or private college or

university. The bill requires the center to provide coordinated higher education opportunities to the residents of the region where the center is located by offering academic credit courses and programs from the center's member institutions. The bill also requires those member institutions to work with the local community to identify and offer courses that will meet the region's educational and workforce development goals.

**House Bill 2834**

**Effective:** 6-15-07

**House Author:** Brown, Fred et al.

**Senate Sponsor:** Ogden

House Bill 2834 amends the Education Code to increase from five to eight acres the maximum amount of main campus acreage that The Texas A&M University System board of regents may lease to The Former Students Association of Texas A&M University for the association's facilities and use.

**House Bill 3236**

**Effective:** 6-15-07

**House Author:** Cook, Robby

**Senate Sponsor:** Hegar

House Bill 3236 amends the Education Code to transfer the parts of the Lexington Independent School District (ISD) that are located in Bastrop and Williamson Counties from the Austin Community College District (ACCD) service area to the Blinn Junior College District (BJCD) service area and to transfer the part of the Elgin ISD that is located in Lee County and the part of the Smithville ISD that is located in Fayette County from the BJCD service area to the ACCD service area. The bill also includes the part of the Lexington ISD that is located in Milam County, which previously was not within any junior college district's service area, in the BJCD service area.

**House Bill 3564**

**Effective:** 9-1-07

**House Author:** Darby et al.

**Senate Sponsor:** Duncan

House Bill 3564 amends the Education Code to transfer the management and control of Angelo State University from the Texas State University System (TSUS) board of regents to the Texas Tech University System board of regents. The bill provides for the validation and continuation of contractual obligations entered into by the TSUS board of regents on behalf of Angelo State University as obligations of the Texas Tech University System board of regents. The bill also stipulates that funds appropriated or dedicated to or held by the TSUS board of regents for the use and benefit of Angelo State University are transferred to the Texas Tech University System board of regents for the same purposes.

**House Bill 3934**

**Effective:** Vetoed

**House Author:** McClendon

**Senate Sponsor:** Van de Putte

House Bill 3934 amends the Education Code to require the Alamo Community College District to establish a student outcomes pilot program to (1) collect and analyze statistical data on student outcomes at the college to facilitate college accountability by determining the efficacy of the college's instruction and examining the transition of students to four-year colleges and universities; and (2) further the college's ongoing education excellence initiatives.

Reason Given for Veto: "House Bill No. 3934 would authorize the Alamo Community College District to create a new special item, which funds a study to determine how well their students transition to four-year institutions. This is something that should already be occurring, within existing resources, because one of the preeminent missions of any two-year college is to prepare students for transfer to a four-year school."

**House Joint Resolution 103****For Election:** 11-6-07**House Author:** Darby**Senate Sponsor:** Duncan

Section 17, Article VII, Texas Constitution, established the Higher Education Fund (HEF) to benefit public colleges and universities that are not eligible for the Available University Fund. The provision that specifies the higher education institutions eligible to receive funds from the HEF currently identifies Angelo State University (ASU) as a component institution of the Texas State University System. House Joint Resolution 103 proposes an amendment to the state constitution to provide “for the continuation of the constitutional appropriation for facilities and other capital items at Angelo State University on a change in the governance of the university” to reflect ASU’s transfer to the Texas Tech University System with the passage of House Bill 3564 by the 80th Texas Legislature.

**Student Financial Aid****House Bill 1187****Effective:** 6-15-07**House Author:** Morrison**Senate Sponsor:** Van de Putte

House Bill 1187 amends the Government Code and the Education Code to provide for a program allowing students to receive vouchers that entitle them to tuition and fee exemptions at a Texas public college or university for playing “Taps” at military funeral services. The bill requires the Texas Veterans Commission to create a program to issue vouchers to students in grades 6 through 12 or in college who sound “Taps” on a bugle, trumpet, or cornet during military honors funerals for veterans, with a voucher equivalent of \$25 being issued each time a student plays “Taps” at a funeral. The bill allows a school district to excuse a student from school without penalty to perform at a funeral and to give such students a reasonable time in which to make up any missed school work. It requires a public college or university to provide the \$25 tuition and fee exemption in exchange for each voucher presented by a student.

**House Bill 1250****Effective:** 9-1-07**House Author:** Howard, Charlie et al.**Senate Sponsor:** Patrick, Dan

House Bill 1250 amends the Education Code to extend the initial eligibility requirements for a Texas B-On-Time college loan to a graduate of a private school, regardless of the private school’s accreditation status, if the student graduated not earlier than the 2002-2003 school year under the recommended or advanced high school program or its equivalent.

**House Bill 2173****Effective:** 6-15-07**House Author:** Cook, Byron et al.**Senate Sponsor:** Brimer

The Prepaid Higher Education Tuition Board oversees two college savings plans: the Texas Guaranteed Tuition Plan, which allows Texas families to prepay college tuition and is backed by the full faith and credit of the state, and Tomorrows College Investment Plan, which works much like a 401(k) but with after-tax dollars. The board temporarily suspended enrollment in the guaranteed tuition plan in 2003 because of uncertainty about the effects of tuition deregulation. House Bill 2173 amends the Education Code to continue the board until September 1, 2019. In addition to across-the-board sunset provisions, the bill requires the board to establish criteria and procedures to guide it in determining when and under what conditions to reopen new enrollment in the prepaid higher education tuition program once new enrollment in the program is suspended, with the procedures requiring the board to consider the current program structure and determine whether any statutory or administrative changes are needed for the board to reopen new enrollment in an actuarially sound manner. The bill also requires the board to adopt an

enrollment application form that indicates the information the applicant must provide for the application to be considered, including the purchaser's annual household income and highest educational level; the beneficiary's race or ethnicity; how the purchaser first learned about the program; and how the purchaser intends to finance the prepaid tuition contract. To provide sufficient time for program investments to mature in an actuarially sound manner with regard to the amounts prepaid under a contract entered into after December 31, 2003, the bill allows the board to require a maturity period between the time a purchaser enters into the contract and the time the board must act on its contractual obligation to pay any tuition or fees on behalf of the beneficiary. The bill also sets forth the board's obligations with respect to the college enrollment of a beneficiary of a prepaid tuition contract entered into after December 31, 2003.

**House Bill 3900**

**Effective:** 6-15-07

**House Author:** Morrison et al.

**Senate Sponsor:** Shapiro et al.

House Bill 3900 amends the Education Code to create the Texas Tomorrow Fund II prepaid tuition unit undergraduate education program under which a person may prepay all or part of a beneficiary's college tuition and mandatory fees by purchasing from the Prepaid Higher Education Tuition Board tuition units that the beneficiary may apply to the payment of undergraduate tuition and fees at a particular institution. The bill establishes three types of units, each equal in value to one percent of the total needed, at the time the unit is redeemed, to cover one academic year's worth of undergraduate resident tuition and required fees at a particular type of institution—either a public junior college or technical institute; a public, private, or independent college or university; or an accredited out-of-state college or university—with the purchaser entitled to purchase units all of one type or a combination of two or three types.

The bill requires the board each year to set the price of each type of tuition unit available for purchase during the next sales period and the percentage of the total cost of undergraduate resident tuition and required fees for one academic year for which each type may be redeemed at each four-year and two-year institution. To help purchasers determine the number of units a beneficiary will need, the bill requires the board each year to prepare a tuition unit redemption chart and post the chart on the Internet. The chart must show for each four-year and for each two-year institution the number of each type of unit purchased that year that would be required to cover the cost of tuition and required fees, based on an academic year consisting of 30 semester credit hours. A prepaid tuition contract may provide for the purchase of additional tuition units in later years at the then-current price of the additional units.

The board may provide for prepaid tuition contract payments in lump sums or installment payments, and if the board allows an installment payment period of more than one year, it must allow payments to be made in single annual installments in addition to any other installment plan options. A purchaser may make payments by electronic funds transfers or, if the purchaser is a public employee, by payroll deductions. The bill provides for the setting of an upper and lower limit on the total amount paid under a prepaid tuition contract on behalf of a single beneficiary in accordance with certain limits set by Section 529, Internal Revenue Code of 1986, and requires a provision for a purchaser to transfer money between a prepaid tuition unit account and an account under another plan established by this state, another state, or other authorized entity in accordance with those federal Internal Revenue Code provisions.

If a beneficiary redeems fewer tuition units than are needed to pay the total cost of the beneficiary's tuition and required fees where the beneficiary enrolls, the beneficiary is responsible for paying the difference between the amount the beneficiary pays by redeeming tuition units and the total cost of the beneficiary's tuition and required fees at the institution. If the beneficiary redeems fewer tuition units than the number of units purchased on the beneficiary's behalf, the



purchaser may redeem for cash the amount of the purchase price of the excess units, plus annual interest earned on that money accrued at a rate of up to five percent annually, or transfer the remaining units to another beneficiary.

A beneficiary or purchaser may not redeem a tuition unit before the third anniversary of the date it was purchased, and the prepaid tuition contract terminates on the 10th anniversary of the beneficiary's projected high school graduation date, not counting time spent by the beneficiary as an active duty member of the United States armed services.

The bill establishes the Texas Tomorrow Fund II prepaid tuition unit undergraduate education program fund as a trust fund outside of the state treasury, designates the comptroller as custodian of its assets, requires the board to provide for administering and investing the fund's assets and establishing and administering the accounts of purchasers under prepaid tuition contracts, and restricts use of the fund's assets to payment of the program's administrative and operations costs; payments to institutions of higher education on behalf of beneficiaries; and providing refunds under prepaid tuition contracts.

**Senate Bill 201**

**Effective:** 6-15-07

**Senate Author:** Nelson

**House Sponsor:** Morrison

Senate Bill 201 amends the Education Code to allow a person entitled to a tuition exemption for a semester or other academic term during which the person serves as a clinical preceptor to claim the exemption either in that same semester or term or in a different semester or term starting within a year after the end of the semester or term in which the person earned the exemption. The bill also allows a student entitled to a tuition exemption for a semester or other academic term during which the student's parent serves as a clinical preceptor to claim that exemption in any semester or term in which the student's parent could have claimed an exemption for service as a clinical preceptor.

**Senate Bill 1640**

**Effective:** See below

**Senate Author:** Williams

**House Sponsor:** Chisum et al.

Senate Bill 1640 amends the Education Code to authorize the Texas Higher Education Coordinating Board to issue an additional \$500 million in general obligation bonds for the student loan program. The bill revises the required use of funds received by the board in relation to the loan program and deposited in one or more interest and sinking funds, authorizes the board to transfer funds between the Texas Opportunity Plan Fund and the student loan auxiliary fund, and requires the board to prescribe the manner of giving notice of a sale of bonds by competitive bid. The bill also clarifies provisions relating to a student's eligibility for certain fee exemptions. Senate Bill 1640 takes effect contingent on voter approval of the constitutional amendment proposed by Senate Joint Resolution 57.

## **Tuition and Fees**

**House Bill 86**

**Effective:** 6-15-07

**House Author:** Branch et al.

**Senate Sponsor:** Ogden

House Bill 86 amends the Education Code to exclude course credit earned to satisfy requirements for a Reserve Officers' Training Corps program but not required to complete an undergraduate degree program from counting against the three-hour limit on excess semester credit in determining a qualified student's eligibility for a partial tuition rebate.

**House Bill 120**

**Effective:** 6-15-07

**House Author:** Brown, Fred

**Senate Sponsor:** Shapiro

House Bill 120 amends the Education Code to allow the governing boards of The University of Texas at Austin, Texas A&M University, and Texas Tech University to set a reduced tuition rate for a course offered in the evening, on the weekend, or at other off-peak hours when classroom facilities at those campuses would be underused, that is not less than 75 percent of the rate that otherwise would apply to that course. The bill requires the Texas Higher Education Coordinating Board to include in its funding formulas sufficient funding to cover an institution's revenue loss resulting from the reduced tuition rates and allows the board to provide an incentive for such rate reductions.

These provisions apply contingent on an appropriation by the state for the fiscal biennium ending August 31, 2009, to cover the tuition revenue loss.

**House Bill 544**

**Effective:** Vetoed

**House Author:** Strama et al.

**Senate Sponsor:** Watson

The Education Code allows a public junior college district to lower the nonresident tuition and fees for a student who lives outside the district if the student lives within the district's service area and demonstrates financial need in accordance with Texas Higher Education Coordinating Board rules. House Bill 544 deletes a provision that prohibited the reduction for students who live in an independent school district that meets certain board criteria for the creation of a junior college district.

Reason Given for Veto: "House Bill No. 544 would allow community colleges to offer in-district tuition rates to out-of-district students who have financial need. This is objectionable because taxpayers in the district should not foot the bill for students who live outside the district. A better alternative would be for communities within a service area of a community college to join the district and therefore pay their fair share of the costs of educating their citizens."

**House Bill 868**

**Effective:** 6-15-07

**House Author:** Haggerty

**Senate Sponsor:** Shapleigh

House Bill 868 amends the Education Code to raise the cap on the amount of the recreational facility fee that The University of Texas System board of regents may charge students at The University of Texas at El Paso from \$12 to \$70 per term or semester of 10 weeks or longer and \$50 for any other term or semester. A temporary provision raises the cap to \$20 per semester or summer session occurring before the 2009 fall semester. The bill also prohibits any increase in the amount of the fee without the approval by a majority vote of the students voting in an election held for that purpose.

**House Bill 902**

**Effective:** 6-15-07

**House Author:** Crownover

**Senate Sponsor:** Estes

House Bill 902 amends the Education Code to allow the Texas Woman's University board of regents to charge each student at the university a student fitness and recreational fee of up to \$125 per regular semester or summer session of more than six weeks, or up to \$62.50 per summer session of six weeks or less, to finance the construction, operation, and maintenance of a fitness or recreational facility or program. The bill makes the initial levy and any fee increase of more than 10 percent from one academic year to the next subject to approval by a majority vote of the students voting in an election held for that purpose, and it provides that the fitness and recreational fee is not counted toward the \$250 cap on the total amount of all compulsory student services fees charged each student at the university.

**House Bill 1157**  
**Effective:** 6-15-07

**House Author:** West, George "Buddy"  
**Senate Sponsor:** Seliger

House Bill 1157 amends the Education Code to allow The University of Texas System board of regents to charge each student at The University of Texas of the Permian Basin a student services building fee of up to \$150 per regular semester, \$75 per summer session of more than six weeks, or \$50 per summer session of six weeks or less to finance the construction and operation of a student services building on the campus. The bill prohibits any fee increase of more than 10 percent from one academic year to the next without the approval by a majority vote of the students voting in an election held for that purpose, and it provides that the recreational sports fee is not counted toward the \$250 cap on the total amount of all compulsory student services fees charged each student at the university.

**House Bill 1330**  
**Effective:** 9-1-07

**House Author:** Brown, Fred  
**Senate Sponsor:** Ogden

In 2005, the Texas Legislature established a two-year pilot program to reduce tuition rates to three-fourths of the regular rate for resident undergraduate students enrolled for a summer session at Texas A&M University in 2006 and 2007. House Bill 1330 amends the Education Code to extend the program for an additional year but limits the tuition rate reduction for an individual student to not more than one six-week term of the 2008 summer session.

**House Bill 1505**  
**Effective:** 5-18-07

**House Author:** Lucio III  
**Senate Sponsor:** Lucio

House Bill 1505 amends the Education Code to allow The University of Texas System board of regents to charge students at The University of Texas at Brownsville an intercollegiate athletics fee of up to \$7 per semester credit hour. The initial levy and any increase of more than 10 percent from one academic year to the next are subject to approval by a majority of the students voting at an election held for that purpose. The bill requires the revenue from this fee to be deposited in a dedicated account and used in accordance with the terms of a partnership agreement between the university and Texas Southmost College. The fee must be in the same amount as the similar fee charged students at the college by the Southmost Union Junior College District, and a student enrolled in either or both institutions may be charged an intercollegiate athletics fee by only one of those institutions.

A temporary provision caps the fee at \$5 per semester credit hour for the 2008-2009 academic year.

**House Bill 3114**  
**Effective:** 6-15-07

**House Author:** Swinford  
**Senate Sponsor:** Zaffirini

House Bill 3114 amends the Education Code to establish a nine-member student fee advisory committee at each component institution of The Texas A&M University System to advise the board of regents and each campus administration on the type, amount, and expenditure of compulsory fees for student services, student health and medical services, student center facilities, and recreational sports. The bill allows the board of regents to charge each student at Texas A&M International University, West Texas A&M University, and Texas A&M University—Commerce an intercollegiate athletics fee not to exceed a specified amount per semester credit hour. The initial levy at each campus and any increase in the fee amount of more than 10 percent are subject to approval by a majority of the students voting at an election held for that purpose, and the fee is not to be counted toward the \$250 cap on the total amount of all compulsory student services fees charged individual students at each of those universities. The bill also

increases the cap on the amount of the recreational sports fee that the board of regents may charge students at component institutions, increasing the maximum allowable fee from \$100 per semester or 12-week summer term to \$175 per semester, and from \$50 per six-week summer session to \$87.50 per summer session.

**Senate Bill 161**

**Effective:** 6-15-07

**Senate Author:** Wentworth et al.

**House Sponsor:** Deshotel

Senate Bill 161 amends the Education Code to allow the Texas State University System board of regents to charge each student at a component institution an intercollegiate athletics fee of up to \$8.75 per semester credit hour for each regular semester and up to \$4.50 per semester credit hour for each summer session. The initial levy and any increase of more than five percent at Texas State University—San Marcos or of more than 10 percent at any other system campus are subject to approval by a majority of the students voting at an election held on the affected campus for that purpose, and the fee may not be counted toward the \$250 cap on the total amount of all compulsory student services fees charged an individual student. The bill also establishes a seven-member intercollegiate athletics fee advisory committee at Texas State University—San Marcos to advise the board of regents and the campus administration on the expenditure of revenue generated by the fee.

**Senate Bill 285**

**Effective:** 6-15-07

**Senate Author:** Shapiro

**House Sponsor:** Hill

Senate Bill 285 amends the Education Code to allow The University of Texas System board of regents to charge students at The University of Texas at Dallas a transportation fee to finance transportation services for students at the university; a student services fee to finance the construction, operation, and maintenance of a student services building on the campus; and an intramural and intercollegiate athletics fee. The bill specifies the maximum amount of each fee per regular semester and per summer session term, makes the initial levy of each fee and any increase of more than 10 percent in any of those fees subject to approval by a majority of the students voting at an election held for that purpose, and provides that none of these fees may be considered in determining the maximum amount of compulsory student services fees charged each student at the university.

**Senate Bill 1232**

**Effective:** 6-15-07

**Senate Author:** Zaffirini

**House Sponsor:** Morrison

The Education Code previously allowed a public college or university to accept payment of tuition and fees for a regular semester or a summer term through an installment payment plan, but it limited that option to three payments and specified both the date and the amount of each payment due. Senate Bill 1232 amends the Education Code to allow a public college or university to provide for the payment of tuition and fees through one or more installment payment plan options without specifying the terms of any payment plan option other than requiring the first payment to be made before the start of the semester or summer term and the last payment to be made before the last day of the semester or term. The bill requires a student who owes a balance of tuition and fees as a result of a class schedule change or who owes a balance of less than \$100 after making an insufficient payment previously due to pay the balance owed not later than the next payment date under the applicable payment plan. The bill also authorizes electronic agreements for emergency loans, and it allows a college or university to charge an origination fee, rather than interest, for an emergency loan.

**Senate Bill 1417**  
**Effective:** 9-1-07

**Senate Author:** Hinojosa  
**House Sponsor:** Ortiz, Jr.

Senate Bill 1417 amends the Education Code to allow The Texas A&M University System board of regents to charge students at Texas A&M University—Corpus Christi a student endowment fund fee of up to \$1 per semester credit hour for each regular semester or summer session. The initial levy and any increase in the fee amount of more than 10 percent are subject to approval by a majority of the students voting at an election held for that purpose, and the fee may not be counted toward the \$250 cap on the total amount of all compulsory student services fees charged an individual student. The bill also deletes an expired deadline for a public college or university to elect to participate in the Student Endowment Scholarship and Internship Program, and it deletes certain references to state matching funds received during a five-year period as a component of the student endowment fund.

**Senate Bill 1495**  
**Effective:** 6-15-07

**Senate Author:** Zaffirini  
**House Sponsor:** Swinford

Senate Bill 1495 amends the Education Code to establish a nine-member student fee advisory committee at each component institution of The Texas A&M University System to advise the board of regents and each campus administration on the type, amount, and expenditure of compulsory fees for student services, student health and medical services, student center facilities, and recreational sports. The bill allows the board of regents to charge each student at Texas A&M International University, West Texas A&M University, and Texas A&M University—Commerce an intercollegiate athletics fee not to exceed a specified amount per semester credit hour. The initial levy at each campus and any increase in the fee amount of more than 10 percent are subject to approval by a majority of the students voting at an election held for that purpose, and the fee is not to be counted toward the \$250 cap on the total amount of all compulsory student services fees charged individual students at each of those universities. The bill also raises the cap on the amount of the recreational sports fee that the board may charge students at component institutions from \$100 per semester or 12-week summer term to \$175 per semester, and from \$50 per six-week summer session to \$87.50 per summer session regardless of length.

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

House Bill 85 - Business and Commerce  
 House Bill 125 - Military Forces and Veterans  
 House Bill 389 - Property Interests and Housing  
 House Bill 534 - State Government  
 House Bill 741 - Law Enforcement  
 House Bill 1700 - Public Education  
 House Bill 2103 - Corrections  
 House Bill 2608 - Energy Resources  
 House Bill 2702 - Family Law and Juvenile Justice  
 House Bill 3430 - State Government  
 House Bill 3485 - Public Education  
 Senate Bill 141 - Health and Medical Occupations  
 Senate Bill 282 - Public Education  
 Senate Bill 654 - State Government  
 Senate Bill 947 - Utilities  
 Senate Bill 968 - State Government  
 Senate Bill 992 - Health and Medical Occupations  
 Senate Joint Resolution 57 - Appropriations and State Finance



## Human Services

This chapter covers legislation on issues relating to human services, including financial, medical, and other services for individuals who are poor, elderly, or physically or mentally disabled. The chapter also includes legislation on health and human services agencies, nursing homes, assisted living facilities, child protective services, adult day care and child care, Medicaid, Medicare, CHIP, indigent health care, and the financing and administration of related health and human services programs. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

**House Bill 75****Effective:** 9-1-07**House Author:** Naishtat et al.**Senate Sponsor:** Wentworth et al.

House Bill 75 amends the Government Code to establish procedures for administrative and judicial review of decisions made by the Health and Human Services Commission relating to denial, termination, suspension, or reduction of assistance under the Medicaid and food stamp programs.

**House Bill 321****Effective:** 6-15-07**House Author:** Dukes**Senate Sponsor:** Deuell et al.

House Bill 321 amends the Government Code to establish a pilot project to determine the feasibility, costs, and benefits of accepting direct importation of certain electronic information from regional indigent care providers for the purpose of determining eligibility for benefits under state and federal health and human services programs. The bill includes certain guidelines relating to the pilot project and requires the Health and Human Services Commission, not later than December 1, 2008, to report its findings resulting from the project to the standing committees of the senate and house of representatives having primary jurisdiction over health and human services issues.

**House Bill 407****Effective:** 5-15-07**House Author:** Chisum et al.**Senate Sponsor:** Watson

House Bill 407 amends the Agriculture Code to require the Texas Department of Agriculture (TDA) to establish a home-delivered meal grant program to benefit homebound elderly and disabled Texans to help defray the costs of providing home-delivered meals that are not fully funded by the Department of Aging and Disability Services or an area agency on aging. The General Appropriations Act for the 80th Legislature funds program establishment in the amount of \$10 million each for FY2008 and FY2009. Qualifying grant recipients include a governmental agency or a 501(c)(3) nonprofit private organization that is a direct provider of home-delivered meals to the elderly or disabled and has received a grant from the county in which the entity operates. The bill contains a formula, and provisions for formula adjustments, governing how much TDA funding may go to any one county and any one grant recipient.

**House Bill 1168****Effective:** 9-1-07**House Author:** Menendez et al.**Senate Sponsor:** Shapleigh et al.

House Bill 1168 amends the Government Code to establish procedures for the denial, suspension, or revocation of a license for a false statement, misrepresentation, or refusal to provide information to a state licensing authority. The bill also amends the Health and Safety

Code to establish the liability of a facility owner, other controlling person, or affiliate of a person assessed with a civil penalty for violations compromising the health and safety of an assisted living facility resident. Subject to the appropriation of funds for the express purpose, House Bill 1168 creates a pilot program regulating the operation of certain boarding houses in each county or municipality that has adopted an order or ordinance regulating the operation of boarding houses.

**House Bill 1230**

**Effective:** 9-1-07

**House Author:** Rodriguez et al.

**Senate Sponsor:** Zaffirini et al.

House Bill 1230 amends the Government Code to direct the executive commissioner of the Health and Human Services Commission (HHSC) to monitor programs designed to assist youth with disabilities to transition to post-school living to study whether the programs result in positive outcomes. The bill also amends the Human Resources Code to direct the Department of Assistive and Rehabilitative Services to implement a specialized training program for employees whose duties involve transitioning youth with disabilities to post-school living. House Bill 1230 further requires the executive commissioner of HHSC to establish a work group to implement a plan relating to the quality and availability of certain post-school employment opportunities and resources.

**House Bill 1385**

**Effective:** 9-1-07

**House Author:** Villarreal et al.

**Senate Sponsor:** Uresti

House Bill 1385 amends the Human Resources Code to require a small employer to obtain a permit to operate an employer-based day-care facility. The bill establishes a permitting process, requires background and criminal history checks for certain people associated with the facility, authorizes inspections of the facility by the Department of Family and Protective Services, and provides for the conversion of certain child-care facility licenses to the new permit. The bill exempts from child-care licensing and accreditation requirements certain educational facilities that offer preschool educational programs and are sponsored by a religious organization. House Bill 1385 also exempts from the licensing and accreditation requirements certain child-care facilities that operate in a county with a population of less than 25,000.

**House Bill 1763**

**Effective:** 5-11-07

**House Author:** Callegari

**Senate Sponsor:** Janek

House Bill 1763 amends the Human Resources Code to update a statutory reference to the Harris County Board of Protective Services for Children and Adults to reflect the entity's new name.

**House Bill 1786**

**Effective:** 9-1-07

**House Author:** Swinford

**Senate Sponsor:** Seliger

House Bill 1786 amends the Human Resources Code to exempt from child-care licensing requirements a food distribution program that serves an evening meal to children two years of age or older and is operated by a nonprofit food bank in a nonprofit, religious, or education facility for not more than two hours a day on regular business days.

**House Bill 2524**

**Effective:** 9-1-07

**House Author:** McClendon et al.

**Senate Sponsor:** Van de Putte

House Bill 2524 requires the Department of State Health Services to develop a pilot project in Bexar County to divert persons with mental illness or substance abuse problems from jail



using a public safety triage and detoxification unit to provide inpatient and outpatient services. The bill requires the department to assist in the construction of the unit and, not later than November 1, 2008, to submit to the governor, lieutenant governor, and speaker of the house a report regarding certain information, including recommendations for establishing similar programs throughout the state. The bill provides for obtaining a waiver or authorization from a federal agency if necessary.

**House Bill 2683****Effective:** 9-1-07**House Author:** Chisum et al.**Senate Sponsor:** Estes

House Bill 2683 amends the Human Resources Code to authorize the Health and Human Services Commission to administer a grant program to provide grants of up to \$50,000 to programs that provide marriage education services, and it requires a grant recipient to provide program services at no cost to participants. The commission is further authorized to contract with private entities to provide marriage education training and curriculum, technical assistance, and other support to grant recipients. The bill requires the commission to spend a minimum of one percent of the money received under the Temporary Assistance for Needy Families block grant during each state fiscal year to fund programs that support the development of healthy marriages and strong families, including the program established by the bill. The bill requires that up to 10 percent of the money derived from the block grant be paid to a senior college or university to establish a process for evaluating the programs.

**House Bill 2691****Effective:** 9-1-07**House Author:** Truitt**Senate Sponsor:** Uresti

House Bill 2691 amends the Government Code to require a local guardianship program operating in a county that has a population of at least 150,000 to offer or submit a plan to offer money management services as a condition for receiving a grant from the Health and Human Services Commission. The bill details elements required to be included as part of the money management services and authorizes the commission to waive the requirement if necessary to maintain the strength of local guardianship programs in a geographic area.

**House Bill 3154****Effective:** 9-1-07**House Author:** Laubenberg et al.**Senate Sponsor:** Deuell

House Bill 3154 creates a regional health care systems review committee to conduct public hearings regarding, and to study the implications of, implementing regional health care services to address indigent health care in public health region three as established by the Department of State Health Services. The bill includes provisions relating to the composition, duties, and initial meeting of the committee and requires the committee, not later than December 1, 2008, to submit a summary report to the governor, lieutenant governor, and speaker of the house of representatives.

**House Bill 3261****Effective:** 9-1-07**House Author:** Chavez**Senate Sponsor:** Nelson

House Bill 3261 amends the Government Code to direct the executive commissioner of the Health and Human Services Commission to establish standards, in accordance with federal law, for the use of electronic signatures in connection with the administration of health and human services programs.

**House Bill 3571**

**Effective:** 9-1-07

**House Author:** Rose et al.

**Senate Sponsor:** Uresti

House Bill 3571 amends the Government Code to direct the Health and Human Services Commission to develop and implement a pilot program in South Texas under which the commission will contract with a private retail business to support outreach efforts and eligibility determinations for the food stamp program. The bill authorizes the commission to require the business to perform certain functions and also authorizes the business to employ certain strategies and incentives in administering the pilot program. The commission is required to submit an evaluation of the program and related recommendations to the legislature not later than December 1, 2008.

**House Bill 3575**

**Effective:** 6-15-07

**House Author:** Rose et al.

**Senate Sponsor:** Nelson et al.

House Bill 3575 adds provisions to the Government Code to implement an enhanced health and human services eligibility and benefits determination system. The bill requires the Health and Human Services Commission to develop a transition plan to meet certain goals for the enhanced system not later than January 1, 2009. The bill provides for an independent eligibility system review during the transition period to be performed by the state auditor's office in consultation with the Department of Information Resources. House Bill 3575 creates the health and human services eligibility system legislative oversight committee and provides for the committee's composition and duties. The committee is required to conduct its first public hearing not later than October 15, 2007. The bill also requires certain performance standards relating to limited English proficiency to be included and considered in contracts with the commission or another human services agency for call center services or written communications related to those services.

**House Bill 4062**

**Effective:** 6-15-07

**House Author:** Miller et al.

**Senate Sponsor:** Nelson

House Bill 4062 amends the Agriculture Code and Human Resources Code to transfer, from the Health and Human Services Commission (HHSC) to the Texas Department of Agriculture (TDA), the administration of several federally authorized nutrition programs. The transfers affect the commodity supplemental food program, the food distribution program, the emergency food assistance program, the summer food service program, the child and adult care food program, and the special milk program. Retaining the status quo but clarifying jurisdictional matters by statute, the bill specifies that the TDA is responsible for the school lunch and school breakfast programs and that the HHSC is responsible for the food stamp program. The bill requires the TDA to study and identify methods for increasing the number of students who eat breakfast, and to report on the subject not later than October 31, 2008. It requires the TDA also to study TDA and U.S. Department of Agriculture actions to reduce trans-fatty acids from all school meals and nutrition programs, and to report on that subject not later than December 1, 2008.

**Senate Bill 156**

**Effective:** 9-1-07

**Senate Author:** Shapiro et al.

**House Sponsor:** Madden

Senate Bill 156 amends the Government Code to require the Health and Human Services Commission to establish a nurse-family partnership competitive grant program to serve approximately 2,000 families in multiple communities throughout the state. The bill sets forth program requirements, including adherence to the program model developed by the Nurse-Family Partnership National Service Office, regular visits by registered nurses to low-income, first-time

mothers, assistance to clients in establishing paternity, and information about child support services from the office of the attorney general. It authorizes a public or private entity, including a county, municipality, or other political subdivision to apply for a grant, and it prescribes the content of the application and additional information that the commission must consider in awarding a grant. The bill establishes how awarded grant funds may be used, and it requires the commission to use money appropriated for the program to hire or contract with a state nurse consultant to assist grant recipients. The commission, with assistance from the national service office, must adopt performance indicators, use the indicators to continuously monitor and annually evaluate grant recipients, and submit an annual report containing prescribed content not later than December 1 of each year to the Senate Health and Human Services Committee and the House Human Services Committee. The bill requires the commission to actively seek and apply for available federal funds, use appropriated state funding, and accept gifts, grants, and donations to fund the program. It requires the commission to establish the program by September 1, 2008, report to the Senate Health and Human Services Committee and the House Human Services Committee regarding the implementation and status of the program by December 1, 2008, and submit the initial annual report on the program by December 1, 2009.

**Senate Bill 291****Effective:** 9-1-07**Senate Author:** Nelson**House Sponsor:** Naishtat

Senate Bill 291 amends the Texas Probate Code and the Government Code to require the Department of Aging and Disability Services (DADS) to obtain criminal history record information maintained by the Department of Public Safety or the Federal Bureau of Investigation relating to certain individuals who are or will be providing guardianship services. The bill also requires DADS, not later than February 1 of each year, to submit to the Guardianship Certification Board information relating to department employees who provide guardianship services. Senate Bill 291 establishes guidelines relating to the authorized use of the criminal history record information by DADS, the court having venue over guardianship proceedings, and the certification board.

**Senate Bill 589****Effective:** 6-15-07**Senate Author:** Nelson et al.**House Sponsor:** Davis, John

Senate Bill 589 amends the Human Resources Code and the Labor Code to comply with certain federal work participation requirements relating to the Temporary Assistance for Needy Families (TANF) program. The bill requires the Texas Workforce Commission to provide employment services, such as needs assessment, job training, postemployment, and related support services, to nonrecipient parents.

**Child Protective Services****House Bill 662****Effective:** See below**House Author:** Dukes et al.**Senate Sponsor:** Ellis et al.

House Bill 662 amends the Family Code to require the Department of Family and Protective Services, in consultation with the Interagency Coordinating Council for Building Healthy Families, to develop a statewide, long-range strategic plan for child abuse and neglect prevention services. The bill expands the purpose and duties of the council, including directing the council to evaluate the funding, effectiveness, and opportunities for improvement of programs and services for child abuse and neglect prevention and early intervention. House Bill 662 also changes the composition of the council to include a representative from the Department of

Assistive and Rehabilitative Services and continues the council in existence until January 1, 2010. The council is required to prepare and submit two reports to the legislative leadership and the legislature. The first report is required to be submitted not later than December 1, 2008, and relates to the development and implementation of the statewide strategic plan and the status of the council's evaluations of streamlined funding mechanisms, methods for improvements in the delivery of services, and the need for increased state funding. The second report is required to be submitted not later than December 1, 2009, and relates to the effectiveness of certain state-funded programs and services. The bill also designates the child abuse and neglect prevention trust fund as a dedicated account for child abuse prevention programs and limits certain funds in the account to be appropriated for the operating fund for primary child abuse prevention programs. Provisions of the bill relating to the child abuse and neglect prevention trust fund account take effect September 1, 2010. All other provisions of the bill take effect June 15, 2007.

**House Bill 2580**

**Effective:** 6-15-07

**House Author:** Naishtat

**Senate Sponsor:** Nelson

House Bill 2580 amends the Family Code to authorize the Department of Family and Protective Services to designate a child's foster parent or parent, under certain conditions, to consent on behalf of the department to medical care for the child.

**Senate Bill 723**

**Effective:** 6-16-07

**Senate Author:** Lucio

**House Sponsor:** Rose et al.

Senate Bill 723 amends the Code of Criminal Procedure and Human Resources Code to establish procedures for reporting and maintaining reports of certain incidents and allegations of family violence at a location listed in the Texas Crime Information Center as the address of a current licensed foster home or verified agency foster home. The bill requires the Department of Family and Protective Services (DFPS) to maintain a database of foster homes that includes information from the Texas Crime Information Center and directs the Department of Public Safety to adopt procedures permitting law enforcement to cross-check the database when investigating or responding to certain calls involving family violence. The bill also requires DFPS to obtain information relating to each family violence report filed at an applicant's residence before issuing a license or registration for a foster home or child-placing agency. Peace officers are required to check the database for a matching address when investigating a family violence allegation or responding to a call involving family violence and to report a match to DFPS. The bill requires DFPS to notify a child-placing agency of each family violence report relating to a foster home verified by the agency and directs the executive commissioner of the Health and Human Services Commission to adopt rules relating to the actions required by DFPS, an independent foster home, or a child-placing agency in response to such reports.

Senate Bill 723 also amends the Family Code to require DFPS to record, document, and compile certain information relating to instances in which certain placements of a foster child are not made because the designated caregiver cannot afford to care for the child.

**Senate Bill 758**

**Effective:** 9-1-07

**Senate Author:** Nelson et al.

**House Sponsor:** Rose et al.

Senate Bill 758 amends the Education Code, Family Code, Government Code, and Human Resources Code to refine a number of reforms made to children's protective services by the 79th Legislature. It requires the Department of Family and Protective Services (DFPS) to develop a child protective services improvement plan to expand or modify those reforms that have resulted in demonstrable improvements. DFPS is directed to prepare an implementation plan for the

modifications and annual progress reports detailing the department's implementation of certain aspects of the improvement plan, including recommendations for expanding and improving substitute care and adoptive placement provider capabilities.

The bill includes provisions relating to a child's eligibility for enrollment in free prekindergarten classes, relatives who are entitled to file a suit requesting managing conservatorship of a child, eligibility for and the amount of adoption subsidies, service plan and placement requirements for a child under DFPS care who is younger than two years of age, burial expenses for a foster child who dies while under DFPS care, the release of personal records to certain children on discharge from foster care, the provision of certain information to children entering the Preparation for Adult Living Program, court approval for travel outside the United States by a child in foster care, and a method to verify certain birth information. The bill authorizes an associate judge to order the appearance of a parent relating to an investigation of abuse or neglect, authorizes the exchange of medical records without consent for a child transferred between different medical facilities, and clarifies behavior that constitutes failure to cooperate with an investigation.

Senate Bill 758 amends several provisions of law relating to the privatization of case management and substitute care services. DFPS is directed to develop a pilot program for the competitive procurement of case management services in one or more geographic areas of the state with the goal of contracting for those services in five percent of cases. The bill requires contracts with private agencies providing substitute care and case management services to also provide for guardian ad litem and attorney ad litem services. The bill deletes references to an independent administrator under which privatized substitute care and case management services were previously secured and managed, makes conforming changes to reflect DFPS responsibility with regard to those services, and clarifies that DFPS can contract for special investigator services.

Senate Bill 758 requires DFPS to work with the One Star Foundation to expand the faith-based organization foster parent recruitment program, to develop an enhanced in-home support program for certain low-income families and children in child neglect cases, and to study the effect of caseworker education reimbursement on caseworker recruitment and retention. The bill creates the committee on pediatric centers of excellence relating to abuse and neglect and the committee on licensing standards, specifies the composition and duties of each committee, and requires the committees to report to DFPS and the legislature. The bill includes provisions relating to the drug-endangered child initiative, the regulation of child-care facilities by alternative accreditation entities, and DFPS staffing requirements for safety specialists, risk analysts, and a performance management unit. Senate Bill 758 authorizes a child-care facility that provides emergency services to temporarily exceed the facility's capacity, refines requirements for unannounced annual inspections of residential child-care facilities, and expands DFPS responsibilities relating to investigations of serious incidents and certain alleged violations at agency foster homes or foster group homes, contingent on available funding. The bill requires a director, owner, or operator of a day-care center to submit fingerprints for certain employees or individuals affiliated with the center for use in conducting state and federal criminal history checks. The bill creates a Class B misdemeanor offense for failing to submit certain information to DFPS and for employing a person who fails a background check. The bill also creates a Class B misdemeanor offense for operating a day-care center without a qualified director.

**Senate Bill 759**  
**Effective:** 6-15-07

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

Senate Bill 759 amends Family Code provisions relating to requirements for permanency hearings and placement review hearings for children under the care of the Department of Family

and Protective Services. The bill directs the court to consult with a child in a developmentally appropriate manner regarding the child's permanency plan if the child is four years of age or older and the court determines it is in the best interest of the child. Senate Bill 759 entitles certain stakeholders to present evidence and be heard at a placement review hearing for a child under the department's care. The bill also provides that the licensed administrator of the child-placing agency responsible for placing a child is entitled to notice of a placement review hearing and requires that the child attend the hearing except in certain circumstances.

**Senate Bill 813**

**Effective:** 6-16-07

**Senate Author:** Janek

**House Sponsor:** Turner

Senate Bill 813 amends Family Code and Human Resources Code provisions relating to child protective services. The bill includes new filing requirements for a hearing to determine a parent's indigence and for a new trial relating to an order to place a child under the care of the Department of Family and Protective Services. The bill authorizes certain private contracts for the provision of direct substitute care and case management services entered into before September 1, 2006, to remain in effect, regardless of the contract's date of execution. The bill also exempts the contracts from expiration provisions and authorizes a provider under contract to provide value-added services that supplement substitute care or case management services.

## **Medicaid and CHIP**

**House Bill 52**

**Effective:** 9-1-07

**House Author:** Chavez et al.

**Senate Sponsor:** Harris et al.

House Bill 52 amends the Human Resources Code to increase the personal needs allowance for certain Medicaid recipients who are residents of long-term care facilities from \$45 per month to \$60 per month.

**House Bill 109**

**Effective:** 6-15-07

**House Author:** Turner et al.

**Senate Sponsor:** Averitt et al.

House Bill 109 amends provisions of the Health and Safety Code relating to the children's health insurance program (CHIP). The bill changes CHIP income eligibility standards by defining "net family income" to mean the amount of income established after reductions for offsets for certain child care expenses and by establishing guidelines for allowable assets when calculating income for purposes of eligibility. House Bill 109 establishes a community outreach campaign to provide information regarding CHIP through school-based health clinics and a toll-free hotline. The bill also sets continuous coverage under the program at 12 months rather than six and eliminates a 90-day waiting period except for certain applicants who were previously covered by a health benefit plan.

**House Bill 889**

**Effective:** 9-1-07

**House Author:** Delisi

**Senate Sponsor:** Nichols

House Bill 889 amends the Human Resources Code to add to the list of actions that constitute an unlawful act against the Medicaid program knowingly engaging in conduct that violates provisions of law relating to illegal remuneration, including any kickback, bribe, or rebate, resulting from a fraudulent Medicaid claim.

**House Bill 1579**  
**Effective:** 9-1-07

**House Author:** Guillen  
**Senate Sponsor:** Deuell

House Bill 1579 amends the Government Code to require the Health and Human Services Commission to reimburse certain health care providers for services provided outside of regular business hours to a person enrolled in the Medicaid managed care program regardless of whether the recipient has a referral from the recipient's primary care provider.

**House Bill 2042**  
**Effective:** 6-15-07

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

House Bill 2042 amends the Human Resources Code to require the executive commissioner of the Health and Human Services Commission to establish and administer an electronic, searchable, Internet-based database of all participating providers in the Medicaid program. The bill prescribes information and functionality required to be featured by the database, directs the executive commissioner to ensure that the database is updated at least once a month, prohibits a fee from being charged providers for participating in the database, and authorizes the executive commissioner to contract with a state agency or private entity for the creation, operation, and maintenance of the database.

**House Bill 2256**  
**Effective:** 9-1-07

**House Author:** McReynolds  
**Senate Sponsor:** Deuell

House Bill 2256 amends the Government Code to clarify that the uniform fair hearing rules required to be promulgated by the executive commissioner of the Health and Human Services Commission for all Medicaid-funded services must provide due process to applicants for services and to recipients who receive services, including certain protections required by federal law.

**House Bill 2540**  
**Effective:** 9-1-07

**House Author:** Isett, Carl  
**Senate Sponsor:** Nelson

House Bill 2540 amends the Government Code to direct the Health and Human Services Commission to develop and implement a pilot project to simplify, streamline, and reduce costs associated with the Medicaid cost reporting and auditing process for private intermediate care facilities for the mentally retarded and home and community-based services waiver program providers. The bill requires the executive commissioner of the commission, by rule, to adopt cost reporting and auditing processes and guidelines similar to standard business financial reporting processes and guidelines with the assistance of a work group established for that purpose. The bill includes provisions related to the rules to be adopted by the commissioner and to the membership of the work group. The commission is required to submit a report to the legislature not later than September 1, 2012.

**Senate Bill 10**  
**Effective:** See below

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

Senate Bill 10 amends the Government Code, Health and Safety Code, and Human Resources Code to direct the Health and Human Services Commission to study, develop, and implement a number of reforms relating to the operation and financing of the state Medicaid program and other programs that provide health care benefits and services and the costs associated with the delivery of uncompensated hospital care.

The bill directs the Health and Human Services Commission to establish outcome-based performance measures and incentives for contracts between health maintenance organizations and the commission, actively encourage managed care organizations that contract with the

commission to include certain value-added services, and require certain recipients of Medicaid to designate a primary care provider. Senate Bill 10 transfers administration and operation of the medical transportation program from the Texas Department of Transportation to the commission and requires the commission to directly supervise the program. The bill includes provisions relating to eligibility for Medicaid matching funds for a woman who receives a breast or cervical cancer screening, Medicaid benefits for certain former foster care adolescents enrolled at an institution of higher education, the health insurance premium payment reimbursement program for Medicaid beneficiaries, cost limits for care provided in certain alternative community-based services settings, access to eye health care services, the establishment and financial support of regional or local health care programs for employees of small employers, and the use of technology to facilitate electronic communications for purposes of determining eligibility, enrollment, verification procedures, and the exchange of recipient medical information.

The bill directs the executive commissioner to adopt a cost-sharing method for high-cost medical services provided through hospital emergency rooms, promote Medicaid beneficiary access to federally qualified health centers and rural health clinic services, and contract for an acute care Medicaid billing system to be implemented by March 1, 2008. The executive commissioner is authorized to seek federal waivers to develop and implement tailored benefit packages for certain categories of Medicaid recipients and the Texas Health Opportunity Pool Trust Fund to optimize federal matching funds to pay for uncompensated care costs.

Senate Bill 10 includes several provisions relating to uncompensated hospital care costs. It requires the executive commissioner to adopt rules providing for a methodology to compute the cost of uncompensated care and to report and analyze those costs, creates penalties for a hospital reporting false, incomplete, or inaccurate information to the commission, and directs the executive commissioner to establish a work group on uncompensated care.

The commission is required to develop, implement, or provide guidance for the establishment of various pilot programs, including: a health savings account pilot program, contingent on a determination that the program is cost-effective and feasible; a pilot program in Bexar County to prevent the spread of certain infectious or communicable disease; a physician-centered nursing facility model demonstration project; and an electronic health information pilot program for use by primary care providers under the Medicaid program. The commission is also required to conduct or participate in a number of studies, including: a joint study with the commission's office of inspector general on the increased use of technology to strengthen fraud detection and deterrence; a study regarding the feasibility and cost-effectiveness of developing and implementing an integrated Medicaid managed care model; a feasibility study of providing a health passport for certain recipients under the Children's Health Insurance Program; and a joint study with the Texas Department of Insurance relating to a small employer premium assistance program to provide financial assistance for the purchase of small employer health benefit plans. The bill directs the Texas Health Care Policy Council, in coordination with other entities, to conduct a study regarding increasing the number of medical residency programs, medical residents, and physicians practicing medical specialties in Texas.

The bill establishes the committee on health and long-term care insurance incentives to study and develop methods to reduce the need for residents to rely on Medicaid and to reduce the number of Texans who are not covered by health insurance or long-term care insurance. It creates the Medicaid reform legislative oversight committee to facilitate the reform efforts in Medicaid, the process of addressing the issues of uncompensated hospital care, and the establishment of programs addressing the uninsured. It also amends the Insurance Code to direct the commissioner of insurance to conduct a study concerning a Healthy Texas Program under which small employer health benefit coverage would be offered.



Provisions of the bill relating to the creation of the Medicaid reform legislative oversight committee take effect June 14, 2007; provisions relating to the transfer of the medical transportation program take effect September 1, 2008; all other provisions of the bill take effect September 1, 2007.

**Senate Bill 22**

**Effective:** See below

**Senate Author:** Nelson et al.

**House Sponsor:** Delisi

Senate Bill 22 amends the Human Resources Code, Insurance Code, and Government Code to establish the partnership for long-term care program through which an individual may purchase a long-term care insurance policy and qualify for certain asset disregards in determining subsequent eligibility for long-term care coverage under the Medicaid program. The bill provides for administration of the program, requires compliance with federal law, establishes the scope of asset disregards, and authorizes reciprocity for a resident who purchases a long-term care insurance policy in certain other states. The bill requires the commissioner of insurance to adopt minimum standards for the benefit plans offered through the partnership program, directs the Health and Human Services Commission (HHSC) to develop a long-term care insurance awareness and education campaign in consultation with the Department of Aging and Disability Services and the Texas Department of Insurance, and requires HHSC to submit a biennial report to the legislature on the progress of the partnership program.

Senate Bill 22 also amends the Human Resources Code to direct HHSC to exclude \$20 of monthly income when determining an applicant's eligibility for certain home and community-based services. These provisions are effective September 1, 2007. The remainder of the bill is effective March 1, 2008.

**Senate Bill 24**

**Effective:** See below

**Senate Author:** Nelson

**House Sponsor:** King, Susan

Senate Bill 24 amends the Government Code to require the Health and Human Services Commission to provide for reimbursement under the Medicaid program for an office visit performed through telemedicine or telehealth under certain conditions. The commission is required to confer with the Centers for Medicare and Medicaid Services in developing rules to provide for the allocation of the reimbursement. The bill also amends provisions of the Government Code to continue until September 1, 2009, a pilot program under which Medicaid reimbursements are paid for medical consultations provided by physicians or other health care professionals using the Internet.

Provisions of the bill relating to Medicaid reimbursement for office visits provided through telemedicine or telehealth are effective September 1, 2007. All other provisions of the bill are effective June 15, 2007.

**Senate Bill 362**

**Effective:** 5-4-07

**Senate Author:** Janek

**House Sponsor:** Gattis

The federal Deficit Reduction Act of 2005 included incentives for states to comply with federal law relating to fraudulent or false claims under the Medicaid program. Texas Medicaid fraud prevention laws did not meet certain of those requirements. Senate Bill 362 amends the Human Resources Code to bring Texas law into compliance with federal law for purposes of qualifying for incentives. The bill increases the minimum civil penalty from \$1,000 to \$5,000 for certain Medicaid fraud cases and establishes the standard of proof for bringing an action in certain cases. Senate Bill 362 also includes provisions relating to a person proceeding with an action without the state's participation and limits on the amounts and the allocation of proceeds resulting from such cases.

**Senate Bill 1694**

**Effective:** 9-1-07

**Senate Author:** Nelson

**House Sponsor:** Jackson, Jim

Senate Bill 1694 amends provisions of the Government Code, Human Resources Code, Penal Code, and Code of Criminal Procedure relating to fraud investigations and criminal offenses involving the Medicaid program. The bill authorizes the attorney general and certain state agencies to exchange information relevant to investigations of fraud or abuse and establishes procedures for the request and release of the information. Senate Bill 1694 clarifies behavior that constitutes an administrative violation of fraud or bribery for the purpose of influencing or being influenced in a decision regarding the inclusion or exclusion of goods or services available under the Medicaid program and makes the violation a criminal offense. The bill also includes provisions relating to criminal offenses of fraud under the Medicaid program and the corresponding penalties.

**Senate Bill 1766**

**Effective:** 9-1-07

**Senate Author:** Watson et al.

**House Sponsor:** Naishtat

Senate Bill 1766 amends the Government Code to update provisions relating to the use of consumer direction in the delivery of certain services to disabled and elderly Medicaid recipients. The bill incorporates recommendations of the work group created by the 76th Legislature to assist the Health and Human Services Commission in developing a voucher payment program for consumer directed services. Senate Bill 1766 continues the work group and changes the name of the work group and references to the program to reflect current terminology. Among other provisions, the bill broadens the work group's duties to include developing recommendations to expand the delivery of services and the array of services available through consumer direction.

## **Mental Health and Mental Retardation**

**House Bill 518**

**Effective:** 9-1-07

**House Author:** Naishtat

**Senate Sponsor:** Brimer

House Bill 518 amends the Health and Safety Code to increase from 24 hours to 48 hours the maximum period for which a person accepted for a preliminary examination for emergency detention because of mental illness may be detained. The bill removes a provision excluding, for purposes of calculating the maximum time period for detention, any time during which the person is receiving necessary medical care in the facility in which the person is detained and decreases the time by which a physician is required to examine a person who is apprehended or transported for emergency detention from 24 hours to 12 hours after the time of apprehension or transport. House Bill 518 also changes from the fifth day to the third day before a motion for order of protective custody is filed the earliest time at which a physician's examination of a proposed patient may occur.

**House Bill 654**

**Effective:** 6-15-07

**House Author:** Hilderbran et al.

**Senate Sponsor:** Fraser

House Bill 654 amends the Health and Safety Code to direct the Department of State Health Services to establish a crisis stabilization unit pilot project for mental illness on the grounds of the Kerrville State Hospital. The bill specifies the services and treatment to be provided by the unit, sets out contract requirements for the operation of the unit, and includes provisions relating to the funding of the project. House Bill 654 requires the department to submit a report regarding the effectiveness and continuation of the project to the governor, lieutenant governor, and speaker of the house of representatives not later than December 1, 2008.

**House Bill 2439**  
**Effective:** 6-16-07

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

House Bill 2439 amends provisions of the Health and Safety Code relating to local mental health and mental retardation (MHMR) authorities. The bill requires the Department of State Health Services (DSHS) to conduct certain evaluations to develop a payment methodologies implementation plan for mental health services. The department is required to report its findings to the executive commissioner of the Health and Human Services Commission (HHSC) and the legislature before instituting a change. House Bill 2439 requires a local MHMR authority to consider public input, cost-benefit, and consumer choice issues when procuring services for a local service area, including a request for proposal or open-enrollment procurement method. The bill also details conditions under which a local MHMR authority is authorized to serve as a provider of intermediate care facilities for the mentally retarded (ICF-MR) and related waiver services and prescribes an authority's duties in that regard. Not later than November 1, 2007, the executive commissioner is required to re-create the local authority network advisory committee. The bill continues the committee until September 1, 2017, changes the committee's composition, and authorizes certain members of the committee with mental health needs to be reimbursed for expenses related to their service on the committee. The bill adds provisions requiring a local MHMR authority to develop a plan to be approved by DSHS relating to the configuration of the authority's provider network and prescribes elements required to be included in the plan.

House Bill 2439 also directs the executive commissioner of HHSC to adopt rules relating to the responsibilities and requirements of local MHMR authorities, including issues relating to access, eligibility, safety net functions, and performance accountability. A local MHMR authority is directed to offer a state school as an option for residential services in determining eligibility. House Bill 2439 deletes provisions relating to certain Medicaid waiver programs, requires the Department of Aging and Disability Services to biennially review a local MHMR authority's status as a qualified provider of services, and directs DSHS to establish an online best practices information clearinghouse for local authorities. The bill also prescribes procedures relating to the removal of an authority's designation and describes conditions under which an authority is authorized to serve as a provider of last resort. Provisions relating to the privatization of ICF-MR and related waiver services are repealed.

**Senate Bill 778**  
**Effective:** 9-1-07

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

Senate Bill 778 amends the Health and Safety Code to authorize the use of certain video technology to conduct mental health proceedings. The bill authorizes a judge or magistrate to permit the use of video technology for hearings involving an application presented by a physician for emergency detention of a patient and establishes procedures for the use of video technology to conduct hearings relating to court-ordered mental health services.

## **Nursing Home, Assisted Living, and Related Facilities**

**House Bill 3473**  
**Effective:** 9-1-07

**House Author:** Delisi  
**Senate Sponsor:** Watson

House Bill 3473 amends the Health and Safety Code to authorize home and community support services agencies to obtain consent to medical treatment from an adult surrogate on behalf of an adult who is comatose, incapacitated, or otherwise mentally or physically incapable of communication. The bill also includes provisions relating to protection from criminal and civil liability for treatment provided.

**Senate Bill 27**

**Effective:** 6-15-07

**Senate Author:** Nelson

**House Sponsor:** Delisi

Senate Bill 27 amends the Government Code to require the Department of Aging and Disability Services (DADS) to develop a community living options information process, create uniform procedures for the implementation of the process, and minimize related potential conflicts of interest between a state school and an adult resident, an adult resident's legal representative, or a local mental retardation authority. The bill includes provisions relating to contracts between DADS and local mental retardation authorities to implement the community living options information process, the participation of certain stakeholders in developing the process, and requirements of a state school with regard to coordination with local mental retardation authorities in executing the process.

Senate Bill 27 also directs DADS to develop and implement a pilot program to increase the use of advance directives by residents of nursing homes and intermediate care facilities for the mentally retarded. Not later than October 1, 2010, DADS is required to submit a report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature evaluating the pilot program. The pilot program expires September 1, 2011.

**Senate Bill 131**

**Effective:** See below

**Senate Author:** West, Royce et al.

**House Sponsor:** Naishtat

Senate Bill 131 amends the Health and Safety Code to authorize the creation of "nursing home family councils," which means a group of family members, friends, or legal guardians of residents, who organize and meet privately or openly. The bill authorizes a family council to make recommendations to the nursing home that affect resident care and quality of life and promote the health and happiness of residents. It authorizes one council member to authorize another council member to visit and observe a resident unless the resident objects. The bill requires a nursing home to respond in writing within five days to a written request by a council and to make a reasonable effort to resolve a council's grievances. The institution must permit a representative of the council to discuss concerns with a person inspecting the facility and must provide a copy of a statement of violations of the Health and Safety Code to the council within five days of receiving the statement. In addition, the bill requires a nursing home to provide certain information to all family members regarding a family council, provide a meeting place and bulletin board for the council, and provide a staff person to act as liaison to the council. The bill prohibits a nursing home from taking certain actions that would wilfully interfere with the formation, maintenance, or operation of a family council. It requires the Department of Aging and Disability Services to administer these provisions, and it requires the executive commissioner of the Health and Human Services Commission to adopt necessary rules by December 1, 2007. Otherwise, the bill takes effect September 1, 2008.

**Senate Bill 199**

**Effective:** 9-1-07

**Senate Author:** Nelson

**House Sponsor:** Rose

Senate Bill 199 amends the Health and Safety Code to add to the list of convictions that bar a person's employment at certain facilities serving the elderly or persons with disabilities. The bill also adds to the list of convictions that bar a person's employment in a position involving direct contact with a resident of certain facilities serving the elderly or persons with disabilities before the fifth anniversary of the date of the conviction.

**Senate Bill 344**  
**Effective:** 9-1-07

**Senate Author:** Carona et al.  
**House Sponsor:** Davis, John

Senate Bill 344 amends the Health and Safety Code to require an additional exit conference to be conducted in person at the conclusion of an inspection, survey, or investigation of certain facilities in which additional violations are discovered. Facilities to which the provisions apply include home and community support facilities, convalescent and nursing homes, assisted living facilities, and intermediate care facilities for the mentally retarded. The bill requires a plan of correction to be filed by an assisted living facility following the additional exit conference and requiring electronic copies of complaints and investigations of unlicensed assisted living facilities to be used to comply with certain other provisions of law. Senate Bill 344 also prescribes additional guidelines relating to a change of ownership of certain convalescent and nursing homes and related facilities. The bill provides for the issuance and terms of a temporary change of ownership license and the transition to a new license holder and authorizes the withholding of funds from a previous license holder until certain final reporting requirements are satisfied.

**Senate Bill 744**  
**Effective:** 6-15-07

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

Senate Bill 744 amends the Human Resources Code to prohibit a provider from retaliating against a person for filing a report or providing information relating to the possible abuse, neglect, or exploitation of a person receiving home and community-based services from the provider. The bill clarifies that the provider is not prohibited from terminating the employment of a person for a reason other than retaliation.

**Senate Bill 1318**  
**Effective:** 9-1-07

**Senate Author:** Janek  
**House Sponsor:** Davis, John

Senate Bill 1318 amends provisions of the Human Resources Code and the Health and Safety Code relating to the regulation of adult day-care facilities and certain long-term care facilities. The bill directs the executive commissioner of the Health and Human Services Commission to establish criteria relating to waiving the termination of a nursing facility's provider agreement due to the imposition of certain remedies. Senate Bill 1318 extends the licensing period for adult day-care facilities, home and community support services agencies, convalescent and nursing homes, and assisted living facilities, and makes corresponding changes to licensing fees. The bill makes conforming changes to renewal procedures and authorizes the establishment of license renewal late fees for the various facilities. The bill authorizes the Department of State Health Services to assess an administrative penalty against a home and community support services agency without regard to providing time for the agency to correct a violation if the violation meets certain conditions. The bill also includes provisions clarifying or adding violations that constitute grounds for an administrative penalty. Senate Bill 1318 also removes certain limitations on the type of facility that can be chosen under community-based alternatives programs and residential care programs for assisted living.

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

House Bill 41 - Open Government and Privacy  
 House Bill 921 - State Government  
 House Bill 1633 - Military Forces and Veterans  
 House Bill 1759 - State Government  
 House Bill 3169 - State Government  
 Senate Bill 450 - Family Law and Juvenile Justice



# Insurance

This chapter covers legislation relating to the regulation of companies and individuals licensed to sell insurance in Texas and to third-party administrators of insurance claims. The chapter also includes bills on the regulation of health group cooperatives and reciprocal or interinsurance exchanges, transactions between insurers and health care providers, requirements for investigating and reporting suspected acts of insurance fraud, and the functions and operations of the Texas Department of Insurance. Bills relating to workers' compensation insurance are in the **Labor and Employment** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### **House Bill 472**

**Effective:** See below

**House Author:** Solomons

**Senate Sponsor:** Van de Putte et al.

House Bill 472 amends provisions of the Insurance Code relating to the regulation of third-party administrators of insurance claims. The bill extends those provisions to an administrator in the workers' compensation system, including requiring such an administrator to hold a certificate of authority, and sets out requirements for a contract between an administrator and an insurer or employer for providing those services. The bill prohibits a third-party administrator from knowingly referring a claim or loss for adjustment to a person acting as or claiming to be an insurance adjuster without the appropriate license and prohibits an insurer from referring a claim or loss for administration to a person acting as or claiming to be an administrator without the appropriate certificate of authority. It sets out an insurer's responsibilities when using an administrator's services and requires the insurer to conduct regular reviews and on-site audits of the administrator's operations. The bill specifies the information to be included in a written agreement between an administrator and an insurer or benefit plan sponsor and requires an administrator to file a financial statement audited by an independent certified public accountant or certified as prescribed by rule with his or her annual report to the commissioner of insurance. The bill prohibits an insurer or sponsor from permitting or providing compensation to an administrator based on savings it received because of certain actions of the administrator.

House Bill 472 requires an applicant for or holder of a certificate of authority to notify the Texas Department of Insurance (TDI) of a change of control in the business ownership and prohibits certain persons from acquiring an ownership interest in an entity holding such a certificate unless such persons file with TDI a statement, under oath, of certain information relative to the public interest and consumer protection. The bill authorizes TDI to deny, suspend, or revoke a certificate of authority if the applicant or certificate holder commits certain violations and restricts specific activities by individuals with a controlling interest in an entity whose certificate has been revoked. In addition, the bill amends the Insurance Code and the Labor Code to make conforming changes. The bill takes effect September 1, 2007, except for the provisions requiring a certificate of authority for a workers' compensation administrator and authorizing disciplinary actions, which take effect January 1, 2008.

### **House Bill 522**

**Effective:** 5-25-07

**House Author:** Woolley et al.

**Senate Sponsor:** Duncan et al.

House Bill 522 requires the commissioner of the Department of Insurance to appoint a technical advisory committee on electronic data exchange and sets out the responsibilities of

the committee. The bill also requires the commissioner to implement an identification card pilot program and to require the issuer of a health benefit plan that is offered in the county or counties selected for initial participation in the pilot program to issue identification cards that comply with commissioner rules to each enrollee of the plan.

**House Bill 1070**

**Effective:** 6-15-07

**House Author:** Laubenberg

**Senate Sponsor:** Estes

House Bill 1070 amends the Occupations Code to establish new criteria for liability insurance for amusement rides that operate in a manner similar to a train and have prescribed safety features. The bill also permits a local government to satisfy insurance requirements for operating amusement rides by obtaining liability coverage through an interlocal agreement.

**House Bill 1741**

**Effective:** 9-1-07

**House Author:** Flynn

**Senate Sponsor:** Janek

Previous law provided for the creation of certified capital companies funded by insurance companies to direct at least 30 percent of investments to qualified small, new, Texas businesses, including startups, and to authorize premium tax credits for insurance company investment in such companies. House Bill 1741 amends the Insurance Code to expand the companies' qualified investments to include low-income communities as defined in the Internal Revenue Code. The bill designates the allocation and investment of certified capital made before January 1, 2007, as Program One and such allocations and investments made after that date as Program Two, and provides that Program Two is subject to the same regulations for Program One except that the first credits claimed by certified investors under Program Two, for premiums earned in the 2012 tax year, cannot be claimed until 2013. The bill requires the comptroller of public accounts, which administers both programs, to accept premium tax credit allocation claims on behalf of certified investors under Program Two not later than January 1, 2008.

**House Bill 2251**

**Effective:** 9-1-07

**House Author:** Taylor

**Senate Sponsor:** Duncan

House Bill 2251 amends the Insurance Code to require an insurer that includes certain types of advertisements on its Internet website to also include appropriate disclosure statements in accordance with rules adopted by the commissioner of insurance. The bill specifies that such statements are required for information describing specific policies or coverage available in Texas or allowing an individual to apply or obtain a quote for such coverage, with certain exceptions. The bill exempts from TDI filing and approval requirements an advertisement that is the same as or substantially similar to an advertisement previously accepted by TDI.

**House Bill 2569**

**Effective:** 6-16-07

**House Author:** Thompson

**Senate Sponsor:** Fraser

House Bill 2569 repeals a chapter of the Insurance Code to remove conflicting provisions regarding the investigation and reporting of insurance fraud.

**House Bill 2636**

**Effective:** See below

**House Author:** Smithee

**Senate Sponsor:** Brimer

House Bill 2636, a continuation of the legislature's ongoing statutory revision program, makes nonsubstantive additions and corrections to the revised Insurance Code, adds a new title on the regulation of certain occupations relating to fire detection and containment devices, updates cross-references to the revised code, and conforms provisions of that code that were



codified by the 79th Legislature to other acts of that legislature. The nonsubstantive changes, new title, and cross-reference updates take effect April 1, 2009, and the conforming provisions take effect September 1, 2007.

**Senate Bill 1056**

**Effective:** 6-15-07

**Senate Author:** Wentworth et al.

**House Sponsor:** Smithee

Senate Bill 1056 amends the Insurance Code to authorize the conversion of a reciprocal or interinsurance exchange to a stock company through the creation of a mutual holding company. The bill includes provisions relating to the mutual holding company structure, plan adoption and approval, and the rights of members.

**Senate Bill 1253**

**Effective:** 9-1-07

**Senate Author:** Averitt

**House Sponsor:** Hancock

Previous law required the Texas Department of Insurance (TDI) to visit and examine an insurance carrier annually during the first three years after the carrier's organization or incorporation and at least once every three years thereafter, with certain exceptions. Senate Bill 1253 amends the Insurance Code to require TDI to examine a carrier as frequently as the agency considers necessary and at least once every five years, and requires the commissioner of insurance to adopt rules governing the frequency of the examination of a carrier that has been organized or incorporated for less than five years. In addition, the bill requires a workers' compensation health care network to pay a fee to TDI, in an amount set by and in accordance with rules adopted by the commissioner, for certain expenses incurred in connection with such an examination and for those fees to be deposited in TDI's operating account.

**Senate Bill 1542**

**Effective:** 9-1-07

**Senate Author:** Fraser

**House Sponsor:** Eiland

Under previous law, an insurer that is a member of an insurance company holding system was required to file with the Texas Department of Insurance (TDI), along with the insurer's initial registration statement, a copy of the charter or articles of incorporation and bylaws of the holding company, each of the insurer's subsidiaries, and, if deemed necessary by the insurance commissioner, any of the insurer's other affiliates. The insurer was also required to file amendments to its registration statement every year and a completely restated registration statement every five years. Senate Bill 1542 amends the Insurance Code to remove these provisions and to require that such an insurer provide TDI with an annual registration statement and a summary of material changes from the prior year's statement.

## **Life and Health**

**House Bill 1590**

**Effective:** 6-15-07

**House Author:** Smithee

**Senate Sponsor:** Averitt

House Bill 1590 amends the Insurance Code to allow the minimum standard of valuation of a universal life insurance contract to include a lapse rate of up to two percent per year in the calculation of reserves for a secondary guarantee in such a contract issued after December 31, 2006. The bill provides that the secondary guarantee, if satisfied, would allow death benefits to remain in effect regardless of the contract's accumulation value.

**House Bill 1594**

**Effective:** 9-1-07

**House Author:** Zerwas

**Senate Sponsor:** Carona

House Bill 1594 amends the Insurance Code to create an expedited credentialing process for a physician who joins an established medical group that has a current contract with a managed care plan. The bill sets out eligibility requirements for the applicant physician, authorizes the physician to collect copayments and fees from plan enrollees, requires the plan to pay the physician for services provided to enrollees as if the physician were a participating provider in the plan's network, and allows the plan to exclude the physician from any listing of its participating physicians while the application is pending. If the application is not approved, the bill allows the issuer to recover from the physician or medical group the difference between in-network and out-of-network physician payments and provides that the enrollee is not responsible for that difference. The physician or medical group may retain any copayments collected and may not charge an enrollee for any portion of the physician's fee that is not paid or reimbursed by the plan. The bill exempts an issuer who complies with these provisions from liability for damages in connection with its payments to an applicant physician and prohibits such a physician from being considered as an available primary care physician or provider by an enrollee of a health maintenance organization.

**House Bill 1847**

**Effective:** 6-15-07

**House Author:** Hancock

**Senate Sponsor:** Averitt

House Bill 1847 amends the Insurance Code to allow an insurer to include noninsurance benefits that are reasonably related to a policy or certificate as part of the policy or certificate form to be issued to an insured or certificate holder.

**House Bill 1849**

**Effective:** 9-1-07

**House Author:** Hancock

**Senate Sponsor:** Brimer

House Bill 1849 amends the Insurance Code to remove a fee that a life, health, or accident insurance company was required to pay for valuing life insurance policies and to provide that an insurer is not entitled to a credit on the amount of premium tax due for its payment of such a fee.

**House Bill 1919**

**Effective:** 9-1-07

**House Author:** Smith, Todd

**Senate Sponsor:** Van de Putte et al.

Previous law prohibited a health benefit plan from excluding coverage for testing, treatment, rehabilitation, and reintegration services in connection with an acquired brain injury. House Bill 1919 amends the Insurance Code to require a plan, other than a small employer health benefit plan, to include coverage for such services. The bill requires the plan issuer annually to notify each insured or enrollee of the plan about that coverage, sets out requirements for determining the medical necessity of the coverage, and prohibits denial of coverage solely on the grounds that the treatment or services are provided at a facility other than a hospital. The bill requires the commissioner of insurance to prepare information about recommended coverage for acquired brain injuries for use by consumers and insureds. In addition, the bill requires a health benefit plan to provide coverage for certain children with autism spectrum disorder.

**House Bill 1977**

**Effective:** See below

**House Author:** Taylor

**Senate Sponsor:** Averitt

House Bill 1977 amends the Insurance Code to specify that the Texas Health Insurance Risk Pool is exempt from any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee. The bill requires each plan issuer annually to report to the board the

gross premiums collected for the preceding calendar year for certain health benefit plans and requires the commissioner of insurance to conduct a study and issue a report concerning a program under which the pool would offer secondary coverage to an individual who is covered under an employers group health benefit plan. The bill also requires that a pool administrator's term of service be specified in a contract between the pool and the administrator and allows the term, previously limited to three years, to be extended to up to six years. The bill revises the method of determining the amount assessed a health benefit plan issuer to cover the pool's net losses and for calculating the interest rate for a delinquent assessment. In addition, the bill incorporates changes to conform the pool's eligibility requirements with other state and federal laws. The bill takes effect September 1, 2007, except the provisions relating to a pool administrator's term of service, the interest rate on a delinquent assessment, and the conforming changes take effect January 1, 2008.

**House Bill 2015**  
**Effective:** 9-1-07

**House Author:** Smithee  
**Senate Sponsor:** Duncan

House Bill 2015 amends the Insurance Code to require a health insurance issuer receiving a written request for a written report of claim information from a group health plan, or a sponsor or administrator of such a plan, to provide the report to the requestor in accordance with certain delivery requirements. The bill specifies the claim information to be contained in the report and the disclosure limitations for such information, and allows a plan sponsor to receive certain protected health information in such a report only after an authorized representative of the sponsor certifies that the use and disclosure of the documents will be limited according to certain criteria. After reviewing the report, the requestor may ask the issuer for additional information on the prognosis or recovery or the case management information on specified individuals, which the issuer must provide, with certain exceptions. An issuer that complies with these provisions is not liable for civil damages for, or subject to criminal prosecution for, releasing the information; an issuer that does not comply with these provisions is subject to administrative penalties. These changes apply to a report of claim information that is requested on or after January 1, 2008.

**House Bill 2252**  
**Effective:** 5-17-07

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

House Bill 2252 amends the Insurance Code to authorize health insurance plans to advertise programs promoting health and wellness to prospective policy or certificate holders and to establish premium discounts, rebates, or reductions in copayments for participation in programs promoting disease prevention, wellness, and health.

**House Bill 2467**  
**Effective:** 9-1-07

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

House Bill 2467 amends the Insurance Code to allow the issuer of a small or large employer health benefit plan to change the plan if the modification occurs when coverage is renewed and takes effect uniformly among all employers covered by the plan, and the issuer notifies the commissioner of insurance and each affected covered employer of the modification no later than 60 days before the modification becomes effective.

**House Bill 2548**  
**Effective:** 6-15-07

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

House Bill 2548 amends the Insurance Code to provide that a preexisting condition provision in an individual accident and health insurance policy may not be applied to any individual

who was previously covered for an 18-month period. The bill extends Texas Health Risk Pool coverage in certain circumstances and extends coverage under Title XX, Consolidated Omnibus Budget Reconciliation Act of 1985 as amended (COBRA) under specified conditions.

**House Bill 2549**

**Effective:** 9-1-07

**House Author:** Smith, Todd

**Senate Sponsor:** Averitt

House Bill 2549 amends provisions of the Insurance Code that allow the extension of coverage under a group life insurance policy to certain natural or adopted children of each eligible insured under the policy. The bill authorizes the extension of such coverage to a child who is younger than 25 and unmarried, rather than 21 and enrolled as a full-time student. The bill also extends coverage to a natural or adopted grandchild who is unmarried, younger than 25 years of age, and a dependent of the insured for federal income tax purposes when the application for coverage of the child is made.

**House Bill 2718**

**Effective:** 6-15-07

**House Author:** Paxton et al.

**Senate Sponsor:** Ellis

House Bill 2718 amends the Insurance Code to provide that only the final retrospectively determined premium amount remitted by an issuer of a group life insurance company to a group policyholder is taxable as gross premiums, without regard to whether membership contributions, fees, assessments, dues, revenue, or other considerations in excess of that final amount are also collected from members. The bill further establishes that this provision applies only to a nonprofit membership association that meets certain requirements.

**House Bill 2761**

**Effective:** 9-1-07

**House Author:** Eiland

**Senate Sponsor:** Averitt

House Bill 2761 amends the Insurance Code to establish standards and procedures regarding recommendations made to consumers by insurance agents that result in transactions involving annuity products to ensure that the insurance needs and financial objectives of the consumer are appropriately addressed. The bill sets out the duties of an insurer and its agents, requires compliance with certain national standards, and authorizes the commissioner of insurance to order corrective actions or impose sanctions for violations of the provisions.

**House Bill 2762**

**Effective:** 9-1-07

**House Author:** Eiland

**Senate Sponsor:** Averitt

House Bill 2762 amends the Insurance Code to establish requirements for replacing existing life insurance policies or annuity contracts on the request of the policy or contract owner. The bill sets out the duties of the insurer and its agent in completing such a transaction, including the disclosure of certain information through forms approved by the commissioner of insurance, and provides sanctions and penalties for a violation of these provisions.

**House Bill 2765**

**Effective:** 9-1-07

**House Author:** Eiland

**Senate Sponsor:** Averitt

House Bill 2765 amends the Insurance Code to allow certain variable annuity contracts or variable life insurance policies that qualify as a private placement contract to provide that the insurer issuing the contract may defer payments or advances for loans, cash surrender values, or death benefits to the claimant or beneficiary until all or any portion of the separate account assets can be converted to cash under the applicable terms, excluding the computation of the interest on the contract's proceeds. The bill provides that a settlement of the portion of the

contract attributable to such assets is subject to the assets' liquidity and must be settled by the insurer when the assets are converted to cash, and maintains that the settlement period may be longer than the standard two-month period required for settling a life insurance claim.

**Senate Bill 382**

**Effective:** 9-1-07

**Senate Author:** Carona

**House Sponsor:** Taylor

Under previous law, an individual policy or group certificate for credit life or credit accident and health insurance was required to provide for the prompt refund of any amount paid by or charged to the debtor for insurance if the underlying debt or the insurance terminated before the maturity date of the insurance. Senate Bill 382 amends the Insurance Code to require that such a policy or certificate issued or renewed on or after January 1, 2008, include a written notice stating that, if the debt terminates before the originally scheduled termination date of the insurance, the debtor is entitled to a refund of any unearned premium within 30 days after the insurer receives notice of the debt termination from the holder of the underlying debt instrument. The bill requires the holder to provide such notice within 60 days after the termination and requires the notice to include the name and address of the insured and the payoff date of the debt. The bill stipulates that if an insured asserts a claim or action against an insurer for failing to provide the refund in accordance with these provisions, the insurer is entitled to indemnity from a holder who failed to provide the required notice.

**Senate Bill 561**

**Effective:** 6-15-07

**Senate Author:** Carona

**House Sponsor:** Smithee

Senate Bill 561 amends the Local Government Code to provide that, in a third party recovery action, a payor of employee benefits is entitled to 15 percent to 30 percent of the covered individual's total recovery or the total cost of employee benefits paid by the payor as a direct result of the tortious conduct of the third party, but not greater than the amount recovered by the individual. A covered individual is allowed to bring an action for declaratory judgment to challenge the amount of pro rata recovery due to the payor of benefits. The bill includes an exception to its provisions.

**Senate Bill 1254**

**Effective:** 1-1-08

**Senate Author:** Averitt

**House Sponsor:** Taylor

Senate Bill 1254 amends provisions of the Insurance Code relating to the Texas Health Insurance Risk Pool to require that a pool administrator's term of service be specified in a contract between the pool and the administrator and to allow the term, previously limited to three years, to be extended to up to six years. The bill also revises the method of calculating the interest rate for a delinquent assessment from a health benefit plan issuer and incorporates changes to conform the pool's eligibility requirements with other state and federal laws.

**Senate Bill 1255**

**Effective:** 9-1-07

**Senate Author:** Averitt

**House Sponsor:** Taylor

Senate Bill 1255 amends the Insurance Code to permit the membership of a health group cooperative to include both small and large employers within a single industry grouping as defined by the most recent edition of the United States Census Bureau's North American Industry Classification System. The bill allows, rather than requires, certain cooperatives composed only of small employers to be treated in the same manner as a large employer under provisions of the Health Insurance Portability and Availability Act and extends that authorization to a cooperative composed of both small and large employers.

**Senate Bill 1391**

**Effective:** 9-1-07

**Senate Author:** Uresti

**House Sponsor:** Smith, Todd

Senate Bill 1391 amends the Insurance Code to prohibit issuers of certain health benefit plans from issuing or offering for sale in Texas a plan that requires an enrollee to travel to a foreign country to receive a particular health care service under the plan.

**Senate Bill 1884**

**Effective:** 9-1-07

**Senate Author:** Williams

**House Sponsor:** Thompson

Senate Bill 1884 amends the Insurance Code to change the calculation of an underpaid claim paid by a health maintenance organization (HMO) to a physician or provider or by an insurer to a preferred provider benefit plan from the billed charges submitted on the claim to that amount minus the contracted rate. For the HMO or insurer to avoid liability for an underpayment penalty, the physician or provider must notify the HMO or the plan must notify the insurer of such a claim within 270 days, rather than 180 days, after the underpayment was received, and the HMO or insurer must correct the underpaid claim within 30 days, rather than 45 days, after receiving the notification.

## Property and Casualty

**House Bill 2118**

**Effective:** 9-1-07

**House Author:** Pickett

**Senate Sponsor:** Van de Putte

House Bill 2118 amends the Insurance Code to establish licensing and training requirements for residential fire alarm technicians to install, service, inspect, and certify fire alarm or detection systems in one-family or two-family dwellings and requires a license to perform such work as of June 1, 2008. The bill amends the Health and Safety Code to require that each one-family or two-family dwelling be equipped with a working smoke detector in accordance with the requirements of the building code in effect in the political subdivision where the dwelling is located and also requires that smoke detectors be installed in fraternity and sorority houses. The bill authorizes the purchaser of a one-family or two-family dwelling to require the seller to install smoke detectors for hearing-impaired persons under certain circumstances and requires the Texas Department of Insurance to prepare and distribute information of public interest relating to fire safety and the dangers of carbon monoxide. In addition, the bill amends the Property Code to modify the disclosure notice the seller of real property must provide to the buyer to add smoke detectors and other safety features to the checklist of items that may be included with the property and allows the buyer to waive the right to have smoke detectors installed.

**House Bill 2551**

**Effective:** 6-16-07

**House Author:** Smith, Todd

**Senate Sponsor:** Harris

House Bill 2551 amends the Insurance Code to clarify provisions concerning refunds of excessive or unfairly discriminatory residential property insurance premiums and the assessment of interest on the refund amount.

**House Bill 2708**

**Effective:** 5-25-07

**House Author:** Hancock

**Senate Sponsor:** Carona

House Bill 2708 amends the Insurance Code to define a "promotional event prize program" as a written contract for commercial marketing or promotional purposes with certain risk and liability requirements and to provide that such a program does not constitute the business of insurance in this state and may not be marketed or described as insurance. The bill also

provides that a person's claim for performance under such a contract is not a covered claim under the state's property and casualty insurance laws and that such a program is not covered by the Texas Property and Casualty Insurance Guaranty Association or any other state guaranty association.

**House Bill 3271**  
**Effective:** 9-1-07

**House Author:** Eiland  
**Senate Sponsor:** Janek

House Bill 3271 amends the Insurance Code to require the commissioner of insurance, in fixing premium rates for title insurance, to consider certain information included in a statistical report submitted by a title insurance company or agent as required by the Texas Department of Insurance (TDI). The bill requires a company or agent to submit such a report annually to TDI and provides for the filing of a suit on certain grounds by such a company or agent aggrieved by a TDI requirement for submitting information. The bill also amends provisions relating to the admission of another party to the ratemaking phase of the commissioner's biennial public hearing. These changes apply to the premium rate applicable to a title insurance policy that is delivered, issued, or renewed on or after January 1, 2009.

**House Bill 3315**  
**Effective:** 6-15-07

**House Author:** Keffer, Jim  
**Senate Sponsor:** Duncan

House Bill 3315 amends provisions of the Insurance Code relating to taxation of insurance premiums. The bill specifies that home warranty insurance is subject to insurance premium taxes and that all title insurance premiums are subject to an annual tax and maintenance fee. The bill authorizes the comptroller to:

- establish, by rule, that all surplus lines insurance premiums, unauthorized insurance premiums, and independently procured insurance premiums are considered to be on risks located in this state if the insured's home office or state of domicile or residence is in Texas, or to accommodate changes in federal law that would otherwise limit the comptroller's ability to directly collect taxes on such premiums
- adopt rules regarding the pre-payment of premium taxes on surplus lines
- enter into a cooperative agreement, reciprocal agreement, or compact with another state for the collection of insurance premiums on surplus lines and unauthorized or independently procured insurance
- enter into a reciprocity agreement with another state to set aside retaliatory provisions in situations in which a state determines that retaliation is not the preferred means of protecting the state's domestic insurers

House Bill 3315 increases the aggregate amount assessed against certain property and casualty insurers to fund the volunteer fire department assistance fund from \$15 million for each 12-month period to \$30 million for each period and repeals a provision that provided for the expiration of the chapter relating to the assessment for rural fire protection.

**House Bill 3358**  
**Effective:** 9-1-07

**House Author:** Smithee  
**Senate Sponsor:** Ellis

House Bill 3358 amends the Insurance Code to require an insurer that has filed a petition for judicial review of an order from the commissioner of insurance disapproving a property and casualty insurance rate filed by the insurer with the Texas Department of Insurance (TDI) to use the rate in effect for that insurer when the petition is filed. The bill prohibits the insurer from filing and using a higher rate for the same line of insurance before the matter under review is resolved unless the insurer has filed the new rate with TDI, along with other applicable

information, and the commissioner has approved the rate. The bill requires the commissioner, if the commissioner requires an insurer to file its rates, to issue an order specifying the reasons for that requirement and entitles the affected insurer to a hearing on written request to the commissioner within 30 days after the order is issued.

**Senate Bill 502**

**Effective:** 9-1-07

**Senate Author:** Averitt

**House Sponsor:** Smithee

Senate Bill 502 amends the Transportation Code to increase the minimum amounts of motor vehicle liability insurance coverage a vehicle owner must carry to establish financial responsibility. The minimum liability amount for the bodily injury to or death of one person increases from \$20,000 to \$25,000 as of April 1, 2008, and to \$30,000 as of January 1, 2011. For the bodily injury to or death of two or more persons in one accident, the minimum amount increases from \$40,000 to \$50,000 as of April 1, 2008, and to \$60,000 as of January 1, 2011. For damage to or destruction of property of others in one accident, the minimum amount increases from \$15,000 to \$25,000 as of April 1, 2008, with no additional increase in 2011.

In addition, Senate Bill 502 requires the Texas Department of Insurance to establish an outreach program to inform individuals of the requirements of the Texas Motor Vehicle Safety Responsibility Act, including the financial responsibility requirements through motor vehicle liability insurance coverage. The bill requires the commissioner of insurance to establish by rule the requirements for the program, which must be designed to encourage compliance with the financial responsibility requirements and be made available in English and Spanish.

**Senate Bill 611**

**Effective:** 5-21-07

**Senate Author:** Lucio

**House Sponsor:** Martinez, "Mando"

Senate Bill 611 amends the Insurance Code to require the Texas Department of Insurance and Office of Public Insurance Counsel to establish and maintain a website that provides specified information to enable consumers to make informed decisions relating to the purchase of residential property and personal automobile insurance. The bill also includes new requirements relating to quarterly reports that insurers are required to make.

**Senate Bill 849**

**Effective:** 5-8-07

**Senate Author:** Hegar

**House Sponsor:** Kolkhorst

Senate Bill 849 amends the Insurance Code to require farm mutual insurance companies to include in annual reports to policyholders and the Texas Department of Insurance information on the total amount of claims paid and the amount paid for each covered peril, rather than the premium rate paid, the name of each claimant, and the amount paid for each loss suffered.

**Senate Bill 978**

**Effective:** 9-1-07

**Senate Author:** Watson

**House Sponsor:** Eiland

Senate Bill 978 amends the Insurance Code to allow an insurer to assess a premium surcharge when an insurance policy is renewed if the insured has filed two or more claims, rather than one, in the preceding three policy years. The change applies to a policy that is delivered, issued, or renewed on or after January 1, 2008.

**Senate Bill 1153**

**Effective:** 9-1-07

**Senate Author:** Carona

**House Sponsor:** Deshotel

Senate Bill 1153 amends the Insurance Code to require the commissioner of insurance to fix and promulgate the premium rates to be charged by a title insurance company or agent for personal property title insurance policies and to prescribe the forms to be used in connection



with such policies. The bill requires the commissioner to consider specific factors in fixing such rates and requires the rates to meet certain criteria. Before the rates are fixed and forms are adopted, the bill requires the Texas Department of Insurance (TDI) to provide for a public hearing. The bill sets out procedures for a company to apply to TDI for approval of a new or revised policy form or a change in a rate associated with such a form, describes the powers and duties of an insurer and agent in issuing such a policy, and establishes requirements for an agent's compensation. These changes apply to a policy or contract delivered, issued, or renewed on or after January 1, 2008.

**Senate Bill 1263**

**Effective:** 9-1-07

**Senate Author:** Brimer et al.

**House Sponsor:** Eiland

Senate Bill 1263 amends the Insurance Code to establish licensing requirements for a personal lines property and casualty agent, who may write only property and casualty insurance for individuals and families primarily for personal or household use, with certain exceptions, and for a life agent, who may write only life insurance policies. The bill authorizes the Texas Department of Insurance to collect license application fees for these two types of licenses.

**Senate Bill 1436**

**Effective:** See below

**Senate Author:** West, Royce et al.

**House Sponsor:** Creighton

Senate Bill 1436 amends the Water Code to transfer state administration of the national flood insurance program from the Texas Commission on Environmental Quality (TCEQ) to the Texas Water Development Board (TWDB) and add to the authority of the administering agency. It expands the actions that the TWDB may take to provide aid to political subdivisions, the Texas Department of Insurance, and the Federal Emergency Management Agency (FEMA) to include making floodplain maps and floodplain information accessible to the public; maintaining staff in TWDB field offices to encourage participation in the program through education, outreach, and coordination programs; coordinating the use of federal, state, and local grant money; and encouraging FEMA to evaluate flood-prone areas by river basin and river systems. The bill creates a floodplain management account, to be administered by the TWDB, to fund the performance of the TWDB's new functions. An amendment to the Insurance Code requires the comptroller to reallocate to the account, each state fiscal year, the first \$3.05 million of insurance maintenance tax revenue from fire and allied lines sources.

The bill modifies provisions relating to political subdivisions' eligibility for and participation in the federal program to authorize them to impose penalties on landowners who violate flood insurance statutes, rules, or orders. Political subdivisions may take actions not less stringent than the requirements and criteria of the federal program, whereas under previous law they were limited to actions necessary to comply with the federal requirements and criteria.

Senate Bill 1436 amends the Education Code to authorize the board of regents of The Texas A&M University System to create and operate a spatial reference center at Texas A&M University—Corpus Christi to assume various functions relating to achieving accurate land elevation data throughout Texas.

A contingency in the bill provides that it takes effect only if the legislature appropriates at least \$6.1 million to the TWDB for the FY2008-FY2009 biennium specifically for administering the national flood insurance program. Alternative provisions are included in the bill in order to modify political subdivision powers in the manner described above, if the appropriation does not materialize. That appropriation having been made, the bill takes effect September 1, 2007, except for the alternative provisions, which are void.

## Insurance

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

House Bill 2392 - Business and Commerce

Senate Bill 1731 - Health and Safety

# Labor and Employment

This chapter covers legislation on issues relating to labor and employment, including wages, unemployment benefits, workers' compensation, workforce development, and the functions and duties of the Texas Workforce Commission. Bills on job creation are in the **Economic Development** chapter, and bills on public employees are in the **Public Officials and Employees** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 48

**Effective:** Vetoed

**House Author:** Chavez et al.

**Senate Sponsor:** Zaffirini

House Bill 48 amends the Labor Code to delete provisions requiring certain distributions from the employment and training investment holding fund to the Texas enterprise fund and the skills development fund during any state fiscal biennium beginning on or after September 1, 2007, and to delete the provision requiring certain other distributions from the employment and training investment holding fund to the Texas enterprise fund and the skills development fund only in the state fiscal biennium ending August 31, 2007.

Reason Given for Veto: "House Bill No. 48 would change the distribution of funds from the Employment and Training Investment Assessment Holding Fund and would reduce funding for the Texas Enterprise Fund (TEF) by \$12.8 million for the biennium.

"TEF has proven to be one of the state's most successful tools in job expansion and economic development by bringing more than 45,000 jobs and \$15 billion in capital investment to Texas. House Bill No. 48 would needlessly reduce funding for this valuable program."

### House Bill 550

**Effective:** 6-15-07

**House Author:** Dukes et al.

**Senate Sponsor:** Zaffirini

Previous law specified that unemployment benefits paid to an employee or former employee could not be charged back to the employer's unemployment tax account and an employee could not be denied unemployment benefits if the employee resigned because of family violence or stalking and provided three forms of documentation of such activity, one of which was a physician's statement or other medical record of family violence. House Bill 550 amends the Labor Code to prohibit the chargeback or denial of benefits if the employee presents any one of the forms of documentation and requires that the physician's statement or medical record identify the employee as the patient and relate to the patient's history, diagnosis, treatment, or prognosis. The bill also prohibits a chargeback or denial of benefits if the employee left the workplace to care for the employee's terminally ill spouse as evidenced by a physician's statement or other medical documentation, but only if no reasonable alternative care was available. In addition, the bill provides that evidence regarding an employee who resigned because of family violence or stalking, rather than a part-time employee who resigned to accept higher-paying employment, may not be disclosed to any person without the employee's consent.

### House Bill 581

**Effective:** 6-15-07

**House Author:** Deshotel

**Senate Sponsor:** Van de Putte

House Bill 581 amends the Labor Code to exempt employment of a child 16 years or older engaged in the direct sale of newspapers to the general public from the law governing employment of children.

**House Bill 2625**

**Effective:** 9-1-07

**House Author:** Murphy

**Senate Sponsor:** Hegar

House Bill 2625 amends provisions of the Government Code relating to the determination of prevailing wage rates in Texas counties for purposes of awarding a contract for a public work. The bill deletes a provision that required a survey used to determine the prevailing wage rate set forth by the United States Department of Labor in accordance with the Davis-Bacon Act to be conducted within a three-year period preceding the date a public body calls for bids as a condition of using that rate for a public works contract.

**House Bill 4065**

**Effective:** Vetoed

**House Author:** Otto et al.

**Senate Sponsor:** Watson

House Bill 4065 amends the Labor Code to authorize the Texas Workforce Commission to establish a pilot program under which the commission contracts with the Texas Association of Goodwills for the commission to administer grants to reimburse certain qualified workforce community training centers identified by the association for costs associated with the construction of new facilities that provide job training or employment services. The bill sets out the parameters of grant funding and prohibits the total amount of grants awarded under the pilot program from exceeding \$3 million. It requires the commission to report to the legislature not later than January 1, 2009, regarding the program's effectiveness in creating and fostering economic development and the commission's recommendation regarding the continuation of the program. The bill's provisions expire September 1, 2009.

Reason Given for Veto: "House Bill No. 4065 would provide the Texas Association of Goodwills up to \$3 million in reimbursement for completed construction of new job training facilities; however the state budget gives an inconsistent \$1 million to this project.

"This type of project is added special-interest funding that will benefit only Texas Association of Goodwills, which has no true state oversight, nor is it accountable to Texas taxpayers. I support workforce training and the funds that were added to the budget for that purpose; however, the state should not be in the business of constructing facilities for non-state entities. It is also important to note that the state currently has 28 local workforce boards located throughout the state that have facilities that provide job training."

**Senate Bill 679**

**Effective:** 5-4-07

**Senate Author:** Williams

**House Sponsor:** Woolley

Senate Bill 679 amends the Labor Code to provide that if the amount in the unemployment compensation fund on a tax rate computation day is more than the ceiling of the compensation fund, the Texas Workforce Commission may use all or part of that surplus to pay outstanding bond obligations or to provide a surplus credit or a surplus credit rate to an employer entitled to an experience rate on the computation date. The bill specifies that if there are outstanding bond obligations and bond administrative expenses for which employers are assessed an obligation tax, the commission may transfer all or part of the surplus to the obligation trust fund for payment of those obligations. The amount transferred may not exceed the amount of bond proceeds transferred to the compensation fund to pay unemployment benefits. The bill authorizes the commission to use any remaining portion of the surplus to compute a surplus credit based on the surplus ratio and an employer's contributions to the compensation fund or to compute an annual surplus credit rate based on the surplus ratio and an employer's general and replenishment tax rates. The bill modifies computation of the surplus ratio and authorizes the commission to adjust the tax rate for experience-rated employers at its own discretion.

## Workers' Compensation

### House Bill 34

**Effective:** 9-1-07

**House Author:** Solomons et al.

**Senate Sponsor:** Brimer

House Bill 34 amends the Labor Code to provide that a workers' compensation insurance adjuster, case manager, or other person who has the authority to request the performance of a service affecting the delivery of benefits to an injured employee or who performs such a service commits a Class A administrative violation if the person offers to pay, pays, solicits, or receives an improper inducement relating to the delivery of workers' compensation benefits to an injured employee or improperly attempts to influence the delivery of such benefits, including through the making of improper threats.

### House Bill 473

**Effective:** See below

**House Author:** Solomons

**Senate Sponsor:** Van de Putte

House Bill 473 amends the Labor Code to authorize an insurance carrier to use an informal or voluntary network to obtain a contractual agreement that provides for fees different from those authorized under the fee guidelines of the workers' compensation division of the Texas Department of Insurance, subject to certain requirements. Effective September 1, 2007, such a network must provide certain contact information to the division and report any changes to that information within 30 days after the change takes effect; not later than January 1, 2011, the network must be certified as a workers' compensation health care network. The bill also allows the continuation of such a contractual agreement by an insurance carrier, an authorized agent of the carrier, or a workers' compensation network. In addition, House Bill 473 requires that the benefit review officer presiding at a benefit review conference, rather than other division staff designated by the workers' compensation commissioner, consider a request for an interlocutory order and give the opposing party the opportunity to respond before issuing such an order. The bill's provisions take effect September 1, 2007, except that the provision authorizing a continuation of a contractual agreement takes effect January 1, 2011.

### House Bill 724

**Effective:** 9-1-07

**House Author:** Solomons

**Senate Sponsor:** Jackson, Mike

Legislation enacted during the 79th Legislature, Regular Session, 2005, that made comprehensive changes to the state's workers' compensation laws eliminated provisions allowing a party to a medical fee dispute to appeal the decision of the agency overseeing the workers' compensation industry to the State Office of Administrative Hearings (SOAH). In 2006, a state district court ruled the omission of that option unconstitutional. House Bill 724 amends the Labor Code to reestablish an appeal process for such disputes. The bill allows a party to a dispute other than certain disputes relating to spinal surgery to request that an administrative hearing be conducted by SOAH if an unpaid, disputed portion of a fee is more than \$2,000 or if a service deemed necessary by an independent review organization is more than \$3,000; other disputes may be appealed to a contested case hearing conducted by the Division of Workers' Compensation (DWC) at the Texas Department of Insurance. The bill requires a hearing for a dispute appealed to SOAH to be conducted within 60 days after the request is made and allows a party to appeal a SOAH or DWC decision directly to judicial review.

In addition, House Bill 724 allows a surviving parent, under certain conditions, to be eligible for death benefits in a workers' compensation case for a benefit period not to exceed two years. The bill establishes procedures for a health care insurer to be reimbursed for workers' compensation health care services and allows reimbursement to an accident or health insurance carrier of costs it paid for services in connection with a workers' compensation injury.

**House Bill 886**

**Effective:** 5-17-07

**House Author:** Giddings

**Senate Sponsor:** Watson

House Bill 886 amends the Labor Code to require the commissioner of workers' compensation to establish an optional preauthorization plan for eligible employers who participate in the return-to-work pilot program for small employers, which is coordinated by the workers' compensation division of the Texas Department of Insurance. To participate in the preauthorization plan, an employer must submit a proposal to the division that describes the workplace modifications the employer would make to accommodate an injured employee's return to work. The bill requires the division to guarantee that an approved employer would be reimbursed from the workers' compensation return-to-work account for the expenses incurred in implementing the modifications, up to the account's \$2,500 reimbursement limit, unless the division determines that the modifications differ materially from the employer's proposal.

**House Bill 888**

**Effective:** 6-15-07

**House Author:** Giddings et al.

**Senate Sponsor:** Watson

House Bill 888 amends the Labor Code to require a health care provider, on the written request of an ombudsman for the office of injured employee counsel who is assisting a specific injured employee with a workers' compensation claim, to provide copies of the employee's medical records to the ombudsman at no cost to the ombudsman or the office. The bill requires the workers' compensation insurance carrier to reimburse the provider for the cost of the copies, prohibits the carrier from deducting that cost from any benefit to which the employee is entitled, and provides that the cost be the amount prescribed by commissioner of workers' compensation rules for copying medical records. The bill prohibits the provider from requiring payment for the copies before furnishing them to the ombudsman and authorizes the injured employee public counsel to adopt rules regarding a time frame for providing the copies and for any other related matter. The bill specifies that a failure of a provider or carrier to comply with these requirements or rules is an administrative violation and requires the commissioner to enforce such a violation.

**House Bill 1003**

**Effective:** 9-1-07

**House Author:** Giddings

**Senate Sponsor:** Watson

House Bill 1003 amends the Labor Code and the Insurance Code to provide that an independent review organization using doctors to review health care services relating to workers' compensation claims may use only doctors licensed to practice in this state.

**House Bill 1005**

**Effective:** 9-1-07

**House Author:** Giddings

**Senate Sponsor:** Van de Putte

Under previous law, a workers' compensation health care provider forfeited its claim for reimbursement for health care services provided to an injured employee if the payment claim was filed later than the 95th day following the date on which the health care services were provided. House Bill 1005 amends the Labor Code to provide for reimbursement if the claim is filed in a timely manner but is erroneously filed with the wrong insurer or if the commissioner of workers' compensation determines that the failure to submit a timely claim was due to a catastrophic event that substantially interfered with the provider's normal business operations. The bill also allows for an extension of the deadline for submission upon agreement of the parties.

**House Bill 1006**  
**Effective:** 9-1-07**House Author:** Giddings  
**Senate Sponsor:** Watson

Previous law allowed a utilization review agent using doctors to review health care services relating to workers' compensation claims to use doctors licensed by another state if the reviews were performed under the direction of a doctor licensed to practice in Texas. House Bill 1006 amends the Labor Code and the Insurance Code to limit the performance of such reviews to doctors licensed to practice in this state, to specify that the reviews include utilization and retrospective reviews, and to extend these requirements to an insurance carrier. The bill also amends the Insurance Code to provide that the limit on the amount a health care provider can charge for providing medical information to a utilization review agency is the cost of copying records relating to a workers' compensation claim.

**House Bill 2004**  
**Effective:** 9-1-07**House Author:** Giddings  
**Senate Sponsor:** Lucio

House Bill 2004 amends the Labor Code to require certain health care professionals who review a workers' compensation case to hold a professional certification in a health care specialty appropriate to the type of health care that the injured employee is receiving. The bill includes similar provisions applicable to dentists and chiropractors who review services provided in a workers' compensation case, requiring them to be licensed to engage in their respective practices as a condition for performing a peer review, utilization review, or independent review of a case. The bill allows the commissioner of the Department of Insurance to adopt necessary rules to determine which professional health specialties are appropriate for treatment of certain compensable injuries.

**House Bill 2120**  
**Effective:** 6-15-07**House Author:** Deshotel  
**Senate Sponsor:** Williams

House Bill 2120 amends the Labor Code to provide that, for purposes of computing an individual's unemployment compensation benefits for total unemployment and crediting an individual's wages received during the base period of employment, wages received include wages ordered to be paid to the individual by a final order of the Texas Workforce Commission under the law governing payment of wages. The bill requires the commission to adopt and enforce rules governing the custody, use, preservation, and disclosure of unemployment compensation information and makes it a Class A misdemeanor for a violation of the rules. The bill also makes an offense relating to employee records of an employing unit a Class A misdemeanor rather than an offense punishable by a certain fine, jail term, or both.

**House Bill 2667**  
**Effective:** 9-1-07**House Author:** Latham  
**Senate Sponsor:** Deuell

House Bill 2667 amends the Government Code to permit the director of the Texas Forest Service to adopt rules necessary to assist rural volunteer fire departments in the payment of audit costs for workers' compensation claims in a year in which there is an abnormally high number of wildfires. The bill requires that each member of a volunteer police force be insured or covered by the applicable state agency or political subdivision against any injury suffered in the course and scope of performing the person's assigned duties and specifies how the state agency or political subdivision may satisfy this insurance requirement.

House Bill 2667 also amends the Health and Safety Code to provide that the law requiring the board of emergency services commissioners to submit to competitive bids does not apply to the purchase of insurance coverage or repairs related to insurance claims.

**House Bill 3074**

**Effective:** 6-15-07

**House Author:** Creighton

**Senate Sponsor:** Uresti

House Bill 3074 amends the Government Code to delete a provision from the requirements of the Texas Workforce Commission's rules establishing contracting guidelines for local workforce development boards to allow an entity that contracts with a board for service delivery to advertise the entity's name when providing workforce services for the board.

**Senate Bill 192**

**Effective:** 5-4-07

**Senate Author:** Brimer

**House Sponsor:** Swinford

Previous law established that the Texas Mutual Insurance Company is not a state agency and made it subject to the open meetings law, with certain exceptions, and subject to the open records law. Senate Bill 192 amends the Insurance Code to establish that the company also is not an executive agency or governmental entity for any purpose and is not subject to the open meetings or open records laws.

**Senate Bill 458**

**Effective:** 9-1-07

**Senate Author:** Watson et al.

**House Sponsor:** Giddings

Senate Bill 458 amends the Labor Code to define "orthotic device" and "prosthetic device" and to include the provision and fitting of, change or repair to, and training in the use of such devices within the meaning of "health care" as the term relates to workers' compensation benefits. The bill also amends the Insurance Code to add a reference to the Labor Code definitions of those devices in a corresponding definitions provision relating to workers' compensation health care networks.

**Senate Bill 471**

**Effective:** 9-1-07

**Senate Author:** Brimer

**House Sponsor:** Eiland

Senate Bill 471 amends the Insurance Code to require the commissioner of workers' compensation to establish by rule the information that must be reported on workers' compensation claims and the reporting requirements for insurance companies relating to those claims, and removes provisions specifying such information and requirements. The bill authorizes the commissioner to reduce or eliminate reporting requirements for insurance companies whose workers' compensation insurance business falls below a specific minimum premium volume established by the commissioner.

**Senate Bill 1169**

**Effective:** 9-1-07

**Senate Author:** Janek

**House Sponsor:** Elkins

Senate Bill 1169 amends the Labor Code to require reimbursement from the subsequent injury fund to an insurance carrier for any overpayment of workers' compensation benefits made by the insurance carrier based on an opinion by a designated doctor if that opinion is reversed or modified by a final arbitration award or a final order or decision of the commissioner of workers' compensation or a court. The bill requires the commissioner to adopt rules to provide for a periodic reimbursement schedule. The bill specifies that an insurance carrier is entitled to reimbursement from the subsequent injury fund for the amount of death benefits as well as income benefits paid to a worker with multiple employment that are based on employment other than that during which the compensable injury occurred. The bill requires the benefit review officer who presides at the review conference to consider a written or verbal request for an interlocutory order for the payment of benefits, and if an interlocutory order is determined appropriate, to issue the order not later than the third day after the receipt of the request.



**Senate Bill 1627**

**Effective:** 6-15-07

**Senate Author:** Carona

**House Sponsor:** Martinez, "Mando"

Senate Bill 1627 amends the Labor Code to provide that a person who commits an offense related to workers' compensation insurance fraud may be prosecuted under the workers' compensation laws that impose a criminal penalty for such an offense or under any other applicable state law.

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

House Bill 472 - Insurance

House Bill 1205 - Emergency Response

House Bill 1602 - Civil Remedies and Procedures

Senate Bill 1619 - Open Government and Privacy



## Law Enforcement

This chapter covers legislation relating to the qualifications, training, and duties of peace officers, the rights of retired peace officers, law enforcement agencies, the Texas Department of Public Safety, and concealed handguns and firearms possession. Bills relating to peace officer compensation and employment issues are in the **Public Officials and Employees** chapter, and bills relating to peace officer retirement systems are in the **Public Retirement Systems** chapter. Bills on criminal offenses, penalties, and procedures, and crime victims are in the **Criminal Justice** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 195**

**Effective:** 9-1-07

**House Author:** Gonzalez Toureilles

**Senate Sponsor:** Hegar

Current law authorizes a law enforcement agency to transfer certain forfeited or abandoned property to another municipal or county law enforcement agency for that agency's use. House Bill 195 amends the Code of Criminal Procedure and Transportation Code to also permit loans of forfeited property and to provide that transfers or loans also may be made to school districts. The bill requires the entity to whom a motor vehicle is loaned to maintain any required automobile insurance coverage for the vehicle and provides that the governing body of the political subdivision in which the agency making a loan has jurisdiction may revoke the loan at any time. An agency that loans property is required to keep a record of certain information relating to the loan.

#### **House Bill 486**

**Effective:** 6-15-07

**House Author:** Driver

**Senate Sponsor:** Hegar

Currently, continuing education training periods for police chiefs vary depending on when a chief completed the initial training after election or appointment to the position. House Bill 486 amends the Education Code to require the Commission on Law Enforcement Officer Standards and Education to establish a uniform 24-month continuing education training period for police chiefs and sets out the means for determining the beginning of the first such period for each individual.

#### **House Bill 487**

**Effective:** 6-15-07

**House Author:** Driver

**Senate Sponsor:** Hegar

Currently, continuing education training periods for constables vary depending on when a constable completed the initial training after election or appointment to the position. House Bill 487 amends the Occupations Code to require the Commission on Law Enforcement Officer Standards and Education to establish a uniform 48-month continuing education training period for constables and sets out the means for determining the beginning of the first such period for each individual.

**House Bill 488**

**Effective:** 9-1-07

**House Author:** Driver

**Senate Sponsor:** Hegar

House Bill 488 amends the Occupations Code to authorize the Commission on Law Enforcement Officer Standards and Education to revoke the license of a peace officer or reserve law enforcement officer elected under the Texas Constitution if the officer is convicted of a felony or a criminal offense directly involving the person's duties as an officer.

**House Bill 741**

**Effective:** 5-25-07

**House Author:** King, Tracy et al.

**Senate Sponsor:** Zaffirini

House Bill 741 amends the Education Code to provide an exemption from tuition and fees at public colleges and universities for the offspring of volunteer municipal, county, or state peace officers who have been disabled or killed in the line of duty. The bill extends a tuition and fee exemption previously afforded only to the offspring of full-paid or volunteer firefighters and full-paid municipal, county, or state peace officers disabled or killed in the line of duty.

**House Bill 1164**

**Effective:** 5-17-07

**House Author:** Gallego

**Senate Sponsor:** Watson

House Bill 1164 amends the Government Code to expand the list of persons eligible to receive the Peace Officers' Star of Texas Award to include a federal law enforcement officer or special agent who is seriously injured while performing duties in this state to assist a state or local law enforcement agency and the surviving next of kin of a federal law enforcement officer or special agent who is killed or sustains a fatal injury while performing such duties.

**House Bill 1955**

**Effective:** 6-15-07

**House Author:** Elkins

**Senate Sponsor:** Hegar

House Bill 1955 amends the Occupations Code to establish that a retired peace officer continues to hold, as inactive, the license held at retirement from service. The bill requires the Texas Commission on Law Enforcement Officer Standards and Education to adopt rules and procedures allowing for the reactivation of a retired peace officer's license after a break in employment and authorizes the commission to waive the reactivation fee.

**House Bill 2283**

**Effective:** 6-15-07

**House Author:** Chavez

**Senate Sponsor:** Watson

House Bill 2283 amends the Local Government Code to give a sheriff the discretion to revoke or not revoke the appointment of a deputy on a felony indictment of the deputy. The bill further provides that a deputy who is included in the coverage of a civil service system may be suspended or removed only for a violation of a civil service rule.

**House Bill 2445**

**Effective:** 9-1-07

**House Author:** Driver et al.

**Senate Sponsor:** Williams et al.

House Bill 2445 amends the Occupations Code to require the Commission on Law Enforcement Officer Standards and Education to suspend the license of a law enforcement officer on notification that the officer has been dishonorably discharged, if the officer has previously been dishonorably discharged from another law enforcement agency. The bill sets out appeal procedures and authorizes the commission to revoke or reinstate the license under certain circumstances. The bill provides that the commission's decision does not affect the employment relationship between an officer and a law enforcement agency, or any disciplinary action taken against an officer by a law enforcement agency.

**House Bill 3435**  
**Effective:** 6-15-07

**House Author:** Herrero  
**Senate Sponsor:** Hinojosa

House Bill 3435 amends the Water Code to provide that a peace officer employed or appointed by the naval and canal commission of a navigation district has the same powers and duties as a peace officer as defined in the Code of Criminal Procedure.

**House Bill 3613**  
**Effective:** 9-1-07

**House Author:** Latham  
**Senate Sponsor:** Deuell

House Bill 3613 amends the Government Code to require a law enforcement agency or other governmental entity that appoints or employs a peace officer or a reserve law enforcement officer to issue an identification card to its full-time and part-time peace officers and to its reserve law enforcement officers. The bill requires the law enforcement agency or other governmental entity that was the last entity to appoint or employ an honorably retired peace officer as a peace officer to issue an identification card to the entity's honorably retired peace officers. The bill sets out provisions relating to lost, stolen, and tamper-proof cards and to a card's content, appearance, expiration date, and deadline for issuance.

**Senate Bill 295**  
**Effective:** 6-15-07

**Senate Author:** Williams  
**House Sponsor:** Latham

Senate Bill 295 amends the Government Code to authorize the Department of Public Safety to require a commissioned or noncommissioned officer or employee to submit to a polygraph examination if the person is assigned to a position in which the person is required to work with a federal agency on national security issues and that agency requires employees to submit to a polygraph test. The bill authorizes the department to remove an officer or employee from or to refuse to assign an officer or employee to work with such a federal agency if the person does not submit to a polygraph examination.

**Senate Bill 410**  
**Effective:** 6-15-07

**Senate Author:** Harris  
**House Sponsor:** Parker

Senate Bill 410 amends the Parks and Wildlife Code to authorize a peace officer of a municipality who is certified as a marine safety enforcement officer under the law to enforce the provisions of the Water Safety Act within an area of a lake that is outside the enforcement jurisdiction of the peace officer under certain conditions.

**Senate Bill 526**  
**Effective:** 5-8-07

**Senate Author:** Seliger  
**House Sponsor:** Smithee

Senate Bill 526 amends the Transportation Code to allow a municipal fire marshal or arson investigator to travel in an unmarked municipal vehicle when performing official duties.

**Senate Bill 823**  
**Effective:** 5-23-07

**Senate Author:** Whitmire  
**House Sponsor:** Riddle

Senate Bill 823 amends provisions of the Code of Criminal Procedure relating to the interception and use of wire, oral, and electronic communications in a criminal investigation. The bill expands the group of persons who are authorized to respond to and deal with life-threatening situations to include a peace officer who has received a minimum of 24 hours of training on kidnapping investigations and who is the sheriff or sheriff's designee in a county with a population of 3.3 million or more or the police chief or chief's designee in a municipality with a population of 500,000 or more. The bill also provides that the sheriff's department and police department of such a county or municipality is a "designated law enforcement agency."

Senate Bill 823 authorizes certain members of a designated law enforcement agency to possess, install, operate, or monitor a pen register, an ESN (electronic serial number) reader, or similar equipment, and requires the agency to adopt a written policy governing the use of such devices, which is subject to approval by the director of the Department of Public Safety. The bill provides the department with audit and enforcement authority to ensure compliance on the part of a designated law enforcement agency with the law and the agency's written policy, and requires the agency to make certain expenditure reports. Senate Bill 823 authorizes the sheriff or chief of a designated law enforcement agency to issue an administrative subpoena for the disclosure of certain business records of a communications common carrier or electronic communication service, and sets out provisions for the department's oversight and enforcement duties regarding such subpoenas.

## **Concealed Handguns and Firearms Possession**

### **House Bill 638**

**Effective:** 9-1-07

**House Author:** Hughes et al.

**Senate Sponsor:** Eltife

House Bill 638 amends the Government Code to require the law enforcement agency or other governmental entity that was the last entity to appoint or employ an honorably retired peace officer as a peace officer to issue, by January 1, 2008, an identification card to the entity's honorably retired peace officers. The bill sets out provisions relating to a card's content, appearance, and expiration date and to lost or stolen cards. House Bill 638 amends the Occupations Code to add certain qualified retired law enforcement officers who are entitled to carry a concealed handgun under specified federal law to the list of officers who a state or local law enforcement agency may allow to demonstrate weapons proficiency and, if qualified, to whom the agency must issue a certificate of proficiency.

### **House Bill 964**

**Effective:** 9-1-07

**House Author:** Guillen

**Senate Sponsor:** Hinojosa

House Bill 964 amends the Penal Code to exempt a law enforcement student engaging in a class activity from the offense of illegally carrying a weapon if the type of weapon carried by the student is commonly used in the activity, the weapon is unloaded, and the student is either on the way to or on the premises where the activity takes place.

### **House Bill 991**

**Effective:** 5-23-07

**House Author:** Rose et al.

**Senate Sponsor:** Deuell

House Bill 991 amends the Government Code to remove the requirement for the Department of Public Safety to disclose to any person other than a state or local law enforcement agency whether a named individual holds a concealed handgun license.

### **House Bill 1503**

**Effective:** Vetoes

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

**Senate Sponsor:** Hinojosa

House Bill 1503 amends provisions of the Government Code and Penal Code relating to eligibility for a license to carry a handgun and prosecution of unlawful possession of a firearm. For purposes of eligibility for such a license and prosecution of such an offense, the bill modifies the definition of "conviction" to exclude an adjudication of guilt or an order of deferred adjudication that has been vacated, set aside, annulled, invalidated, discharged, voided, or sealed under federal or state law. House Bill 1503 shifts the point in time at which it is determined

whether an applicant's offense is considered a felony from the status of the offense at the time of application to the status at the time of the commission of the offense. The bill also provides that an offense is not considered a felony:

- for an applicant, if at the time of application for a license the offense is designated as a misdemeanor or does not contain all the elements of any felony under state law
- for a person accused of unlawful possession of a firearm, if at the time of the commission of the offense the offense is designated as a misdemeanor or does not contain all the elements of any felony under state law

House Bill 1503 adds assistant district attorneys, assistant criminal district attorneys, and assistant county attorneys, if properly licensed, to the list of persons who are exempted from certain prohibitions relating to carrying a firearm.

Reason Given for Veto: "House Bill No. 1503 would have been an acceptable bill that expands Texans' right to carry concealed handguns were it not for an 11th hour amendment that creates unintended consequences. The unintended consequences arise from the bill's attempt to redefine a criminal conviction by excluding, among others, those who have been convicted of a felony and discharged from prison. The troublesome provision could result in ex-convicts who have completed their sentences for murder, rape, robbery or other violent crimes being allowed to possess firearms immediately upon release from prison. This provision also could jeopardize the reciprocity agreements Texas has with other states involving concealed handgun permits."

**House Bill 1839**  
**Effective:** 9-1-07

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

House Bill 1839 amends the Government Code to change the time frame within which a person applying for a third or subsequent renewal of a license to carry a concealed handgun must complete a continuing education course in handgun proficiency and obtain a handgun proficiency certificate, to ensure that the license holder is not required to complete the course or obtain the certificate more than once in any 10-year period.

**House Bill 1889**  
**Effective:** 6-15-07

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

House Bill 1889 amends the Penal Code to add certain municipal attorneys and bailiffs to the list of persons who are exempted from certain prohibitions relating to carrying a firearm. The bill also provides an affirmative defense to prosecution for certain offenses relating to the unlawful carrying of a handgun by a license holder on certain premises for an active judicial officer or a bailiff designated by and engaged in escorting the judicial officer.

**House Bill 2300**  
**Effective:** 6-15-07

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

House Bill 2300 amends the Government Code to require the Texas Department of Public Safety to establish a procedure by which the status as a judge, justice, district attorney, criminal district attorney, or county attorney of a holder of a license to carry a concealed handgun is indicated on the license. The bill sets out procedures relating to the exemption of certain court officials and persons with documented, demonstrated proficiency in using a handgun from the requirement to submit a handgun proficiency certificate to obtain or renew a concealed handgun license. The bill includes a federal judge who is a resident of this state in the definition of "active judicial officer" for purposes of provisions governing a license to carry a concealed handgun.

House Bill 2300 amends the Penal Code to add an assistant district attorney, assistant criminal district attorney, and assistant county attorney to the list of persons who are exempted from certain prohibitions relating to carrying a firearm. The bill also provides an affirmative defense to prosecution for certain offenses relating to the unlawful carrying of a handgun by a license holder for certain judicial officers and court officials.

**Senate Bill 112**

**Effective:** 4-27-07

**Senate Author:** Carona et al.

**House Sponsor:** Corte, Frank et al.

Senate Bill 112 amends the Government Code and Local Government Code to authorize a peace officer, during a state of disaster or a state of emergency, to disarm an individual lawfully carrying or possessing any firearm or ammunition if the officer reasonably believes it necessary for the protection of the officer or another individual. The bill requires the officer to return the firearm or ammunition to the individual before ceasing to detain the individual unless the officer arrests the individual or seizes the firearm as evidence in a criminal investigation.

**Senate Bill 322**

**Effective:** 6-15-07

**Senate Author:** Deuell

**House Sponsor:** Flynn

Senate Bill 322 amends the Human Resources Code to prohibit the Department of Family and Protective Services from forbidding the possession of lawfully permitted firearms and ammunition in a foster home of any type. The bill authorizes the department to adopt minimum standards relating to the safe and proper storage of firearms and ammunition.

**Senate Bill 535**

**Effective:** 9-1-07

**Senate Author:** Hegar

**House Sponsor:** Homer

Senate Bill 535 amends the Parks and Wildlife Code to add a person who possesses or shoots a concealed handgun under certain circumstances to the law providing exceptions to the prohibition against hunting with, possessing, or shooting a weapon on or across the land of the Lower Colorado River Authority (LCRA). The bill prohibits a state agency, including the LCRA, from adopting a rule that is inconsistent with the exception added by this bill.

**Senate Bill 835**

**Effective:** 6-15-07

**Senate Author:** Whitmire

**House Sponsor:** Hughes

Senate Bill 835 amends the Government Code to exempt a federal judge who is a resident of Texas from certain procedural requirements for obtaining or renewing a concealed handgun license.

**Senate Bill 1709**

**Effective:** 9-1-07

**Senate Author:** Hegar

**House Sponsor:** Turner

Senate Bill 1709 amends the Government Code to authorize a peace officer to temporarily disarm a concealed handgun license holder when that person enters a nonpublic, secure portion of a law enforcement facility that is used for the official business of peace officers, if the agency provides a gun locker where the gun can be secured. The law enforcement agency is required to prominently post signs to notify license holders of this authorization.



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

House Bill 233 - Military Forces and Veterans

House Bill 1382 - State Government

House Bill 2101 - Occupational Regulation

House Bill 2285 - Health and Safety

Senate Bill 740 - Open Government and Privacy

Senate Bill 1154 - Occupational Regulation



# Local Government

This chapter covers legislation on the governments of municipalities, counties, and other local political subdivisions. Bills relating to the duties of local government personnel, other than peace officers, are in this chapter, while bills on personnel employment and compensation issues are in the **Public Officials and Employees** chapter. Bills on the duties of peace officers are in the **Law Enforcement** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

**House Bill 573**  
**Effective:** 6-15-07

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

House Bill 573 amends the Transportation Code to authorize the commissioners court of a county located within 150 miles of an international border to provide by order for the establishment of street lights along a county road located in a subdivision in an unincorporated area of the county and sets forth provisions that may be included in the order. The bill specifies that this law does not supersede applicable provisions for street lights contained in the tariff of an electric utility that provides service to the subdivision.

**House Bill 730**  
**Effective:** 6-15-07

**House Author:** Kolkhorst  
**Senate Sponsor:** West, Royce

House Bill 730 amends the Local Government Code provision relating to notice of a municipality's or county's intention to issue certificates of obligation. The bill changes the deadline for the first publication of the notice in a newspaper to be before the 30th day, rather than the 14th day, before the date set for passage of the order authorizing the issuance of the certificates.

**House Bill 1251**  
**Effective:** 6-15-07

**House Author:** Bonnen  
**Senate Sponsor:** Wentworth

House Bill 1251 amends the Health and Safety Code to clarify that a public agency, including a county or a municipality, has the authority to enforce its grant of a franchise or contract for solid waste collection and transportation services within its territory, and it allows a municipality to provide that a franchise granted or contract entered into by the municipality supersedes within its boundaries any other franchise or contract for solid waste collection and transportation. The bill also prohibits a county or municipality from restricting the right of an entity to contract with a licensed waste hauler for the removal of domestic septage or of grease, grit, lint, or sand trap waste, and it clarifies the conditions under which a person is exempt from the application of a requirement adopted by a public agency or a county regarding the use of and fees for waste disposal services.

**House Bill 1524**  
**Effective:** 6-15-07

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

House Bill 1524 amends the Local Government Code to authorize certain counties to develop a parks and recreation system as a venue project in the same manner as a municipality. The county maintains this authority even if at a later time a part of the county becomes incorporated in a municipality. The bill also authorizes a municipality or county that has already approved

a venue project to hold a separate election to approve the use of revenue to finance a related project, but it prohibits these entities from changing the rate of the tax or the method of financing and from using revenue from a hotel occupancy tax.

**House Bill 2091**

**Effective:** 6-15-07

**House Author:** Hill

**Senate Sponsor:** Wentworth

House Bill 2091 amends the Local Government Code and the Water Code to prohibit political subdivisions that provide water or sewer services from adding land that is located in a municipality's extraterritorial jurisdiction without first obtaining written consent from the municipality.

**House Bill 2618**

**Effective:** 5-25-07

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 2618 amends the Local Government Code to authorize a political subdivision to lease or make an agreement to provide office space in property owned by the subdivision to certain governmental entities. The bill also provides that the political subdivision shall determine the terms of the lease, may lease the property or office space at less than fair market value, and is not required to comply with any competitive purchasing procedure or notice and publication requirements.

**House Bill 3195**

**Effective:** 9-1-07

**House Author:** Hill

**Senate Sponsor:** Williams

House Bill 3195 amends the Local Government Code to add certain disclosure, posting, and voting requirements for a proposed municipal or county budget that raises more property taxes than the previous year's budget. The bill requires the budget to include a cover page relating to the increase and requires both the proposed and adopted budgets to be posted on the municipal or county website if one is maintained. Notices for certain public hearings also are required to include a statement relating to the proposed property tax increase. House Bill 3195 also requires the adoption of a budget that requires a property tax revenue increase to be achieved by a separate vote of the governing body to specifically ratify the increase.

**House Bill 3270**

**Effective:** 6-15-07

**House Author:** Eiland et al.

**Senate Sponsor:** Williams

House Bill 3270 amends the Government Code to allow a county, municipality, or eligible school district or countywide district located within 70 miles of the Gulf of Mexico or of a bay or inlet of the gulf to authorize the issuance of an anticipation note or other obligation in the event of an emergency declared by the governor or the governing body acting through its presiding officer. After the issuance, the governing body must provide the attorney general with certain documentation, and if the emergency affects the issuer, the attorney general must expeditiously review and approve delivery of the obligation after the issuer complies with certain requirements. The issuer may provide that the obligation be paid, secured, or pledged to be paid from any revenue, and an issuer other than an eligible school district may use the proceeds of the obligation to pay certain contractual or operating expenses or for other purposes necessary to protect the public health and safety. The bill provides that the note or other obligation is exempt from certain amount limitations and competitive bidding requirements and must mature before the 10th anniversary of the date of the attorney general's approval. If a conflict exists between these provisions and a municipal charter, these provisions control.

**House Bill 3417**  
**Effective:** 6-15-07

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

House Bill 3417 amends the Local Government Code to authorize a county with a population of 5,000 or more that does not border the United Mexican States and that is adjacent to a county with a population of 500,000 or more that borders the United Mexican States to create a crime control and prevention district by a majority vote of the governing body of the county. The bill also requires a municipality in which a crime and control prevention district is established to adopt a sales and use tax to finance the district and sets the maximum tax rate. House Bill 3417 includes provisions relating to the disbursement of tax revenue for the operation of a district and allowing for an increase or a decrease in the tax rate in specified increments by order of the district's board of directors, voter approval at an election held in the district, or, in the case of a rate increase up to the statutory cap, an order of the board subject to voter approval.

**Senate Bill 191**  
**Effective:** 9-1-07

**Senate Author:** Brimer  
**House Sponsor:** Eiland

Senate Bill 191 amends the Local Government Code to prohibit a county or municipality from using revenue approved at an election to establish, improve, or renovate a venue or related infrastructure to demolish the venue and subsequently construct a new venue.

**Senate Bill 351**  
**Effective:** 6-15-07

**Senate Author:** Ellis  
**House Sponsor:** Noriega, Rick

Senate Bill 351 amends the Transportation Code to add delivery by the United States Postal Service with signature confirmation service to the permissible methods for delivery of a notice of abatement and removal of a public nuisance for an abandoned or a junked vehicle.

**Senate Bill 352**  
**Effective:** 6-15-07

**Senate Author:** Ellis  
**House Sponsor:** Noriega, Rick

Senate Bill 352 amends the Local Government Code to add delivery by the United States Postal Service using signature confirmation service to the permissible methods for delivery of notices of proceedings involving substandard buildings.

**Senate Bill 883**  
**Effective:** 5-25-07

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

Senate Bill 883 amends the Local Government Code to exempt a school district from the payment of impact fees imposed to finance capital improvements necessitated by new development unless the board of trustees of the district consents to such payment by entering into a contract with the political subdivision imposing the fees.

**Senate Bill 940**  
**Effective:** 6-15-07

**Senate Author:** Wentworth  
**House Sponsor:** Straus

Legislation enacted in 2005 authorizes multijurisdictional library districts created and joined by participating counties or municipalities. Senate Bill 940 amends the Local Government Code to eliminate request petitions and voter confirmation elections from the district creation process while leaving intact the provision for tax elections with accompanying procedural changes. The bill allows a county that participates in a district to exclude any incorporated area where the local sales and use tax exceeds 1-1/2 percent. It deletes the requirement that a district's territory be contiguous. The bill modifies a requirement that if the proposed district includes any part of a municipality that operates a municipal public library the municipality must consent to the inclusion of that territory in the district. The modification applies the requirement only

## Local Government

to a municipality whose municipal public library is financed and operated by the municipality, accredited for membership in the state library system, and open and free of charge to all members of the public under identical conditions. The bill authorizes a county or municipality that creates or joins a district to donate library assets to the district without compensation and it authorizes a district and another political subdivision to enter into an agreement for any district purpose. It removes a prohibition against district dissolution and establishes provisions relating to procedures for dissolving a district.

### **Senate Bill 1360**

**Effective:** 5-23-07

**Senate Author:** Whitmire

**House Sponsor:** Thompson

Senate Bill 1360 amends the Local Government Code to exclude the adoption of airport zoning regulations from procedural requirements of a political subdivision, including a charter requirement of a home-rule municipality, that impose a waiting period before the adoption of zoning regulations or submission to a binding referendum election.

### **Senate Bill 1535**

**Effective:** 6-15-07

**Senate Author:** Fraser

**House Sponsor:** Hilderbran

General-law Water Code provisions for municipal utility districts (MUDs) allow a MUD that is composed of at least 1,500 acres to define an area within the MUD and to issue bonds for the benefit of that defined area, payable from ad valorem taxes limited to that defined area. Senate Bill 1535 adds a Local Government Code chapter, applicable to a municipality that abolishes such a MUD. It provides that if the abolished MUD's bonds for a defined area have been approved but some or all of the bonds were not issued, sold, and delivered before the abolition, the governing body of the municipality may issue and sell municipal bonds for the original purposes for which they were approved, in an amount up to the unissued amount. The bonds must be secured by a tax on the property in the defined area of the former MUD. Alternatively, the governing body of the municipality may establish a public improvement district for the purpose of issuing and selling bonds for the original purpose, up to the unissued amount. A municipality may pursue either alternative, but not both. The new law prevails over a conflicting municipal charter, and prevails over any other conflicting law including the Public Improvement District Assessment Act.

### **Senate Bill 1613**

**Effective:** 6-15-07

**Senate Author:** Duncan et al.

**House Sponsor:** Hilderbran

Senate Bill 1613 amends provisions of the Civil Practice and Remedies Code that allow a local government to pay actual damages awarded against one of its employees and to provide legal counsel in a suit for such damages. The bill clarifies that the authority may be exercised on behalf of a member of the local government's governing board and that the authority may be exercised by a soil and water conservation district.

## County Government

### **House Bill 178**

**Effective:** 9-1-07

**House Author:** Bailey

**Senate Sponsor:** Gallegos

House Bill 178 amends the Transportation Code to authorize an ordinance adopted by the commissioners court of a county with a population of 3.3 million or more to impose a fee of not more than \$500 for the issuance or renewal of a license for a junkyard or automotive wrecking and salvage yard regulated by the county.

**House Bill 398**  
**Effective:** 5-25-07

**House Author:** Cook, Byron  
**Senate Sponsor:** Nichols

House Bill 398 amends the Local Government Code to require, in a county that does not have a county auditor, the county treasurer, rather than the county clerk, to file certain financial information with the county commissioners court. The bill also requires that the county auditor, or treasurer if the county does not have an auditor, publish a certain financial exhibit immediately following the first regular term of the commissioners court of the year.

**House Bill 831**  
**Effective:** 6-15-07

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

House Bill 831 amends the Local Government Code to lower the population floor from 200,000 or more to 190,000 or more for a county to be eligible to adopt a civil service system.

**House Bill 892**  
**Effective:** 9-1-07

**House Author:** Hilderbran  
**Senate Sponsor:** Fraser

House Bill 892 amends the Local Government Code to require a county treasurer to deposit funds in the county depository within a certain time frame after the date the funds are received.

**House Bill 1166**  
**Effective:** 6-15-07

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

House Bill 1166 amends the Local Government Code to authorize a county with a population of less than 2,000 that contains no incorporated territory of a municipality to develop a parks and recreation system under the law governing sports and community venue projects. The bill provides that the county maintains this authority even if at a later time a part of the county becomes incorporated in a municipality.

**House Bill 1420**  
**Effective:** 6-15-07

**House Author:** Smith, Wayne  
**Senate Sponsor:** Jackson, Mike

House Bill 1420 amends the Transportation Code to grant the authority to remove property from county roads in certain counties to a county commissioner, rather than to the county.

**House Bill 1671**  
**Effective:** 9-1-07

**House Author:** Homer  
**Senate Sponsor:** Seliger

House Bill 1671 amends the Transportation Code to prohibit a person from erecting a gate on certain third-class and neighborhood roads unless the gate is approved by the commissioners court of the county.

**House Bill 1720**  
**Effective:** 6-15-07

**House Author:** McReynolds  
**Senate Sponsor:** Ogden

House Bill 1720 amends the Local Government Code to authorize a commissioners court of a county to call an election to create a county assistance district that includes only the portion of the county that has not reached the two percent combined sales and use tax rate cap. The bill requires the commissioners court to notify the governing bodies of certain municipalities and of certain municipal development corporations, if applicable, of the proposed district and permits a municipality to exclude its territory from the proposed district. House Bill 1720 clarifies that a county assistance district can be created for the provision of firefighting and fire prevention services and provides guidelines in the event that more than one election to authorize a local

sales and use tax is held on the same day in the area of a proposed district. The bill also repeals certain restrictions on the creation of county assistance districts in counties with a population of less than 45,000.

**House Bill 1852**

**Effective:** 5-25-07

**House Author:** Corte

**Senate Sponsor:** Van de Putte

House Bill 1852 amends the Local Government Code to authorize the commissioners courts of certain counties to regulate, in unincorporated areas of the county, the installation and use of outdoor lighting within five miles of a military installation, on the request of the commanding officer of the installation. The bill also specifies exceptions to this authority.

**House Bill 1930**

**Effective:** 6-15-07

**House Author:** Keffer, Jim

**Senate Sponsor:** Fraser

House Bill 1930 amends the Government Code to allow the county attorney or the Commissioners Court of Brown County to accept gifts or grants from certain individuals or entities for the purpose of financing or assisting the operation of the office of county attorney. The bill requires the county attorney to account for and report all accepted gifts and grants to the county auditor.

**House Bill 2095**

**Effective:** 9-1-07

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 2095 amends the Local Government Code to authorize a county with no incorporated territory to participate as if the county were a municipality in any federal or state programs that provide grants, loans, or other assistance to municipalities.

**House Bill 2591**

**Effective:** 6-15-07

**House Author:** Bonnen

**Senate Sponsor:** Jackson, Mike

House Bill 2591 amends the Transportation Code to authorize a county to improve a road in a subdivision or an access road to a subdivision in any part of the county, rather than only in an unincorporated area of the county. The bill provides that if such a road is located in a municipality, the county must obtain permission from the municipality and the commissioners court before making improvements. The bill sets forth certain conditions that must be met before a county may improve a road located in a municipality. State law that relates to maintenance on a county road does not apply to roads improved under provisions of this bill.

**House Bill 2641**

**Effective:** 6-15-07

**House Author:** Solomons

**Senate Sponsor:** Zaffirini

House Bill 2641 amends the Local Government Code to alter the procedures, time frames, and criteria by which a commissioners court selects a bank to serve as a depository for county funds, including certain county clerk and district clerk funds.

**House Bill 2796**

**Effective:** 6-15-07

**House Author:** Gonzales

**Senate Sponsor:** Lucio

House Bill 2796 amends the Local Government Code to authorize a county that borders on an international boundary and has at least four municipalities, each with a population of more than 25,000, to construct or operate a museum in the county and to contract with certain entities to provide the museum. As part of the contract, the commissioners court of the county is authorized to appropriate money from the general fund of the county to the museum.



**House Bill 3211**  
**Effective:** 6-15-07

**House Author:** Harless  
**Senate Sponsor:** Whitmire

House Bill 3211 amends the Government Code to authorize a county attorney, in a county with a population of 3.3 million or more, to obtain from the Department of Public Safety criminal history records for certain persons applying for employment with the county.

**House Bill 3410**  
**Effective:** 6-15-07

**House Author:** Gattis et al.  
**Senate Sponsor:** Ogden

House Bill 3410 amends the Local Government Code to prescribe certain conditions under which a county may use alternative procedures to approve and issue an amended plat to make necessary changes to create six or fewer lots in a subdivision or a part of a subdivision.

**House Bill 3439**  
**Effective:** 9-1-07

**House Author:** Parker  
**Senate Sponsor:** Jackson, Mike

House Bill 3439 amends the Local Government Code to provide that, in a county for which the office of county treasurer has been abolished, a reference in law to the county treasurer means the person who performs the function of county treasurer. The bill modifies procedures relating to a deposit in the county treasury and the frequency with which certain reports are made to the commissioners court. The bill expands the means by which the comptroller may transmit a warrant for a payment to a county treasurer to include electronic transmission.

**House Bill 3834**  
**Effective:** 6-15-07

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

Previous law prohibited a county from charging more than the amount of the fee for certain utility certificates imposed by the municipality for a subdivision that is located entirely in an extraterritorial jurisdiction of the municipality. House Bill 3834 amends the Local Government Code to specify that the fee charged by a county for issuing such a certificate may be the greater of \$30 or the amount charged by the municipality for the same certificate.

**House Bill 3955**  
**Effective:** 9-1-07

**House Author:** Macias  
**Senate Sponsor:** Wentworth

House Bill 3955 amends the Transportation Code to apply the law governing the delegation of a county commissioners court's powers to regulate traffic on county roads to a county with a population of more than 78,000, rather than more than 200,000.

**Senate Bill 63**  
**Effective:** 6-15-07

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

Previous law granted certain powers of a municipal governing body to the commissioners court of a county with a population of more than 7,500 that is located on an international border, and that contains no incorporated territory. Senate Bill 63 amends the Local Government Code to require that the county have a minimum population of more than 5,000, rather than 7,500, and to require that the county be located within 100 miles of, rather than on, an international border. The bill also sets out provisions authorizing zoning around Falcon Lake in Zapata County to promote certain public purposes and encourage recreational use.

**Senate Bill 66**  
**Effective:** 9-1-07

**Senate Author:** Zaffirini  
**House Sponsor:** Miller

Senate Bill 66 amends the Transportation Code to authorize the commissioners court in any county, rather than in a county with a population of less than 60,000, to construct a cattle guard

on a county road of any class. The bill amends the Agriculture Code to specify that cattle on a county road are not considered to be running at large if the road separates two tracts of land under common ownership or lease and contains a cattle guard that serves as a part of the fencing of the two tracts.

**Senate Bill 235**

**Effective:** 9-1-07

**Senate Author:** Harris

**House Sponsor:** Smith, Todd

Under current law, the membership of a county bail bond board includes a district judge of the county having jurisdiction over criminal matters, designated by the presiding judge of the administrative judicial district, and a judge of a county court or county court at law in the county having jurisdiction over criminal matters, designated by the commissioners court. Senate Bill 235 amends the Occupations Code to authorize these two members of a county bail bond board to designate, with the approval of the judge or commissioners court that designated them, a representative to serve in their place on the board.

**Senate Bill 254**

**Effective:** 9-1-07

**Senate Author:** Ellis

**House Sponsor:** Dutton

Senate Bill 254 amends the Transportation Code to expand the list of counties authorized, in the unincorporated area of the county, to regulate vendor sales, a structure used by a vendor for sales, and the solicitation of money, by lowering the county population floor from 2.2 million to 1.3 million. The bill specifies that the authority includes the regulation of the sale of live animals. The bill expands the area subject to such county regulation to include parking lots.

**Senate Bill 500**

**Effective:** 9-1-07

**Senate Author:** Hegar

**House Sponsor:** Zerwas

Senate Bill 500 amends the Transportation Code to authorize a sheriff's office in certain counties to maintain a list of towing companies to perform, in rotation, nonconsent tows of motor vehicles at the request of a peace officer investigating a traffic accident or incident. The bill sets out procedures relating to the development and use of the list. The bill makes it a misdemeanor offense punishable by a fine for a person, in a county that maintains such a towing company list, to arrive at the scene of an accident or incident to perform a nonconsent tow without first being contacted by the sheriff's office, to either directly or indirectly solicit towing services on streets located in the county for a vehicle that has been rendered legally undrivable by an accident, or to enter the scene of a traffic accident or incident without the permission of the peace officer.

**Senate Bill 580**

**Effective:** 5-14-07

**Senate Author:** Hegar

**House Sponsor:** Zerwas

Senate Bill 580 amends the Local Government Code to permit a county clerk to note the recording information, including the date and time, on the first page of an instrument filed for recording if the instrument was recorded electronically.

**Senate Bill 653**

**Effective:** 6-16-07

**Senate Author:** Seliger

**House Sponsor:** Heflin

Senate Bill 653 amends the Local Government Code to allow a person who serves as a member of the governing body of a municipality to be appointed to fill a vacancy in the office of mayor of the municipality, but to prohibit the person from voting on that appointment.

**Senate Bill 781**  
**Effective:** 6-15-07

**Senate Author:** Lucio  
**House Sponsor:** Pickett

Senate Bill 781 amends the Local Government Code to expand the remedies available if a subdivider fails to provide water or sewer services in certain subdivisions near an international border to include enjoining a violation or threatened violation of the law, requiring a subdivider to provide certain services, requiring the subdivider to plat or replat under the law governing replatting, and recovering certain actual expenses, court costs, and attorney's fees from the subdivider.

**Senate Bill 893**  
**Effective:** 6-16-07

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

Senate Bill 893 amends the Transportation Code to authorize a county bordering the Rio Grande to enter into and make payments under an agreement with a private entity or another governmental entity to acquire, construct, maintain, or operate a toll bridge, including an international toll bridge. The bill also authorizes certain contracts in connection with such an agreement and provides that these and other provisions governing toll bridges in counties bordering the Rio Grande do not apply to a county with a population of more than 675,000.

**Senate Bill 1196**  
**Effective:** 6-15-07

**Senate Author:** Whitmire  
**House Sponsor:** Harless

Senate Bill 1196 amends the Government Code to authorize a county attorney, in a county with a population of 3.3 million or more, to obtain from the Department of Public Safety criminal history records for certain persons applying for employment with the county.

**Senate Bill 1207**  
**Effective:** 6-15-07

**Senate Author:** Hegar  
**House Sponsor:** Smith, Wayne

Senate Bill 1207 amends the Local Government Code to set out procedures by which a county commissioners court may remove an appointed board member of certain special districts who engages in misconduct. The bill allows the court to fill the vacancy created by the removal, provided the special district does not have a general or special law for such a circumstance.

**Senate Bill 1510**  
**Effective:** 9-1-07

**Senate Author:** Lucio  
**House Sponsor:** Quintanilla

Previous law required the county auditor in a county with a population of more than 225,000 to prepare a budget for the upcoming fiscal year on or immediately after the first day of each fiscal year. Senate Bill 1510 amends the Local Government Code to expand the time frame within which the county auditor is to prepare the budget to include the 30-day period before the first day of the fiscal year.

**Senate Bill 1867**  
**Effective:** 9-1-07

**Senate Author:** Zaffirini  
**House Sponsor:** Guillen

Senate Bill 1867 amends provisions of the Local Government Code relating to county regulation of subdivisions. The bill authorizes a commissioners court to approve and issue an amending plat for certain purposes and to make other revisions to a commissioners court's authority with regard to plats. The bill also authorizes a commissioners court to require a limited fire suppression system in certain subdivisions. In addition, the bill repeals a provision that made state law on infrastructure planning provisions applicable only to certain counties.

## Municipal Government

### House Bill 462

**Effective:** 6-15-07

**House Author:** Miller

**Senate Sponsor:** Fraser

House Bill 462 amends the Local Government Code to authorize a municipality with a population of 25,000 or less and through which the Bosque River runs to collect from a state agency or public institution of higher education an infrastructure fee for the control of excess water or storm water.

### House Bill 536

**Effective:** 9-1-07

**House Author:** Truitt

**Senate Sponsor:** Wentworth

House Bill 536 amends the Local Government Code to create an exception to the requirement that a municipality must give its written consent before its extraterritorial jurisdiction may be reduced for an annexation of an area in a water or sewer district that is wholly or partly in the overlapping extraterritorial jurisdiction of two or more municipalities. The bill authorizes any of the municipalities to annex, without the written consent of the others, an area that contains less than 100 acres if that municipality, before June 1, 2005, annexed more than 50 percent of the original territory of the district and if, after completion of the annexation, the entire water or sewer district would be contained in the annexing municipality.

### House Bill 610

**Effective:** 6-15-07

**House Author:** Brown, Fred et al.

**Senate Sponsor:** Hegar

House Bill 610 amends the Local Government Code to allow a municipality to annex an area for full or limited purposes at any time on petition of the area's owner if the area is in the municipality's annexation plan or was previously in the plan but subsequently removed from it. The bill requires a municipality proposing an annexation to complete its municipal services plan for the targeted area within a specified time frame before the annexation and to include in that plan a list of all services required by law to be provided under the plan. The bill also allows the governing body of a municipality with a population of less than 1.6 million to negotiate a written agreement for the funding and provision of services in an area, in lieu of annexation, either with the representatives designated by the county commissioners court or courts, as applicable, if the area is included in the municipality's annexation plan, or with an owner of an area within the municipality's extraterritorial jurisdiction if the area is not included in its annexation plan.

### House Bill 629

**Effective:** 6-15-07

**House Author:** King, Phil

**Senate Sponsor:** Duncan

Previous law relating to the date for a consolidation election of two or more municipalities required the smallest municipality voting on the consolidation issue to hold the first consolidation election, followed by each larger municipality in turn, in order by population. House Bill 629 amends the Local Government Code to provide an alternative procedure, authorizing each municipality's governing body to order the consolidation election to be held on the same day. The bill requires a consolidation election to be held on the first authorized uniform election date after the 62-day period required for other local elections, rather than the 30-day period required under previous law.

**House Bill 680**  
**Effective:** 6-15-07**House Author:** Swinford  
**Senate Sponsor:** Seliger

House Bill 680 amends the Local Government Code to exempt from notice and bidding requirements the sale of certain small municipal parks. The bill further provides that a petition for judicial review of such a sale must be filed on or before the 30th day after the date the ordinance or resolution is adopted.

**House Bill 1067**  
**Effective:** 6-15-07**House Author:** Murphy  
**Senate Sponsor:** Janek

House Bill 1067 amends the Local Government Code to prescribe the conditions under which a replat of a subdivision or part of a subdivision located in a municipality or the extraterritorial jurisdiction of a municipality with a population of 1.9 million or more may be recorded and controlling over a preceding plat without vacating the preceding plat. The bill also authorizes the governing body of such a municipality to adopt rules governing replats.

**House Bill 1391**  
**Effective:** 9-1-07**House Author:** Turner  
**Senate Sponsor:** Whitmire

House Bill 1391 amends the Health and Safety Code to require the regulatory authority for a public utility serving a residential area to adopt standards for maintaining adequate water pressure in fire hydrants to protect public safety in a municipality with a population of one million or more and to require the Texas Commission on Environmental Quality to assess residential areas in such a municipality to ensure that the regulatory authority for the area has adopted those mandatory standards and that all public utilities serving the residential area are complying with such standards.

**House Bill 1456**  
**Effective:** 6-15-07**House Author:** Coleman  
**Senate Sponsor:** Hinojosa

House Bill 1456 amends the Local Government Code to require an annual financial statement by a municipality to be filed in the office of the municipal secretary or clerk within 180 days, rather than 120 days, after the last day of the municipality's fiscal year.

**House Bill 1472**  
**Effective:** 5-25-07**House Author:** Miller et al.  
**Senate Sponsor:** Wentworth

House Bill 1472 amends the Local Government Code to prohibit a municipality from annexing land appraised for tax purposes as land for agriculture, wildlife management, or timber production use unless the municipality offers to make a development agreement with the landowner and the landowner declines to make the agreement. The bill requires a development agreement made in lieu of annexation to guarantee the continuation of the extraterritorial status of the area and authorize all municipal enforcement authority that does not interfere with the area's land use status. The bill also provides that any provision of the agreement limiting annexation is void if the landowner files a subdivision plat or related development document.

**House Bill 1784**  
**Effective:** 9-1-07**House Author:** Haggerty  
**Senate Sponsor:** Jackson, Mike

House Bill 1784 amends the Local Government Code to provide that a municipality that adopts or proposes to adopt the policy that its law enforcement personnel will not respond to burglar alarms may notify permit holders that they may contract with a security services provider licensed by the Texas Private Security Board to respond to an alarm. The bill specifies that

certain information contained in alarm systems records may be used by a governmental body to inform an occupant of an alarm system location of the governmental body's alarm system response policy and proposed changes to the policy and of the option of the occupant to contract with a security services provider.

**House Bill 2212**

**Effective:** 6-16-07

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 2212 amends the Local Government Code to authorize two noncontiguous municipalities located in the same county to consolidate if the distance between the municipalities is less than 2.5 miles and each municipality is located within one mile of an international boundary.

**House Bill 2281**

**Effective:** 6-15-07

**House Author:** Corte, Frank

**Senate Sponsor:** Uresti

House Bill 2281 amends the Local Government Code to authorize the governing body of a municipality to delegate to an officer or employee of the municipality or a utility owned or operated by the municipality the ability to approve minor replats.

**House Bill 2338**

**Effective:** 9-1-07

**House Author:** Bailey

**Senate Sponsor:** Gallegos

House Bill 2338 amends the Local Government Code to authorize a municipality with a population of more than 1.9 million by ordinance to license, control, and otherwise regulate a passenger vehicle that provides limousine transportation services for compensation and is designed for carrying no more than 15 passengers.

**House Bill 2840**

**Effective:** 6-15-07

**House Author:** King, Susan

**Senate Sponsor:** Fraser

House Bill 2840 amends the Local Government Code to provide that a petition seeking an election to abolish a municipality's existence must be signed by at least one-fourth, rather than 50, of the qualified voters if the municipality has less than 400 qualified voters, has no municipal debt, and does not provide services that otherwise would be provided by the county.

**House Bill 2945**

**Effective:** 9-1-07

**House Author:** Murphy

**Senate Sponsor:** Whitmire

House Bill 2945 amends provisions of the Local Government Code relating to an alternative method of compensation for the removal of an on-premise sign as required by a municipality. The bill authorizes a municipality with a population of more than 1.9 million to pay the compensable costs to the owner of an on-premise sign by allowing the sign to remain in place for a period sufficient to recover the compensable cost of the sign based on the average annual gross revenue that would be generated by the sign in its specific location if the sign were used as an off-premise sign rather than an on-premise sign. The authorization is subject to the law governing the amount of compensation for the removal of an on-premise or off-premise sign and to federal law. The bill requires a sign owner to maintain the sign in compliance with all other applicable regulations during the period in which the sign remains in place.

**House Bill 3232**  
**Effective:** 6-15-07

**House Author:** Olivo et al.  
**Senate Sponsor:** Janek

House Bill 3232 amends the Local Government Code to require certain municipalities to conduct a hearing and consider the hearing record and make certain findings before approving a replat that affects a subdivision golf course. The bill sets out requirements for the new plat application or plan for development, hearing requirements, and requirements for approving a protested new plat.

**House Bill 3325**  
**Effective:** 6-15-07

**House Author:** Escobar  
**Senate Sponsor:** Lucio

House Bill 3325 amends the Local Government Code to provide that the extraterritorial jurisdiction of certain municipalities that have territory located entirely on a barrier island includes the unincorporated area that is contiguous to the corporate boundaries of the municipality and is located within five miles of those boundaries on the barrier island.

**House Bill 3367**  
**Effective:** 6-15-07

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

House Bill 3367 amends the Local Government Code to provide that, before December 31, 2008, a home-rule municipality with a population of 1.1 million may enter into a boundary change agreement with a municipality with a population of more than 5,000 to release a certain area from the more populous municipality's corporate boundaries and transfer the area to be included within the boundaries of the other municipality. The bill provides that the owners of a majority of the acreage of land in the area must consent in writing to the release and transfer. The less populous municipality may agree to share with the more populous municipality a portion of the local sales tax or ad valorem tax revenue that is attributed to the area for a defined period.

**House Bill 3378**  
**Effective:** 6-15-07

**House Author:** Truitt  
**Senate Sponsor:** Brimer

House Bill 3378 amends the Local Government Code to authorize certain cities to provide in their written consent to the inclusion of land in a water district that a district water facility serving certain land must meet the city's fire flow requirements. These cities may also supplement their written consent in the settlement of a water rate dispute with a district, with the supplement's terms remaining in effect after the expiration of the consent unless the city and district agree otherwise.

**Senate Bill 688**  
**Effective:** 6-16-07

**Senate Author:** Shapleigh  
**House Sponsor:** Quintanilla

The Municipal Drainage Systems Utility Act, within the Government Code, places limits on municipalities' extension of a drainage utility system service area. An exception, under previous law, allowed a municipality of more than 400,000 population located in one or more counties of less than 600,000 population to extend a service outside its boundaries. Senate Bill 688 amends the act to change that exception to apply to a municipality of more than 500,000 located within 50 miles of an international border.

**Senate Bill 1012**  
**Effective:** 5-14-07

**Senate Author:** Williams  
**House Sponsor:** Eissler

Senate Bill 1012 amends the Local Government Code to authorize certain municipalities with a population of 1.5 million or more, certain municipal management or conservation and reclamation districts, and, if applicable, individuals to enter into a regional participation

agreement (RPA) to further regional participation in the funding of eligible programs and projects, including those related to mobility, health care, parks and recreation, public assembly, the environment, water or wastewater, drainage and flood control, solid waste, and public safety. The bill specifies what may be included in an RPA and sets out requirements for the agreement and the parties to the agreement.

**Senate Bill 1086**

**Effective:** 9-1-07

**Senate Author:** Carona

**House Sponsor:** Hartnett

Senate Bill 1086 amends the Local Government Code to require a municipality, when publishing notice of an election to vote on a municipal charter amendment, to include in the notice an estimate of the anticipated fiscal impact to the municipality if the proposed amendment is approved at the election. The bill provides that this requirement does not waive governmental immunity for any purpose and prohibits a person from seeking injunctive relief or any other judicial remedy to enforce the estimate of the anticipated fiscal impact on the municipality.

**Senate Bill 1349**

**Effective:** 6-15-07

**Senate Author:** Patrick, Dan

**House Sponsor:** Van Arsdale

Senate Bill 1349 amends the Local Government Code to authorize certain home-rule municipalities to annex the unincorporated area of an airport owned by the municipality that is noncontiguous to the boundaries of the municipality, regardless of whether the airport is located in the municipality's extraterritorial jurisdiction.

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

House Bill 922 - Transportation  
House Bill 1052 - Transportation  
House Bill 1311 - Special Districts  
House Bill 1312 - Special Districts  
House Bill 1314 - Water  
House Bill 1473 - Public Officials and Employees  
House Bill 1742 - Property Interests and Housing  
House Bill 1857 - Transportation  
House Bill 2018 - Environment  
House Bill 2096 - Utilities  
House Bill 2462 - State Government  
House Bill 2910 - Environment  
House Bill 3353 - Water  
House Bill 3475 - Water  
House Bill 3723 - Elections  
House Joint Resolution 69 - Agriculture  
Senate Bill 123 - Open Government and Privacy  
Senate Bill 495 - Utilities  
Senate Bill 526 - Law Enforcement  
Senate Bill 1106 - Criminal Justice  
Senate Bill 1271 - Water  
Senate Bill 1430 - Utilities  
Senate Bill 1536 - Transportation



## Military Forces and Veterans

This chapter covers legislation on issues relating to current and former state and national military personnel, including benefits, services, and special recognitions. The chapter also includes legislation on the Veterans' Land Board, the Texas Veterans Commission, and the Adjutant General's Department. Bills relating to economic development in military base communities are in the **Economic Development** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 1416**

**Effective:** 9-1-07

**House Author:** Corte, Frank et al.

**Senate Sponsor:** Van de Putte

House Bill 1416 amends the Natural Resources Code to authorize the Veterans' Land Board to sell loans for the purchase of land at a public or private sale with or without public bidding. The bill provides for disposition of the proceeds from such a sale. The bill prohibits the board from taking certain actions that could impair future loan sales or the market value of a loan. Finally, the bill authorizes the board to allow a person to combine a land loan with certain home loans made by the board.

#### **House Bill 3140**

**Effective:** 6-15-07

**House Author:** Flynn et al.

**Senate Sponsor:** Shapleigh

House Bill 3140 amends the Natural Resources Code to continue the Veterans' Land Board (VLB) until 2019. In addition to across-the-board sunset provisions, the bill prescribes the duties of an internal auditor for the board and the duties of the board relating to internal audit plans and reports that relate to board functions. The bill also requires the VLB and the Texas Veterans' Commission to enter into a memorandum of understanding on the coordination of certain veterans benefits outreach activities.

#### **House Bill 3426**

**Effective:** 9-1-07

**House Author:** Flynn et al.

**Senate Sponsor:** Shapleigh

House Bill 3426 amends the Government Code to continue the Texas Veterans Commission until September 1, 2013, and to adopt and revise various across-the-board sunset provisions. The bill requires the commission, in consultation with the U.S. Department of Veterans Affairs, to develop procedures for administering claims assistance services and specifies criteria that must be included in those procedures. The bill also requires the commission to adopt procedures for receiving input and recommendations from interested parties regarding its development of rules and policies. Toward that end, the commission may establish and appoint advisory committees. Additional provisions require the commission to adopt procedures to coordinate with county service officers and county commissioners courts on certain matters. The bill adds provisions relating to the training of veterans county service officers and assistants. It requires the commission to comply with and implement any nonstatutory recommendations regarding the commission that have been adopted by the Sunset Advisory Commission in the course of its agency review.

**Senate Bill 277**

**Effective:** 9-1-07

**Senate Author:** Shapiro et al.

**House Sponsor:** Harper-Brown

Senate Bill 277 amends the Business & Commerce Code to make it a Class A misdemeanor offense to use the name or image of a member or former member of the United States armed forces or state military forces in a commercial advertisement without proper consent.

**Senate Bill 960**

**Effective:** Vetoed

**Senate Author:** Shapleigh

**House Sponsor:** Haggerty

Senate Bill 960 amends the Education Code to allow a student who is the dependent of a person serving in the military to satisfy the graduation requirement of a passing score on the exit-level tests for English language arts, mathematics, social studies, and science and to qualify for a high school diploma by performing satisfactorily on one or more alternative nationally recognized norm-referenced tests if the student, as a result of a military personnel transfer or deployment, transfers into a Texas public school after the student's sophomore year. The bill requires the commissioner of education to set required performance levels for the alternative tests that correspond to the performance levels otherwise required on the exit-level tests.

Reason Given for Veto: "Senate Bill No. 960 would exempt dependents of military personnel from passing the exit-level Texas Assessment of Knowledge and Skills (TAKS) test if the students transfer into the Texas public school system after they complete their sophomore year in high school. Instead of taking the TAKS, the commissioner of education would determine appropriate performance levels on other nationally recognized norm-referenced assessment instruments in order to satisfy the graduation requirements and qualify for a Texas diploma.

"The strength of our accountability system is derived from having a common standard for all students. Allowing exemptions from this standard decreases the value of a Texas diploma. And I believe all Texas students are capable of success.

"Instead of singling out a particular group of students, I am directing the Texas Education Agency to study the challenges faced by transfer students and propose viable options to address this problem to the 81st Legislature."

**Senate Bill 1724**

**Effective:** 9-1-07

**Senate Author:** Ogden

**House Sponsor:** Noriega, Rick

Senate Bill 1724 amends the Government Code to abolish the Texas Military Facilities Commission and transfer its duties, functions, and personnel to the Adjutant General's Department (AGD), and to change the sunset date for the AGD from September 1, 2009, to September 1, 2015. The bill provides for the creation of a real property advisory committee in the AGD and revises provisions relating to the issuance of bonds to finance the acquisition or construction of military facilities.

**Benefits and Services**

**House Bill 125**

**Effective:** 6-16-07

**House Author:** Delisi et al.

**Senate Sponsor:** Van de Putte et al.

House Bill 125 amends the Education Code to include the children of members of the armed forces of the United States, the Texas National Guard, or the Texas Air National Guard who became totally disabled as a result of a service-related injury among those exempted from payment of tuition and fees at Texas institutions of higher education.

**House Bill 233**  
**Effective:** 9-1-07

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

Previous law reduced by 50 percent concealed handgun license fees for members of the United States armed forces. House Bill 233 amends the Government Code to waive, rather than reduce, such fees and to extend the waiver to certain recently discharged veterans. The bill reduces concealed handgun license fees by 50 percent for qualified veterans whose discharge was not recent.

**House Bill 1260**  
**Effective:** 5-25-07

**House Author:** Martinez, "Mando" et al.  
**Senate Sponsor:** Hinojosa

House Bill 1260 amends the Government Code to exempt certain military personnel from specified state or local governmental fees incurred, because of their deployment, to arrange their personal affairs.

**House Bill 1275**  
**Effective:** 9-1-07

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

House Bill 1275 amends the Government Code to allow an individual entitled to a veteran's employment preference who is aggrieved by a decision of a public entity or public work relating to hiring or retaining the individual to appeal the decision by filing a written complaint with the governing body of the public entity or public work, which is required to respond to the complaint no later than the 15th business day after the date the complaint is received. The entity must report the number of complaints it receives in its quarterly report to the comptroller.

**House Bill 1633**  
**Effective:** 9-1-07

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

House Bill 1633 amends the Human Resources Code to direct the executive commissioner of the Health and Human Services Commission, to the extent allowed by federal law, to develop and implement an expedited process for determining eligibility for the Medicaid program for certain persons in the armed forces and their family members.

**House Bill 2130**  
**Effective:** 5-25-07

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

House Bill 2130 amends the Parks and Wildlife Code to add active duty Texas Army National Guard, Texas Air National Guard, and Texas State Guard individuals to the classes of people who are exempted from paying fees for fishing and hunting licenses.

**House Bill 3787**  
**Effective:** 6-15-07

**House Author:** Isett, Carl et al.  
**Senate Sponsor:** Shapleigh

House Bill 3787 amends the Probate Code to exempt the estate of a person who died while in active service as a member of the armed forces of the United States in a designated combat zone from filing and administrative fees associated with probating the estate.

**Senate Bill 251**  
**Effective:** 9-1-07

**Senate Author:** Harris et al.  
**House Sponsor:** Harper-Brown

Senate Bill 251 amends the Transportation Code to allow a vehicle displaying a disabled veterans license plate to park in any parking spot reserved for disabled persons.

**Senate Bill 309**

**Effective:** 9-1-07

**Senate Author:** Van de Putte et al.

**House Sponsor:** Garcia

Senate Bill 309 amends the Education Code to require a career school or college to maintain, and include in its catalogue and enrollment contract, a policy allowing a student who withdraws as a result of being called to active duty in a United States military service or the Texas National Guard to elect one of the following options for each program in which the student is enrolled: (1) a prorated refund of any tuition, fees, or other charges already paid and cancellation of any unpaid tuition, fees, or charges owed by the student for the uncompleted portion of the program; (2) a grade of incomplete with the designation "withdrawn-military" for the courses for which the student has not received a grade and the right to re-enroll in the program, or an equivalent program if that program is no longer available, within one year of the student's discharge from active duty without payment of additional tuition, fees, or other charges for the program other than any previously unpaid balance of the original tuition, fees, and charges; or (3) the assignment of an appropriate final grade or course credit if the student has completed at least 90 percent of the required coursework and shown sufficient mastery of the material to receive credit for completing the program.

**Senate Bill 310**

**Effective:** 9-1-07

**Senate Author:** Van de Putte et al.

**House Sponsor:** Farabee

Senate Bill 310 amends the Government Code to allow the Texas Veterans Commission to make a monetary or non-monetary performance incentive award to an individual or an entity for providing services to veterans.

**Senate Bill 311**

**Effective:** 6-15-07

**Senate Author:** Van de Putte et al.

**House Sponsor:** Noriega, Rick

Senate Bill 311 amends the Government Code to prohibit a private employer from terminating the employment of a permanent employee who is a member of another state's military forces if the employee is ordered to duty or training by the proper authority. Previous law only applied this prohibition in regard to members of Texas' military forces.

**Senate Bill 363**

**Effective:** 9-1-07

**Senate Author:** Van de Putte et al.

**House Sponsor:** Noriega, Rick

Senate Bill 363 amends the Government Code to require the adjutant general and the Texas Veterans Commission to assist a member or former member of the Texas National Guard in obtaining federal government treatment services, including a screening test, if there is reason to believe the member has been exposed to depleted uranium during military service. The bill also requires the adjutant general to report to the legislature, not later than December 1, 2008, on issues relating to training for national guard members concerning potential exposure to depleted uranium.

**Senate Bill 685**

**Effective:** 6-16-07

**Senate Author:** Van de Putte et al.

**House Sponsor:** Noriega, Rick et al.

Current law exempts certain members of the Texas military forces from tuition at higher education institutions. Senate Bill 685 amends the Government Code to expand this exemption to include mandatory fees for a maximum of five academic years or 10 semesters, whichever occurs first.

**Senate Bill 1058**

**Effective:** 9-1-07

**Senate Author:** West, Royce et al.

**House Sponsor:** Noriega, Rick et al.

Senate Bill 1058 amends the Government Code to require the Adjutant General's Department (AGD), in consultation with certain other entities, to develop a program to provide referrals to servicemembers for reintegration services and to specify elements to be included in the program. The bill requires the AGD to maintain estimates of the number of servicemembers and veterans residing in each county and requires each health and human services agency to identify servicemembers during the intake and eligibility determination process and direct them to appropriate service providers. The bill also amends the Health and Safety Code to require the Department of State Health Services and the Health and Human Services Commission, with assistance from the Texas Veterans Commission, to create a directory of services and other resources available to servicemembers and their immediate families.

**Recognitions**

**House Bill 191**

**Effective:** 9-1-07

**House Author:** Miller et al.

**Senate Sponsor:** Carona

House Bill 191 amends provisions of the Transportation Code relating to fees for the issuance of specialty license plates to members and former members of the armed forces and their surviving spouses. The bill repeals or removes all language in existing statutes that addresses registration fees and establishes one provision governing all military specialty plates except those for disabled veterans. The provision specifies that a person applying for a set of military specialty license plates is required to pay the applicable vehicle registration fee required by law, except that one set of plates must be issued without payment of the registration fee for certain specified military plates. The bill provides that a surviving spouse applying for military specialty plates is required to pay the applicable fees for the type of license plate for which the surviving spouse is eligible. The bill also updates provisions relating to fees for issuance and replacement of certain military specialty license plates and for replacement of certain other specialty license plates.

**House Bill 2105**

**Effective:** 5-15-07

**House Author:** Chisum et al.

**Senate Sponsor:** Williams

Previous law allowed certain veterans with disabilities to receive specialty license plates for two vehicles. House Bill 2105 amends the Transportation Code to allow such a veteran to receive two disabled parking placards without providing additional documentation.

**House Bill 2282**

**Effective:** 9-1-07

**House Author:** Corte, Frank

**Senate Sponsor:** Wentworth

House Bill 2282 amends the Transportation Code to require the Texas Department of Transportation to issue specialty license plates for persons who receive the Legion of Merit medal.

**House Bill 2398**

**Effective:** 6-15-07

**House Author:** Delisi et al.

**Senate Sponsor:** Wentworth

House Bill 2398 amends the provision of the Transportation Code that requires the Texas Department of Transportation to issue a specialty license plate for the mother of a person who died while serving in the United States armed forces to also require issuance of such a license plate to the surviving spouse or an immediate family member.

**House Bill 2895**

**Effective:** 6-15-07

**House Author:** Flynn

**Senate Sponsor:** Hinojosa

House Bill 2895 amends the Government Code to revise the criteria for awarding the Texas Humanitarian Service Medal to a member of the Texas military forces.

**House Bill 2896**

**Effective:** 6-15-07

**House Author:** Flynn

**Senate Sponsor:** Hinojosa

House Bill 2896 amends the Government Code to establish the Texas Superior Service Medal to honor members of the state military forces with 30 or more years of superior service and civilians who have contributed significant service to the state military forces.

**House Bill 2897**

**Effective:** 6-15-07

**House Author:** Flynn

**Senate Sponsor:** Hinojosa

House Bill 2897 amends the Government Code to establish the Texas Homeland Defense Service Medal to honor members of the state military forces who, on or after September 11, 2001, served on active duty and served satisfactorily in defense support of a mission in the state under civilian authority.

**Senate Bill 274**

**Effective:** 9-1-07

**Senate Author:** Estes et al.

**House Sponsor:** Escobar

Senate Bill 274 amends the Transportation Code to require the Texas Department of Transportation to issue special license plates for recipients of the Silver Star Medal.

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

- House Bill 586 - Transportation
- House Bill 1852 - Local Government
- House Bill 1864 - Family Law and Juvenile Justice
- House Bill 3470 - Public Retirement Systems
- House Bill 3537 - Family Law and Juvenile Justice
- Senate Bill 90 - Elections
- Senate Bill 228 - Family Law and Juvenile Justice
- Senate Bill 361 - Elections

# Occupational Regulation

This chapter covers legislation on issues relating to the regulation of certain occupations and professions, including license and permit requirements and fees, performance standards and restrictions, and penalties for violations. Bills relating to medical and health care workers, including massage therapists and chemical dependency counselors, are in the **Health and Medical Occupations** chapter, and those relating to wages, unemployment compensation, workers' compensation, and workforce development are in the **Labor and Employment** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 56

**Effective:** 9-1-07

**House Author:** Isett, Carl

**Senate Sponsor:** Duncan

House Bill 56 amends the Occupations Code to authorize a licensed commercial embalmers establishment that meets the requirements for a crematory establishment license to hold such a license.

### House Bill 90

**Effective:** 9-1-07

**House Author:** Branch

**Senate Sponsor:** Carona

House Bill 90 amends the Occupations Code to prohibit a vehicle storage facility from refusing to release a motor vehicle solely because the owner or operator presents a valid photo identification that includes a different address than the one contained in the title and registration records of the vehicle. The bill also requires, with certain exceptions, a vehicle storage facility to accept evidence of financial responsibility as an additional form of identification to establish ownership of a vehicle.

### House Bill 365

**Effective:** 5-24-07

**House Author:** Chisum

**Senate Sponsor:** Seliger

Under previous law, a charitable or nonprofit organization conducting an auction was exempt from a requirement that the auction be performed by a licensed auctioneer if that person received no compensation. House Bill 365 amends the Occupations Code to broaden the exemption to apply to a person who organizes, arranges, or conducts the auction without compensation. The bill clarifies that the exemption also applies to religious and civic organizations and includes organizations that are tax exempt under provisions of the Internal Revenue Code.

### House Bill 539

**Effective:** See below

**House Author:** Smith, Wayne et al.

**Senate Sponsor:** West, Royce

House Bill 539 amends provisions of the Local Government Code and Occupations Code relating to the regulation of fireworks and fireworks displays. The bill:

- adds certain pop rockets to the list of fireworks that are not permitted
- modifies the membership of the advisory council appointed to assist the commissioner of insurance regarding regulation of fireworks and fireworks displays to include a representative of a county fire marshal's office
- adds to the periods when fireworks may be sold to the public to include sales between May 1 and May 5 in certain counties near the Texas-Mexico border

## Occupational Regulation

- raises the minimum age of a person to whom fireworks may be sold from 12 years of age to 16 years of age
- prohibits a person from employing or allowing a person younger than 16 years of age to manufacture, distribute, sell, or purchase fireworks, or employing a person younger than 18 years of age to sell fireworks at a retail sales location, with certain exceptions
- makes violations of provisions relating to selling, storing, manufacturing, distributing, or displaying fireworks and the above provisions relating to employment a Class C misdemeanor
- modifies the criteria by which the Texas Forest Service determines whether drought conditions exist in any county that has requested such a determination and requires the Texas Forest Service to make its services available each day during the Fourth of July and December fireworks seasons

The provisions of House Bill 539 take effect June 15, 2007, except the provision relating to the banning of certain pop rockets, which takes effect January 2, 2008.

### **House Bill 1316**

**Effective:** 6-15-07

**House Author:** Goolsby

**Senate Sponsor:** Carona

House Bill 1316 amends the Occupations Code to extend an exemption from a fee increase for a certified public accountant's certificate and an accountant's original or renewal license and from an additional fee paid by the holder of an accountant's license to an accountant who is licensed in Texas, employed by the government of another state or a municipal or county government of Texas, and restricted by that employment from engaging in the practice of public accountancy outside the scope of the employment.

### **House Bill 2094**

**Effective:** See below

**House Author:** Hill

**Senate Sponsor:** Carona

House Bill 2094 amends the Transportation Code and the Occupations Code to transfer, on January 1, 2008, the functions performed by the Texas Transportation Commission and the Texas Department of Transportation that relate to tow trucks, towing operations, or vehicle storage facilities to the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation. The bill revises the Vehicle Storage Facility Act and adds the Texas Towing Act, including provisions to create the Towing and Storage Advisory Board and govern tow truck permit and license requirements, and consolidates existing law into the Act. The bill provides for an administrative penalty, cease and desist order, injunction, and civil penalty under both Acts and makes it a Class C misdemeanor to violate the permitting or licensing requirements of the Acts. Not later than April 1, 2008, the Texas Commission of Licensing and Regulation is required to adopt rules relating to an original application for a newly created permit or license under the Acts, including a vehicle storage facility employee license, consent or nonconsent towing permit, and consent towing operator's license. The Texas Department of Licensing and Regulation is required to study nonconsent towing fees and report the findings and recommendations to the legislature not later than January 1, 2009. The bill repeals certain provisions relating to tow truck insurance and vehicle storage facilities license violations. House Bill 2094 takes effect September 1, 2007, except for provisions relating to new criminal penalties, permit requirements, and license requirements under the Texas Towing Act, which take effect September 1, 2008.



**House Bill 2106**  
**Effective:** 6-15-07

**House Author:** Chisum et al.  
**Senate Sponsor:** Whitmire

House Bill 2106 amends the Occupations Code to authorize the executive director of the Texas Department of Licensing and Regulation under certain circumstances to issue an emergency order to suspend or revoke a license or permit issued to a barber, cosmetologist, or practitioner of a related occupation, or to cease the operation of an unsafe regulated facility at which barbering, cosmetology, or a related occupation is practiced, if the executive director determines that immediate action is needed to protect the public health and safety. The bill provides for the conduct of a hearing by the State Office of Administrative Hearings after such an order is issued and allows the Texas Commission of Licensing and Regulation to prescribe procedures for the issuance and appeal of such an order. The bill also authorizes the executive director to issue a cease and desist order, after notice and opportunity for a hearing, to prevent a violation of a law or rule relating to these occupations.

In addition, House Bill 2106 creates a hair weaving specialty certificate of registration; allows for a dual barber shop and beauty shop license; changes the inspection process for barber and cosmetology schools; amends the standards for the sterilization of instruments by the holder of a license, certificate, or permit who performs specified services; and revises the continuing education requirements for a cosmetology licensee with a certain level of experience and the regulatory requirements for various specialty licenses, certificates, and permits.

**House Bill 2144**  
**Effective:** 9-1-07

**House Author:** Flores  
**Senate Sponsor:** Williams

Previous law allowed an out-of-state certified public accountant (CPA) or public accountant firm without a Texas certificate or license to practice temporarily in Texas if the CPA or CPA firm met certain requirements of the law and the Texas State Board of Public Accountancy. House Bill 2144 amends the Occupations Code to eliminate the system by which an out-of-state CPA or CPA firm was allowed to practice temporarily in Texas and replaces it with a system that allows such a CPA or CPA firm to establish a practice privilege to work in Texas under certain conditions. The bill requires a CPA firm to be licensed in Texas if the firm establishes or maintains an office in Texas or provides financial audit services to an entity that has its principal office in Texas. The bill grants a practice privilege for limited public accounting services to an individual CPA or CPA firm that is a licensee of another state, does not maintain an office in Texas, and meets certain other requirements. House Bill 2144 removes notice requirements to exercise the practice privilege and makes an out-of-state licensee subject to the jurisdiction, disciplinary authority, and rules of the board upon exercise of the practice privilege. The bill revokes a practice privilege if an out-of-state CPA or CPA firm fails to maintain an active license in the home state and requires an out-of-state firm to use the firm name that it uses in its home state.

**House Bill 2216**  
**Effective:** 6-15-07

**House Author:** Turner  
**Senate Sponsor:** Shapiro

House Bill 2216 amends the Occupations Code and the Transportation Code to create the independent mobility motor vehicle dealer license for the distribution of vehicles fitted and equipped to transport a person with a disability. The bill authorizes, under certain conditions, the dealer to acquire, display, sell, or arrange for the sale and delivery of a motor vehicle that is or will be fitted or equipped for the transport of a person with a disability. The bill prohibits such a dealer from selling or offering to sell a new motor vehicle other than a new mobility motor

vehicle, which is defined as a mobility motor vehicle that has not been the subject of a retail sale, regardless of the mobility motor vehicle's mileage. The bill sets out certain requirements for an applicant for an independent mobility motor vehicle dealer license.

**House Bill 2261**  
**Effective:** 9-1-07

**House Author:** Callegari et al.  
**Senate Sponsor:** Jackson, Mike

House Bill 2261 amends the Occupations Code to specify, within the definition of "service contract," the meaning of "normal wear" for a motor vehicle.

**House Bill 2352**  
**Effective:** 9-1-07

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

House Bill 2352 amends the Occupations Code to permit a registered property tax consultant to perform property tax consulting services for compensation if the consultant is employed by or associated with and acting for a licensed attorney in this state who has successfully completed the senior property tax consultant registration examination. The bill authorizes a licensed attorney to take such an examination without completing any other eligibility requirements for registration as a senior property tax consultant.

**House Bill 2458**  
**Effective:** See below

**House Author:** Cook, Byron et al.  
**Senate Sponsor:** Brimer

Traditionally, the Texas Department of Agriculture (TDA) has been the lead state agency for pesticide regulation, but other entities have related roles, and the Texas Structural Pest Control Board has been responsible for the regulation of pesticides applied to houses, buildings, other specified structures, and associated vegetation. House Bill 2458 amends the Occupations Code and adopts other law to abolish the board and to transfer its functions to the TDA. The bill establishes a Structural Pest Control Service within the TDA and creates a structural pest control advisory committee.

The bill requires the TDA to develop a written policy governing licensing examinations. It eliminates statutory fee amounts applicable to structural pest control licensing, examination, and training programs and grants the TDA discretion to set such amounts administratively. The bill adopts new detailed provisions applicable to pesticide application and integrated pest management among school districts. It revises the statutory schedule for inspection of licensed businesses, requires development of a continuing education program for licensees, makes changes regarding complaints against applicators, and requires the TDA to make available a hotline for consumers and industry. The bill authorizes the TDA to issue stop use orders against licensees and cease and desist orders against unlicensed parties for regulatory violations, and requires the TDA to make information about enforcement actions publicly available.

Provisions relating to certain computing, reporting, and accounting tasks take effect June 15, 2007. The rest of the bill takes effect September 1, 2007.

**House Bill 3017**  
**Effective:** 6-15-07

**House Author:** Puente  
**Senate Sponsor:** Averitt

House Bill 3017 transfers, without substantive change, provisions relating to the certification of water treatment specialists from the Health and Safety Code to the Occupations Code.

**House Bill 3138**  
**Effective:** 6-15-07

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

House Bill 3138 amends the Health and Safety Code to require an operator of a mobile food unit, roadside food vendor, or temporary food service establishment in a county with a population of 3.3 million or more to acquire written authorization from the owner of the property on which the unit, vendor, or establishment is operating. The written authorization must be notarized, state that the operator has the owner's permission to operate on the property, and be prominently displayed in the unit, vendor, or establishment in view of the public at all times.

**House Bill 3601**  
**Effective:** 9-1-07

**House Author:** Swinford  
**Senate Sponsor:** Carona

House Bill 3601 amends the Occupations Code to transfer the conduct of a contested case hearing involving the sale or lease of a motor vehicle from the Texas Department of Transportation to the State Office of Administrative Hearings.

**Senate Bill 1154**  
**Effective:** 9-1-07

**Senate Author:** Carona  
**House Sponsor:** Phillips

Senate Bill 1154 amends the Occupations Code to require the Texas Department of Public Safety (DPS) to establish a statewide electronic reporting system to track the sales of regulated metal and to issue certificates of registration to qualified applicants. The bill prohibits a person from acting as, or representing the person to be, a metal recycling entity without the appropriate certificate of registration. The bill sets forth, among other provisions, processes, registration and certification procedures, and fee guidelines for the DPS to follow when establishing the program. The bill also sets forth sanctions, penalties, and provisions for enforcement. The bill requires the Public Safety Commission to prescribe fees to cover the costs of administering the law but prohibits the commission from imposing a certificate of registration fee that exceeds \$250 annually. The bill also requires the DPS to submit an annual report to the legislature regarding certain aspects of the registration program and a one-time report concerning the costs incurred by the DPS in administering these provisions, with that report due no later than March 1, 2008. The bill also defines "regulated metal," among other terms, and provides for more stringent local regulation of metal recycling entities.

## **Amusements, Games, and Sports**

**House Bill 1293**  
**Effective:** 9-1-07

**House Author:** Flores  
**Senate Sponsor:** Lucio

House Bill 1293 amends the Occupations Code to define "event coordinator" for purposes of combative sports and to add a combative sports event coordinator to the list of persons who must hold an appropriate license or registration.

**House Bill 2265**  
**Effective:** Vetoed

**House Author:** Haggerty  
**Senate Sponsor:** Averitt

House Bill 2265 amends the Occupations Code to permit a licensed authorized organization to offer a progressive bingo game, in which the prize amount may be increased over successive bingo occasions of that organization until a player completes the winning pattern for the specified game. The bill authorizes the organization to offer only one progressive bingo game during each bingo occasion and sets out provisions relating to prize amounts. The bill provides an expiration date of September 1, 2011, for these provisions and requires the Texas Lottery Commission, not

later than January 1, 2011, to submit to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature a report on the implementation of progressive bingo and its effect on net bingo proceeds available for charitable purposes.

Reason Given for Veto: "House Bill No. 2265 would authorize progressive bingo, in which the jackpot prize can grow to several times the currently allowed level. This is a significant departure from existing legal charitable bingo games.

"The bill would allow a progressive bingo jackpot to grow to \$2,500, compared to the current maximum \$750. The progressive prize would not count against the current cap on total prizes, resulting in a \$10,000 cap on prizes for the evening. This is not in keeping with the nature of charitable bingo and threatens to cost the charities more in prize payouts than they will gain in revenue from players.

"Progressive bingo represents an expansion of gambling beyond anything contemplated when Texas allowed neighborhood charitable bingo halls."

**House Bill 2701**

**Effective:** 9-1-07

**House Author:** Flores

**Senate Sponsor:** Lucio

House Bill 2701 amends provisions of the Texas Racing Act relating to the duties and functions of the Texas Racing Commission and the regulation of horse and greyhound racing. The bill changes certain deadline and fee requirements for conducting a criminal background check of a license applicant or holder and requires the commission to set fees to cover its costs for specific services. The bill decreases the period during which an association, which is a person licensed to conduct races with pari-mutuel wagering, is prohibited from employing a former commission member, certain employees, or a close relative of such a member or employee from two years to one year after the person has left the commission.

House Bill 2701 modifies provisions relating to an association's distribution of money from a pari-mutuel pool and to a person's claim to any part of such a distribution. The bill increases from two to three the maximum number of licensed racetracks in which a person may have more than a five percent interest, and provides that a person who owns interest in two or more racetracks and who also owns an interest in an alcoholic beverage license may own an interest in the premises of a second license or permit holder if the premises is part of a licensed racetrack. The bill requires the commission to review the ownership and management of a racetrack license every five years.

**Engineering, Design, and Construction**

**House Bill 463**

**Effective:** See below

**House Author:** Flores

**Senate Sponsor:** Carona

House Bill 463 amends provisions of the Occupations Code relating to the regulation of air conditioning and refrigeration contracting. The bill establishes a registration system administered by the Texas Department of Licensing and Regulation for an air conditioning and refrigeration technician and requires supervision by an air conditioning and refrigeration contractor licensee. It also establishes a means for a registered technician to become a certified technician.

House Bill 463 authorizes the department to examine any criminal conviction, guilty plea, or deferred adjudication of an applicant for issuance or renewal of an air conditioning and refrigeration contractor license, and prohibits a licensee from using the services of a person who is not a licensee or registered technician for assistance in air conditioning and refrigeration maintenance work. The bill adds imposition of an administrative penalty to the list of sanctions available to the department for the violation of certain state or local laws or departmental rules.

The provisions of the bill take effect September 1, 2007, except for the provisions relating to the registration system for an air conditioning and refrigeration technician, which take effect June 30, 2008.

**House Bill 899****Effective:** 9-1-07**House Author:** Smith, Wayne**Senate Sponsor:** Deuell

House Bill 899 amends provisions of the Occupations Code relating to the Texas Board of Professional Engineers and the practice of engineering. The bill removes a provision that prohibited a member of the board from receiving reimbursement for travel expenses, requires the board to annually elect a treasurer, and removes provisions that prohibited a board member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint from participating in the discussion of a matter at a board meeting related to the complaint. The bill exempts an engineer 65 years of age or older from a fee increase for the issuance and renewal of an engineering license, requires the results from a licensing examination to include a numerical score and an indication of whether a person passed or failed the examination, and provides that a license holder is not required to use a seal for a project for which the person is not required to hold a license under an exemption prescribed by law. The bill repeals provisions relating to the board secretary's duties and salary.

**House Bill 1029****Effective:** 6-15-07**House Author:** Goolsby**Senate Sponsor:** Carona

House Bill 1029 amends the Occupations Code to exempt from provisions of the Texas Electrical Safety and Licensing Act any work performed by a plumber who holds a license, registration, or endorsement necessary for the installation, service, maintenance, repair, or replacement of plumbing fixtures or appliances on existing electrical circuits and to stipulate that such work must meet the requirements of the existing circuits.

**House Bill 1038****Effective:** 9-1-07**House Author:** Ritter et al.**Senate Sponsor:** Fraser et al.

House Bill 1038 amends the Property Code to enhance the disciplinary powers of the Texas Residential Construction Commission and to expand the list of grounds for disciplinary action. The bill increases the maximum amount of an administrative penalty for most violations from \$5,000 to \$10,000, and it authorizes a penalty of up to \$100,000 for an offense involving misapplication of trust funds or fraud. The bill authorizes the commission to issue orders to enforce compliance and to impose an administrative penalty for a violation of an order. It also authorizes the commission or the attorney general to seek an injunction in a district court and to collect an administrative penalty. The bill authorizes the commission to charge a late fee for late payment of an administrative fee in any amount that does not exceed the amount of the administrative fee, and to impose additional fees for specified services. The bill requires the commission to publish information about each complaint that resulted in disciplinary action by the commission, but it prohibits the commission from disclosing the address of an individual home to the public, and it requires the House Committee on State Affairs to conduct an interim study regarding the feasibility of creating a fund to reimburse persons who experience actual damages from a builder's actions in violation of these provisions and requires the committee to report the results of the study not later than September 1, 2008.

The bill brings residential construction in unincorporated areas and other areas not subject to municipal inspections within the purview of the commission. It authorizes the commission, in consultation with Texas A&M University, the Texas Commission on Environmental Quality, and

an advisory committee appointed by the commission, to establish an energy-efficient building accreditation program. In appointing public members of the commission, the governor is required to consider individuals who can represent the interests of homeowners, including individuals who have experience representing consumer or homeowner interests.

The bill also includes provisions pertaining to builders, contracts, and inspections. Among the provisions pertaining to builders, the bill expands the definition of a "builder" to include a subsidiary of a builder, a person who sells a home, with certain exceptions, and a general contractor. The bill establishes that both a builder and a person with a majority ownership interest in the builder are jointly and severally liable for amounts due to the commission. It requires the commission to recognize or administer continuing education programs for registered builders and requires a builder to participate in the programs to maintain the builder's registration. It brings improvements costing more than \$10,000, rather than \$20,000, within the scope of the act, and requires an individual who builds or materially improves a home and does not live in the home for at least one year to meet the warranty obligations required of a builder.

House Bill 1038 also amends the Local Government Code to prohibit a municipality from issuing a building permit to a builder unless the municipality has verified that the builder is registered with the commission or is exempt from registration.

**House Bill 1850**

**Effective:** 9-1-07

**House Author:** Flores

**Senate Sponsor:** West, Royce

House Bill 1850 amends the Occupations Code to include a qualified plumbing inspection business among those with whom a political subdivision may contract to perform a plumbing inspection required by law.

**House Bill 2060**

**Effective:** 9-1-07

**House Author:** Geren

**Senate Sponsor:** Estes

House Bill 2060 amends provisions of the Occupations Code relating to the regulation of architects, landscape architects, and interior designers. The bill modifies provisions relating to membership of the Texas Board of Architectural Examiners and requires the board to administer or provide for the administration of an annual examination for a certificate of registration as a landscape architect. The bill repeals provisions that required the board's executive director or a designee to inform board employees about the state employee incentive program and authorized the board to recommend rehabilitation codes and provisions to municipalities.

House Bill 2060 extends from one year to two years the period within which an architect, landscape architect, or interior designer whose certificate of registration has expired may apply for a renewal of the certificate and allows a business entity under certain circumstances to engage in the practice of landscape architecture without holding a certificate of registration. The bill authorizes an architect whose certificate of registration is on emeritus status to engage in certain architectural practices that were previously prohibited. The bill requires the board to establish procedures by which a landscape architect or interior designer may place a certificate of registration on emeritus status and sets out eligibility standards, fees, authorized practices, and other requirements relating to that status.

**House Bill 3147**

**Effective:** 9-1-07

**House Author:** Solomons

**Senate Sponsor:** Carona

House Bill 3147 amends the Property Code to modify the definitions of "contractor" and "residence," for purposes of provisions relating to residential construction liability, so that "contractor" includes a person contracting with an owner or developer of a condominium for certain construction services, and "residence" includes the common elements in a multiunit

residential structure. The bill defines a condominium developer as a declarant of a condominium consisting of one or more structures. The bill also exempts a written contract between a condominium developer and a contractor for the construction or repair of a residence or appurtenance to a residence in a condominium from the disclosure notice requirements regarding the right to recover damages arising from construction defects.

**Senate Bill 541****Effective:** 9-1-07**Senate Author:** West, Royce et al.**House Sponsor:** Miles

Senate Bill 541 amends the Occupations Code to provide that the Texas Board of Architectural Examiners must require an architect, landscape architect, or interior designer certified by the board to complete during each annual registration period at least one hour of continuing education in sustainable or energy-efficient design standards.

**Senate Bill 1222****Effective:** See below**Senate Author:** Carona**House Sponsor:** Goolsby

Senate Bill 1222 amends the Occupations Code to create a residential appliance installer license, which authorizes a person other than a licensed electrician to perform limited electrical work related to connecting or disconnecting a residential appliance in certain dwellings, and a residential appliance installation contractor license, which authorizes an entity other than an electrical contractor or electrical sign contractor to contract for that work. The bill sets out the license registration requirements and requires a person who holds an installer license to be assigned to a single contractor unless the installer owns more than 50 percent of the contracting business. The bill prohibits a person or business from performing or offering to perform such an installation without the appropriate license and allows a municipality or region to regulate appliance installers in the same manner as electricians. The bill exempts from regulations relating to electricians the maintenance and repair of a residential appliance performed by the dealer or manufacturer of the electrical equipment. The bill requires the executive director of the Texas Department of Licensing and Regulation to adopt rules for licensing such installers and contractors and requires the department to issue an installer license without examination to a qualified applicant who applies not later than June 1, 2008, and meets certain other requirements. The provision prohibiting residential appliance installation or contracting without a license takes effect March 1, 2008; all other provisions take effect September 1, 2007.

**Senate Bill 1729****Effective:** 6-16-07**Senate Author:** Carona**House Sponsor:** Solomons

Senate Bill 1729 amends the Health and Safety Code to provide that standards adopted by the Texas Commission of Licensing and Regulation (TCLR) pertaining to the regulation of elevators, escalators, and related equipment may include and be guided by revised versions of certain codes adopted by the American Society of Civil Engineers and the American Society of Mechanical Engineers. The bill authorizes the executive director of the Texas Department of Licensing and Regulation, on application of a person and in accordance with procedures adopted by TCLR, to grant a variance that allows the installation of new technology if the new component is equivalent or superior to the standards adopted by TCLR and to charge a reasonable fee for the variance application.

## Real Estate

### House Bill 1460

Effective: 1-1-08

House Author: Haggerty

Senate Sponsor: Harris

House Bill 1460 amends provisions of law relating to the licensing, acquisition, regulation, and taxation of manufactured housing. The bill amends the Occupations Code to modify the requirements for various licenses, including increasing the amount of bond required for an installer's or rebuilder's license and requiring a \$50,000 bond for each branch location of a retailer licensee. The bill sets out requirements for the inspection of a licensee's records by the Texas Department of Housing and Community Affairs (TDHCA); entitles a person whose new or renewal license has been revoked, suspended, or denied to a hearing before the State Office of Administrative Hearings, rather than the director of TDHCA; and establishes criteria for determining administrative and criminal penalties.

House Bill 1460 separately defines new and used manufactured homes, holds the installer and retailer of a new manufactured home jointly responsible for the warranty of installation, and stipulates that a consumer purchasing a used manufactured home from a retailer take the home free and clear of any liens created by the seller. The bill allows a person who acquires a home from or through a licensee by sale, exchange, or lease-purchase to waive his or her right to rescind the contract for that acquisition in an emergency; revises the requirements for a retailer's or lender's disclosure of certain financial information to the buyer and for an application for and issuance of a statement of ownership and location; and establishes requirements for the sale and occupancy of a trade-in home.

House Bill 1460 transfers from TDHCA's director to the Manufactured Housing Board the authority to adopt rules, forms, standards, and other requirements relating to manufactured homes and changes the procedures for adopting rules and establishing fees. The bill allows the owner of an existing home to replace the home on the same lot if certain conditions are met and stipulates that in the event of a fire or natural disaster such a replacement cannot be restricted by municipal ordinances or charters. The bill prohibits an uninstalled home from being occupied for any purpose, prohibits the installation of a home on certain problem-prone sites without the owner's written acceptance of risk, and changes the requirements for declaring a home abandoned and for perfecting a lien on a home in inventory. It provides specific procedures for an owner's election to treat a manufactured home as either personal property or real property, revises the restrictions on purchasing or selling a salvage home, and allows a local governmental authority to impose the same inspection and other requirements on such a home within its jurisdiction as it would on a non-manufactured home. The bill exempts the manufactured homeowners' recovery trust fund from liability for certain damages, authorizes the board to limit the costs that may be paid from the fund, and revises the procedures for a consumer's recovery of damages from the fund and for resolving informal disputes between a consumer and a licensee.

In addition, House Bill 1460 amends the Government Code to require TDHCA's housing finance division to make its policies and procedures for investigating and resolving complaints available on its website and amends provisions of the Property Code relating to a lease agreement for a manufactured home. The bill amends provisions of the Tax Code relating to applying for a homestead exemption, establishing an escrow account, and recording a personal property tax lien on a manufactured home.



**House Bill 1530**  
**Effective:** 9-1-07

**House Author:** Flores  
**Senate Sponsor:** Eltife

House Bill 1530 amends provisions of the Occupations Code relating to the regulation of real estate brokers, salespersons, and inspectors. For an application for an original or unexpired renewal broker or salesperson license filed on or after January 1, 2008, the bill requires the Texas Real Estate Commission to conduct a criminal history check of each applicant and establishes procedures and fees for conducting a criminal history check. The bill modifies continuing education requirements for real estate brokers, requires a member of the legislature who is a licensed broker to complete three hours, rather than six hours, of continuing education on legal topics, and increases from \$10,000 to \$20,000 the corporate security bond certain educational institutions that offer real estate related courses must maintain as of January 1, 2008. The bill replaces provisions setting specific license application fees with a requirement that the commission, not later than January 1, 2008, set such fees by rule.

**House Bill 2820**  
**Effective:** 6-15-07

**House Author:** Jones, Delwin  
**Senate Sponsor:** Watson

House Bill 2820 amends the Occupations Code to prohibit an association, partnership, or corporation from offering professional land surveying services unless, in addition to other requirements, the business is registered with the Board of Professional Land Surveying. The board may refuse to issue or renew and may suspend or revoke such a registration. The board also may impose an administrative penalty against the owner of a business for a violation of state laws regulating land surveyors by an employee, agent, or other representative of the business.

**Senate Bill 914**  
**Effective:** 9-1-07

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

Senate Bill 914 amends the Occupations Code to continue the Texas Real Estate Commission (TREC) until September 1, 2019, and to incorporate into related laws several standard across-the-board sunset provisions. The bill provides for the expiration of the Residential Service Company Act, the Texas Timeshare Act, and certain provisions relating to real estate inspectors on that same date, unless continued by the legislature. The bill requires the TREC to comply with, implement, and report on the implementation of certain Sunset Advisory Commission recommendations. It converts the Texas Real Estate Inspector Committee to a purely advisory body, without any delegated jurisdiction, and empowers the TREC to appoint other advisory committees.

The bill authorizes TREC staff to initiate complaints and investigations and establishes criteria for determining consumer complaint priorities. It revises TREC enforcement procedures, transfers the conduct of TREC hearings to the State Office of Administrative Hearings, and includes enforcement provisions relating to cease and desist orders, temporary license suspensions, refunds as a sanctions option, and the informal disposition of contested cases. Temporary license suspensions are also covered by an amendment to the Texas Timeshare Act in the Property Code. The bill increases the maximum administrative penalty from \$1,000 to \$5,000 per violation. It requires the TREC to adopt a schedule of administrative penalties based on seriousness, previous violations, deterrence, and other factors, and to periodically review its enforcement procedures.

The bill removes statutory caps on various fees, giving the TREC discretion to establish fee amounts, and includes provisions relating to late fees. Provisions relating to the accreditation and approval of real estate educational programs and courses of study include a requirement that the TREC collect, and post to the Internet, data on examination passage rates for graduates

of accredited educational programs and adopt a standard that at least 55 percent of a program's graduates must pass a licensing examination the first time they take it before the TREC may renew the program's accreditation. The bill authorizes the TREC to appoint a committee to review the performance of a program that is failing to meet its standard. Miscellaneous bill provisions relate to online courses, inspector license holders and applicants, and the assumption by the TREC administrator of certain functions formerly vested in the Texas Appraiser Licensing and Certification Board.

**Senate Bill 1340**

**Effective:** 5-10-07

**Senate Author:** Estes

**House Sponsor:** Cook, Byron

Senate Bill 1340 amends the Occupations Code to provide that a surveyor-in-training certificate is valid for eight years, rather than the earlier of six years or the date the certificate holder becomes a registered professional land surveyor, as prescribed under previous law. The bill also provides that the Board of Professional Land Surveying must require a certificate holder to complete certain continuing professional education courses as a condition for retaining the certificate and to maintain records of such courses, which are subject to audit by the board as an additional condition for retaining the certificate.

**Senate Bill 1634**

**Effective:** 5-21-07

**Senate Author:** Wentworth

**House Sponsor:** Goolsby

Senate Bill 1634 amends the Occupations Code to authorize a registered professional land surveyor who is denied permission to cross land owned by a person or entity to apply to the district court of the county in which the land is located for a court order authorizing the surveyor to cross the land. If the surveyor holds office as the county surveyor and is acting in his or her official capacity, the county attorney may apply for the order. The bill requires the court to grant the order upon receiving proof of the surveyor's professional status and certain other evidence.

## Security and Public Safety

**House Bill 1241**

**Effective:** 9-1-07

**House Author:** Haggerty

**Senate Sponsor:** Jackson, Mike

House Bill 1241 amends the Occupations Code to require a private business to maintain criminal history records on its security department employees and to make such records available to the Department of Public Safety.

**House Bill 2101**

**Effective:** 9-1-07

**House Author:** Haggerty

**Senate Sponsor:** Jackson, Mike

House Bill 2101 amends the Occupations Code and Penal Code to clarify that certain commissioned security officers and individuals acting as personal protection officers are authorized to carry firearms when traveling to or from an assignment under certain conditions.

**House Bill 2833**

**Effective:** 9-1-07

**House Author:** Driver

**Senate Sponsor:** Seliger

House Bill 2833 amends the Private Security Act, in the Occupations Code, to modify the eligibility criteria to obtain a license, certificate of registration, or security officer commission. The bill gives the Texas Private Security Board discretion in the eligibility of applicants with a Class B misdemeanor conviction and provides, among other conditions, that an applicant is ineligible if the applicant has two or more felony convictions that have not been pardoned;

has a single felony conviction within the 20 years preceding the application; has a Class A misdemeanor conviction within the 10 years preceding the application; is charged with a Class A misdemeanor or felony offense at the time of the application; has an adjudication of delinquent conduct that constitutes a felony within the 10 years preceding the application; or is required to register as a sex offender, unless the applicant has been approved by the board. The bill provides that an applicant also is ineligible for a security officer commission if the applicant is disqualified from possessing a firearm or unable to exercise sound judgment in the use of a firearm, is a fugitive or is chemically dependent, is under certain protective orders, or has two or more Class B misdemeanor convictions relating to the use of alcohol or drugs within the 10 years preceding the application.

House Bill 2833 increases the maximum civil penalty for certain persons who violate the Private Security Act from \$1,000 per violation to \$10,000 per violation. The bill creates a civil penalty capped at \$10,000 per violation for a person who knowingly contracts with a person who is in violation of the act. The bill increases the cap on an administrative penalty from \$200 per violation to \$500 per violation. House Bill 2833 shifts a number of the duties of the Texas Commission on Private Security to the board and modifies provisions relating to confidential information and procedures in disciplinary actions.

**Senate Bill 949**  
**Effective:** 6-15-07

**Senate Author:** Hegar  
**House Sponsor:** Frost

Senate Bill 949 amends the Occupations Code to prohibit a political subdivision of the state from requiring a private business to employ a peace officer to provide security services for the business, with certain exceptions.

**Senate Bill 1562**  
**Effective:** See below

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

Senate Bill 1562 amends the Health and Safety Code to establish training requirements for an animal control officer. The bill directs the Department of State Health Services, not later than December 1, 2007, to prescribe the standards and curriculum for basic and continuing education animal control courses and specifies required curriculum content, course availability, and certification procedures. It provides for certification of certain facilities and authorizes a fee for a course or certificate. The bill also permits a person to sue for injunctive relief to prevent or restrain a substantial violation of a provision relating to animal control officer training.

Senate Bill 1562 amends the Penal Code to expand the offense of interference with a police service animal to include injuring or engaging in behavior likely to injure a police service animal in a manner that would materially or permanently affect the animal's ability to perform its duties and to increase the offense from a third degree felony to a second degree felony.

Provisions relating to training requirements and injunctive relief take effect July 1, 2008; other provisions of the bill take effect September 1, 2007.

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

House Bill 863 - Business and Commerce  
 House Bill 1064 - Health and Safety  
 House Bill 1170 - Energy Resources  
 House Bill 2034 - Criminal Justice  
 House Bill 2118 - Insurance  
 House Bill 2783 - Financial Institutions  
 House Bill 2936 - Property Interests and Housing



## Open Government and Privacy

This chapter covers legislation on issues relating to public access to governmentally held information, including the open records law, the open meetings law, confidentiality, and disclosability. Bills relating to a governmental entity's access to criminal history information can be found in the chapter containing bills on the governmental entity. Related bills that are summarized in other chapters are listed at the end of this chapter.

### Open Government

#### **House Bill 1497**

**Effective:** 9-1-07

**House Author:** Van Arsdale

**Senate Sponsor:** Williams

House Bill 1497 amends the Government Code to provide that if a governmental entity sends a written request for clarification, discussion, or additional information to a person who has requested information under the public information law, and the person does not respond within 60 days, the person's request for public information is considered to have been withdrawn. However, the request may not be considered to be withdrawn unless the entity's request for additional information includes a statement regarding the consequences of a failure to make a timely response and, if the person included a physical or mailing address in the request for public information, the entity sends its request for additional information by certified mail to that address.

#### **House Bill 2248**

**Effective:** 9-1-07

**House Author:** Van Arsdale

**Senate Sponsor:** Williams

Current law authorizes a governmental body seeking to withhold information to file suit challenging an open records ruling of the Office of the Attorney General. House Bill 2248 amends the Government Code to authorize such a governmental body to ask for another decision from the attorney general concerning the information at issue in a prior decision when a requestor abandons or voluntarily withdraws a request and the parties agree to dismiss the lawsuit. The bill also authorizes a court to dismiss the suit when a requestor withdraws a request and all parties agree to the dismissal.

#### **House Bill 2564**

**Effective:** 6-15-07

**House Author:** Hancock

**Senate Sponsor:** Wentworth

House Bill 2564 amends the Government Code to authorize a governmental entity to establish a limit on the amount of time it spends copying or providing public information to a requestor without charge. The bill provides that the time limit may not be less than a specified minimum for each requestor, and it requires the entity to provide the requestor with a running tally of the time spent during each 12-month period. A procedure is set forth for notification of estimated costs and committing to payment of costs if the established limit is exceeded, and the bill provides for a limit on requests in the name of a minor that can be made free of charge. The bill clarifies that a governmental body is not prohibited from providing public information without charge, and it specifically exempts representatives of the news media, elected officials, and certain legal services organizations from these provisions.

**Senate Bill 175**  
**Effective:** 6-15-07

**Senate Author:** Wentworth  
**House Sponsor:** Parker

Senate Bill 175 amends the Government Code to clarify that the terms “day” and “working day” used to calculate deadlines under certain provisions of the public information law refer to a “business day.”

**Senate Bill 178**  
**Effective:** 6-15-07

**Senate Author:** Wentworth  
**House Sponsor:** Rose

Senate Bill 178 amends the Government Code to add electronic communications from an administrative law judge at the State Office of Administrative Hearings to the types of communications that are excepted from the requirements of the public information law and to add questions and deliberations of such a judge to the types of written or electronic recordings that are excepted from those requirements.

**Senate Bill 592**  
**Effective:** 6-15-07

**Senate Author:** Wentworth  
**House Sponsor:** Parker

Senate Bill 592 amends the Government Code to add facsimile transmission and electronic mail to the list of approved means by which a presiding officer of a governmental body may communicate notice of an emergency meeting of that body or the addition of an emergency item to a meeting’s agenda to the news media, and removes telegraph as an acceptable method for communicating this information. The bill also adds facsimile transmission and electronic mail and removes telegraph from the methods a school district may use to provide special notice of its meetings to certain news media.

**Senate Bill 596**  
**Effective:** 6-15-07

**Senate Author:** Wentworth  
**House Sponsor:** Turner

Senate Bill 596 amends the Natural Resources Code to provide that certain information, including contract provisions, relating to the development of real property by or for the School Land Board, Veterans’ Land Board, or General Land Office, is confidential and exempt from disclosure under state public information statutes until all applicable deeds are executed and certain contract requirements have been satisfied.

**Senate Bill 1306**  
**Effective:** 5-22-07

**Senate Author:** Wentworth  
**House Sponsor:** Goolsby

Senate Bill 1306 amends the Government Code to include ceremonial events and press conferences attended by a quorum of a governmental body among the types of gatherings that are exempt from requirements of the open meetings law.

## **Privacy-Private Citizens**

**House Bill 1042**  
**Effective:** 9-1-07

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

Under previous law, a crime victim was required to elect whether the victim’s identifying information held by the office of the attorney general’s Crime Victims’ Compensation Program was to be held confidential or made accessible to the public. House Bill 1042 amends the Government Code to provide that such information is confidential and to add that information about a claimant under the Crime Victims’ Compensation Act is confidential.

**House Bill 1237**  
**Effective:** 9-1-07

**House Author:** Farabee  
**Senate Sponsor:** Hegar

House Bill 1237 amends the Government Code to clarify that an attorney licensed by the State Bar of Texas may choose to restrict public access to certain personal information about the attorney that is held by the bar. However, the bill provides that documents filed with a county or district clerk are not subject to this provision.

**House Bill 1728**  
**Effective:** 6-15-07

**House Author:** Harper-Brown  
**Senate Sponsor:** Harris

House Bill 1728 amends Health and Safety Code provisions relating to information contained in a municipal or county registry of dogs and cats, a rabies vaccination certificate, or a record compiled from one or more certificates that identifies or tends to identify the animal owner or the owner's address, telephone number, or other personally identifying information. The bill authorizes disclosure of registry, certificate, or record information to a person who, under a contract with a governmental entity, provides animal control services or animal registration services for that entity, provided that confidentiality is maintained. The bill provides that the information contained in a registry, certificate, or record may not include the social security number or the driver's license number of the animal owner.

**House Bill 2061**  
**Effective:** 3-28-07

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

House Bill 2061 amends the Government Code to specify that a social security number maintained by a governmental entity is not confidential and to authorize a county or district clerk to disclose public information containing a social security number during the ordinary course of business without subjecting the clerk to civil or criminal liabilities. The bill further allows an individual to submit a written request to redact a portion of the individual's social security number on any information maintained by the clerk that is not required by law to maintain the entire number, and it requires the clerk to comply with this request within a reasonable amount of time. The bill also amends the Property Code to specify that a property deed is not required to contain an individual's social security number and to prohibit the preparer of a property deed from including an individual's social security number in a document that is recorded in the office of the county clerk. Finally, the bill specifies that a county clerk is not obligated to ensure that a deed presented for recording does not contain an individual's social security number.

**House Bill 3659**  
**Effective:** 9-1-07

**House Author:** Dunnam  
**Senate Sponsor:** Ellis

House Bill 3659 amends the Penal Code to provide that the name of a student in a public or private primary or secondary school who is involved in the offense of an improper relationship with an educator is prohibited from being released to the public and is not public information under the law.

**Senate Bill 74**  
**Effective:** 06-15-07

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

Senate Bill 74 amends the Code of Criminal Procedure to require the office of the attorney general (OAG) to create and maintain an address confidentiality program to assist a victim of family violence, sexual assault, or stalking in maintaining a confidential address. The bill directs the OAG to designate a substitute post office box address for a participant, act as the agent to receive and process the participant's mail, and forward such mail to the participant. The

bill sets out requirements for program eligibility and for acceptance of the substitute address by governmental agencies and allows the OAG to use the compensation to victims of crime auxiliary fund to cover the costs incurred in administering the address confidentiality program. The bill provides immunity from prosecution for acts or omissions by an agent or employee of the attorney general in administering the program if acting in good faith and provides for prosecution of those who do not act in good faith in disclosing the confidential information. The OAG is required to establish the address confidentiality program and adopt rules to administer the program by June 1, 2008.

Senate Bill 74 requires the OAG to develop and distribute to all state law enforcement agencies, by October 1, 2007, a pseudonym form to record the name, address, telephone number, and pseudonym of a victim of family violence and further requires that the public files and records related to that victim will remain confidential except under certain circumstances. The bill creates a Class C misdemeanor offense for disclosure of the name, address, or telephone number of a victim of family violence who has chosen a pseudonym by a public servant under certain circumstances.

Senate Bill 74 also amends the Election Code to provide a mechanism for a participant of the address confidentiality program to register to vote and to participate in early voting.

**Senate Bill 123**

**Effective:** 5-17-07

**Senate Author:** Deuell et al.

**House Sponsor:** Latham

Senate Bill 123 amends the Government Code to except from disclosure under the public information law certain personal information maintained by a municipality for purposes related to the participation by a minor in a recreational program or activity.

**Senate Bill 1619**

**Effective:** 9-1-07

**Senate Author:** Lucio

**House Sponsor:** Morrison

Senate Bill 1619 amends the Labor Code to require the Texas Workforce Commission to adopt and enforce reasonable rules governing the confidentiality, custody, use, preservation, and disclosure of information collected, received, developed, or maintained in the administration of unemployment compensation benefits or the unemployment compensation tax system. The bill makes it a Class A misdemeanor to use the information in an unauthorized way that reveals identifying information, or information that foreseeably could be combined with other publicly available information to reveal identifying information, regarding any individual or past or present employer or employing unit. The bill also makes an offense relating to employee records of an employing unit a Class A misdemeanor rather than an offense punishable by a certain fine, jail term, or both.

## **Privacy-Public Officials and Employees**

**House Bill 41**

**Effective:** 9-1-07

**House Author:** Paxton et al.

**Senate Sponsor:** Seliger et al.

House Bill 41 amends the Election Code, Government Code, and Tax Code to protect the confidentiality of certain federal and state judges' residential addresses in voter registration application, registered voter roll, property appraisal, and driver's license public records. The bill also amends the Human Resources Code to protect an area agency on aging from criminal and civil liability relating to an election the agency conducts on behalf of a Texas nonprofit organization.



**House Bill 455**  
**Effective:** 9-1-07

**House Author:** Rodriguez  
**Senate Sponsor:** Whitmire

House Bill 455 amends the Government Code and the Tax Code to add community supervision (probation) officers to the list of officials or employees of governmental entities whose personal information is confidential and is not subject to disclosure under the public information law.

**House Bill 842**  
**Effective:** 6-15-07

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

House Bill 842 amends the Government Code to require the Texas Ethics Commission to remove the home address of a judge or justice from a personal financial disclosure statement filed by that official before permitting a member of the public to view or receive a copy of the statement.

**House Bill 1141**  
**Effective:** 6-15-07

**House Author:** Howard, Donna  
**Senate Sponsor:** Wentworth

House Bill 1141 amends the Tax Code to allow a current or former peace officer and a current or former employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters to make the person's home address information contained in local tax appraisal records confidential and available only for official use.

**Senate Bill 740**  
**Effective:** 5-4-07

**Senate Author:** Whitmire  
**House Sponsor:** Driver et al.

Senate Bill 740 amends the Government Code to prohibit the Texas Department of Public Safety from disclosing or otherwise making available to the public the personnel records of a commissioned officer of the department, except for certain specified information the department is required to release. The bill authorizes the department to release any personnel record of a commissioned officer pursuant to certain court orders, for use by the department in an administrative hearing, or with the written authorization of the commissioned officer who is the subject of the record, and provides that such release of the information does not waive the right to assert that the information is excepted from disclosure in the future.

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

- House Bill 402 - Taxes and Tax Administration
- House Bill 2188 - Taxes and Tax Administration
- House Bill 3674 - Property Interests and Housing
- House Bill 3827 - Higher Education
- Senate Bill 606 - Public Education
- Senate Bill 1046 - Higher Education
- Senate Bill 1499 - Emergency Response



## Parks and Wildlife

This chapter covers legislation on issues relating to parks and wildlife, including animal breeding, hunting and fishing, and public recreation. Related bills that are summarized in other chapters are listed at the end of this chapter.

### **House Bill 12**

**Effective:** See below

**House Author:** Hilderbran et al.

**Senate Sponsor:** Estes

House Bill 12 amends the Government Code to continue the Texas Historical Commission until September 1, 2019. In addition to including sunset and other provisions relating to the powers and duties of the commission, the bill provides that on or after January 1, 2008, certain historic sites and parks formerly under the jurisdiction of the Parks and Wildlife Department are under the commission's jurisdiction. The bill creates the historic site account in the general revenue fund and amends the Tax Code to require that six percent of the proceeds from the sales tax on sporting goods be deposited into the account. The bill requires the remaining 94 percent of the proceeds to be credited to the Parks and Wildlife Department and authorizes these percentages to be adjusted to reflect the transfer of historic sites under the bill.

The bill amends provisions of the Parks and Wildlife Code relating to funding for local parks to authorize the Texas recreation and parks account to be used only for grants to a county or municipality with a population of less than 500,000 or any political subdivision that is not a county or municipality and requires the Parks and Wildlife Department to deposit 15 percent of the sporting goods sales tax proceeds credited to the department into the account. The bill establishes the large county and municipality recreation and parks account to provide grants to a county or municipality with a population of 500,000 or more and requires the department to deposit 10 percent of the sporting goods sales tax proceeds it receives into the account. The bill provides that when revenue in that account exceeds \$14 million per year, at least 15 percent of the revenue must be made available for indoor public recreation grants to large counties and municipalities. Other provisions address the department's powers and duties relating to state parks. Not later than January 15 of each odd-numbered year, the department is required to submit to certain executive and legislative entities a management plan and priorities list relating to the maintenance of state park facilities. The bill also requires the department to deposit 74 percent of the sporting goods sales tax proceeds it receives into the state parks account.

The bill requires the Parks and Wildlife Commission to adopt rules not later than April 1, 2008, relating to certain nonindigenous snakes and makes it a Class C Parks and Wildlife Code misdemeanor, with certain exceptions, to possess or transport the snakes without a permit and a Class A Parks and Wildlife Code misdemeanor to release the snakes. The commission also is required to adopt rules not later than January 1, 2008, to implement certain requirements for commercial party boats on inland waters. Additionally, the bill requires the Department of Public Safety, Texas Alcoholic Beverage Commission, Texas Department of Criminal Justice, and Parks and Wildlife Department each to adopt physical fitness standards for certain law enforcement officers and to issue a report that contains the standards and the rate of compliance not later than November 1, 2008.

The bill establishes requirements for several other reports. An interim study subcommittee of the House Committee on Culture, Recreation, and Tourism is required to review base operating plans for each historic site to be transferred under the bill and report to the full committee not later than September 1, 2008. The committee is required to conduct a study relating to the regulation of nonindigenous snakes and report its findings not later than November 1, 2008. The Parks and Wildlife Department is required to conduct a study of ways to improve its hunting

and fishing license systems and report to certain executive and legislative entities not later than October 1, 2008. The bill also establishes a joint legislative task force to study the use of the sales tax on sporting goods and submit findings and recommendations to the legislature not later than December 15, 2008.

House Bill 12 takes effect June 15, 2007, except for provisions relating to the powers and duties of the Texas Historical Commission, standards for certain law enforcement officers, and the authority to release or unload fish, which take effect September 1, 2007. Provisions relating to nonindigenous snake permits also take effect September 1, 2007, except that related offenses do not take effect until April 1, 2008.

**House Bill 308**

**Effective:** 6-15-07

**House Author:** Kuempel

**Senate Sponsor:** Estes

House Bill 308 amends the Parks and Wildlife Code to provide an exception to the prohibition against hunting with light for hunting with a laser sighting device by a legally blind hunter. The bill authorizes such a hunter to use the device under certain conditions and requires the hunter to carry proof of being legally blind. The Parks and Wildlife Commission is required to adopt rules not later than September 1, 2007, to prescribe what is acceptable as proof of being legally blind, and the Texas Parks and Wildlife Department is prohibited from enforcing this act until those rules take effect.

**House Bill 971**

**Effective:** Vetoes

**House Author:** King, Tracy

**Senate Sponsor:** Uresti

House Bill 971 amends provisions of the Parks and Wildlife Code prohibiting a person from hunting an antlerless deer or antelope in this state without first acquiring an antlerless deer or antelope permit issued by the Parks and Wildlife Department. The bill authorizes a member of the Kickapoo Traditional Tribe of Texas who possesses certain documentation of membership and who holds a general hunting license to hunt antlerless white-tailed deer for religious ceremonial purposes on any day of the year between one-half hour before sunrise and one-half hour after sunset if certain requirements are met.

Reason Given for Veto: "House Bill No. 971 would require the Texas Parks and Wildlife Department (TPWD) to issue a year-round license exclusively to members of the Kickapoo Traditional Tribe of Texas for hunting antlerless white-tailed deer. This would circumvent TPWD authority to regulate hunting and wildlife management in the State of Texas."

**House Bill 1308**

**Effective:** 9-1-07

**House Author:** Hilderbran et al.

**Senate Sponsor:** Brimer et al.

House Bill 1308 amends provisions of the Parks and Wildlife Code relating to a deer breeder's permit, formerly known as a scientific breeder's permit, including permit authorization and duration; permit privileges and regulations; records and reports; the transfer, purchase, or sale of live breeder deer; and the use of breeder deer. The bill requires a breeder deer held in a permitted deer breeding facility to be identified and tagged not later than March 31 of the year following the year in which the breeder deer is born and prohibits a person from removing or accepting, or permitting the removal or acceptance of, a breeder deer in connection with a regulated facility unless the deer has been permanently and legibly tattooed in one ear with the unique identification number assigned to the breeder. The bill provides that a person who holds a permit under this law or who receives a breeder deer under this law is not required to have the release site inspected or approved before the release of a breeder deer from a breeding facility and directs the Parks and Wildlife Department to refrain from implementing habitat inspection rules or procedures that could unreasonably impede the deer breeding industry. The bill makes it

a Class A Parks and Wildlife Code misdemeanor, rather than a Class C Parks and Wildlife Code misdemeanor, to allow the hunting or killing of a breeder deer or any other deer held in captivity in a permitted facility except as provided by law or rule and adds knowingly selling, purchasing, transferring, or receiving a live breeder deer, or attempting these actions, in violation of this law to the offenses that are Class C Parks and Wildlife Code misdemeanors. The bill repeals certain provisions relating to a deer breeder's permit and the shipment of white-tailed deer.

**House Bill 3266**  
**Effective:** 8-29-07

**House Author:** Eiland  
**Senate Sponsor:** Jackson, Mike

House Bill 3266 amends the Parks and Wildlife Code to extend until September 1, 2009, the law prohibiting fees for certain commercial fishing licenses and shrimp licenses from being increased by more than 10 percent of the amount of the fee set by the Parks and Wildlife Commission and effective on September 1, 2002.

**House Bill 3764**  
**Effective:** 9-1-07

**House Author:** O'Day et al.  
**Senate Sponsor:** Estes

House Bill 3764 amends provisions of the Parks and Wildlife Code authorizing a marine dealer, distributor, or manufacturer who wishes to show, demonstrate, or test a vessel to use a number issued in connection with a certain license instead of securing a certificate of number for each vessel unless the showing, demonstrating, or testing includes the use of a vessel for recreational purposes or for participation in a contest or event. The bill authorizes the Parks and Wildlife Commission to establish rules concerning the issuance and price of a validation card permitting the limited and temporary use of a vessel for recreational purposes or participation in contests or events and requires any related fees to be deposited in the game, fish, and water safety account in the general revenue fund.

**House Bill 3849**  
**Effective:** 6-15-07

**House Author:** Hilderbran  
**Senate Sponsor:** Hinojosa

House Bill 3849 repeals provisions of the Transportation Code relating to the registration of all-terrain vehicles by the Texas Department of Transportation. The bill amends the Parks and Wildlife Code to require the Parks and Wildlife Department to issue an off-highway vehicle decal to a person who pays the required fee, rather than to a person whose off-highway vehicle is registered under the Transportation Code. The bill clarifies that, with certain exceptions, a person is prohibited from operating an off-highway vehicle on certain public land without an off-highway vehicle decal. The bill makes it a Class C Parks and Wildlife Code misdemeanor to operate, ride, or be carried on an off-highway vehicle on public property without wearing certain safety apparel.

**Senate Bill 573**  
**Effective:** 9-1-07

**Senate Author:** Brimer et al.  
**House Sponsor:** Hilderbran

Senate Bill 573 creates a select interim committee to study the practice of breeding white-tailed and mule deer in this state and establishes the committee's membership, powers and duties, and funding. The bill requires the study to include an examination of certain aspects of the practice, including the operation of breeding facilities in this state. It requires the lieutenant governor, speaker of the house of representatives, and governor to make appointments to the committee not later than the 60th day after the effective date of this act and requires the committee to report its findings to the lieutenant governor, speaker, and members of the 81st Legislature not later than February 1, 2009.

**Senate Bill 620**

**Effective:** 6-15-07

**Senate Author:** Jackson, Mike et al.

**House Sponsor:** Eiland

Senate Bill 620 amends the Parks and Wildlife Code to require the holder of an oyster permit to clearly and distinctly mark by buoys or other permanent markers easily visible above the surface of the water the boundaries of the areas designated in the permit.

**Senate Bill 969**

**Effective:** 6-15-07

**Senate Author:** Estes

**House Sponsor:** Harless

Senate Bill 969 amends the Parks and Wildlife Code to provide that a fee imposed by the Water Safety Act does not apply to a vessel or outboard motor purchased by, owned by, or used exclusively in the service of this state, a political subdivision of this state, or the federal government.

**Senate Bill 1668**

**Effective:** 9-1-07

**Senate Author:** Averitt

**House Sponsor:** Hilderbran

Senate Bill 1668 amends the Parks and Wildlife Code to require the Texas Parks and Wildlife Commission to allocate net revenue from the sale of stamps that are included in a combination hunting and fishing license to individual stamp funds according to a methodology the commission establishes. The bill requires the methodology to incorporate the proportionate discounted price of each stamp, the estimated utilization of each stamp, or a combination of the two methods. The bill deletes a shrimp house operator license and an individual bait-shrimp trawl license from provisions that require the Texas Parks and Wildlife Department to increase the fee for certain licenses and deposit the amount of the increase to the credit of the shrimp license buyback account. The bill also gives the department the authority to issue items authorized by federal law through the use of automated equipment and a point-of-sale system.

**Senate Bill 1669**

**Effective:** 9-1-07

**Senate Author:** Averitt

**House Sponsor:** Hilderbran

Senate Bill 1669 amends the Parks and Wildlife Code to add provisions relating to land owned, leased, or managed by the Texas Department of Parks and Wildlife and designated by the director as public hunting land and to state parks that include public hunting land. The bill authorizes the department to issue a permit authorizing access to public hunting land or for specific hunting, fishing, recreational, or other use of public hunting land or a wildlife management area and requires the Parks and Wildlife Commission by rule to prescribe the conditions for the issuance and use of such a permit. The bill provides that revenue from permit fees for access to state parks must be deposited to the credit of the state parks account and that revenue from other permit fees under these provisions must be deposited to the game, fish, and water safety account. The bill repeals provisions addressing fees for hunting in state parks and the disposition of fee revenue. It authorizes the department to acquire public hunting lands in addition to wildlife management areas and to use money from the game, fish, and water safety account for that purpose and for managing wildlife management areas.

**Senate Bill 1829**

**Effective:** 8-29-07

**Senate Author:** Jackson, Mike

**House Sponsor:** Eiland

Senate Bill 1829 amends the Parks and Wildlife Code to extend until September 1, 2009, the law prohibiting fees for certain commercial fishing licenses and shrimp licenses from being increased by more than 10 percent of the amount of the fee set by the Parks and Wildlife Commission and effective on September 1, 2002.

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

House Bill 1166 - Local Government

Senate Bill 1659 - Special Districts





## Probate and Guardianship

This chapter covers legislation on probate and guardianship proceedings and appointments, transfers of certain property, and the management and administration of a guardianship or a trust. Related bills that are summarized in other chapters are listed at the end of this chapter.

### **House Bill 290**

**Effective:** 6-15-07

**House Author:** Naishtat

**Senate Sponsor:** Wentworth

House Bill 290 amends the Probate Code and the Government Code to increase from \$3 to \$5 the amount of the fee charged for depositing a will with the county clerk during a testator's life.

### **House Bill 342**

**Effective:** 6-15-07

**House Author:** Naishtat

**Senate Sponsor:** Watson

House Bill 342 amends the Probate Code to authorize a court to delay further action in a guardianship proceeding before the court if a foreign jurisdiction has begun a proceeding involving the same matter and venue of the proceeding in the foreign court is proper. The bill requires the court that delays action to determine whether venue of the proceeding is more suitable in that court or the foreign court, but it allows the court to consider certain interests and the convenience of the parties in making that determination and to issue any necessary orders during the delay to protect the proposed ward or the proposed ward's estate. The bill requires the court to resume the proceeding if it determines that venue is more proper in that court and to transfer the proceeding to the foreign court, with its consent, if it determines that venue is more suitable in the foreign court.

### **House Bill 391**

**Effective:** See below

**House Author:** Hartnett

**Senate Sponsor:** Wentworth

House Bill 391 amends provisions of the Probate Code regarding court procedures related to estates of decedents. The bill redefines "interested persons" or "persons interested" for use in probate matters to include anyone interested in the welfare of an incapacitated person, including a minor, rather than the welfare of a minor or incompetent ward, and it amends provisions relating to venue for probate actions to include a proceeding to declare heirship in the application of those provisions.

House Bill 391 amends provisions relating to disclaimers or renunciation of property or interest receivable from a decedent to allow an attorney in fact or agent appointed under a durable power of attorney authorizing disclaimers to disclaim a bequest from a decedent's estate on behalf of a principal entitled to receive property as a beneficiary. If a beneficiary is a charitable organization or government agency, the bill extends the deadline for filing a disclaimer and notifying the transferor, from nine months to the first anniversary of the date the beneficiary receives notice that the beneficiary is a devisee in a will or six months from the date the personal representative files the inventory, appraisal, and list of claims due or owing to the estate, whichever occurs later.

The bill amends provisions relating to the effect of the dissolution of marriage on decedents' estates. If a proceeding to annul a marriage based on lack of mental capacity of either party, including a ward or proposed ward, is pending on the death of one of those parties, including the ward or proposed ward, the bill authorizes a court to make a determination and declare the decedent's marriage void after the decedent's death, and it requires the court in making such

a determination to apply the standards for an annulment prescribed by law. If a proceeding to invalidate a marriage based on mental capacity is not pending on the date of a decedent's death, an interested person may file an application with the court, not later than the first anniversary of the date of the decedent's death, requesting that the court void the marriage of the decedent if the decedent had been married no more than three years before the decedent's death. The bill requires the court to declare the marriage void if it finds that the decedent did not have the requisite mental capacity at the time of marriage and did not recover said capacity. If a court declares a decedent's marriage void, the other party to the marriage is not considered the decedent's surviving spouse for purposes of any law in this state.

Previous law provided that if, after making a will, a testator divorced or the testator's marriage was annulled, the testator's former spouse was to be regarded as having failed to survive the testator, and all provisions in the will in favor of that former spouse, or appointing the spouse to any fiduciary capacity, were null and void unless the will expressly provided otherwise. House Bill 391 amends those provisions to treat each relative of the former spouse who is not a relative of the testator as also having failed to survive the testator, unless the will expressly provides otherwise. The bill allows a person whose marriage to the decedent has been dissolved to be regarded as a surviving spouse if, by virtue of a subsequent marriage, the person is married to the decedent at the time of death and the subsequent marriage is not declared void on the basis of mental incapacity. The bill also amends the Family Code provision that prohibits a marriage subject to annulment from being challenged in a proceeding instituted after the death of either spouse to incorporate the Probate Code provision that allows an interested party up to one year after the decedent's death to file an application to void the marriage on the basis of the decedent's mental incapacity.

House Bill 391 amends the Probate Code to repeal provisions relating to oral or nuncupative wills and delete references to such, and it allows the contents of a written will that cannot by any reasonable diligence be produced in court to be substantially proved by the testimony of a credible witness who has read or heard the will or can identify the copy of the will.

The bill amends provisions relating to granting administration of a decedent's estate to require a court to grant the administration of an estate if the executor named in the will fails to present the will for probate within 30 days after the testator's death, the court finds there was no good cause for not presenting the will for probate during that period, and administration appears necessary. The bill also provides that necessity of administration is deemed to exist if it is necessary to receive or recover funds or other property due to the estate. The bill restricts the filing of an opposition to an application for letters of administration to any person having an interest in the estate being administered.

The bill removes a person's social security number from the list of information required of an applicant for emergency intervention to obtain funds needed for a decedent's funeral and burial expenses or to gain access to rental accommodations of a decedent at the time of the decedent's death.

House Bill 391 revises the time frame and procedure for opposing the sale of estate property, allowing any interested party to file an opposition to an application for the sale, or to make an alternate application for the sale of another estate property, during the period set by the court rather than requiring an appearance at a time set by the court to show cause why the sale should not be made, and it requires a hearing on the initial application for an order of sale only if opposition is filed during that period.

Except for provisions relating to the contents of an emergency intervention application, which take effect June 15, 2007, House Bill 391 takes effect September 1, 2007.

**House Bill 417**

**Effective:** 9-1-07

**House Author:** Hartnett et al.

**Senate Sponsor:** Wentworth et al.

House Bill 417 amends provisions of the Probate Code regarding guardianship appointments, compensation, eligibility, and proceedings. The bill requires an application for a proceeding on the appointment of a guardian to state the termination, if requested, of the right to vote or of the driver's license eligibility of a proposed ward who is 18 years of age or older, and it prohibits a court from granting certain guardianship applications for an incapacitated person without a written letter or certificate from a physician stating whether in the physician's opinion the proposed ward has the mental capacity to vote in a public election and the ability to safely operate a motor vehicle. The bill requires a court, if it appoints a guardian of a ward, the ward's estate, or both, or appoints a guardian with only limited powers based in part on findings regarding the person's capacity to vote or operate a vehicle, to state those findings and, if applicable, whether the ward retains the right to vote or remains eligible for a driver's license in the order appointing the guardian. If a ward's incapacity resulted from a mental condition, an order restoring the ward's capacity must specify that the ward's mental capacity is completely restored, and an order modifying a guardianship must specify whether the ward retains the right to vote.

The bill allows a court that appoints a guardian ad litem, rather than a court that creates a guardianship, to authorize the guardian ad litem's compensation from the proposed ward's estate, regardless of whether a guardianship is created for the proposed ward. It also entitles an attorney ad litem or guardian ad litem in a proceeding to completely restore the ward's capacity or to modify the ward's guardianship to compensation, regardless of the proceeding's outcome.

The bill allows both parents of an incapacitated adult to be jointly appointed as guardians if that adult has not been the subject of a suit affecting the parent-child relationship or was the subject of such a suit and both parents were named joint managing conservator but no longer serve as such, and it authorizes a court to remove a guardian on its own motion or on another person's complaint if the guardian is ineligible for appointment as prescribed by law.

The bill revises the time frame and procedure for opposing the sale of a ward's property, allowing any interested person to file an opposition to the sale during the period set by the court, rather than requiring an appearance at a time set by the court to show cause why the sale should not be made, and it requires a hearing on an application for an order of sale only if opposition is filed during that period. The bill gives a guardian the option to invest estate assets in certain instruments specified under statutory management and investment standards in lieu of applying for a court order authorizing the guardian to develop an investment plan and conferring related investment authority, and it allows the court to approve such plan without a hearing.

House Bill 417 amends the Election Code to provide that a person determined to be totally or partially mentally incapacitated by a probate court is not subject to a voting disability or candidacy disqualification if the person's mental capacity subsequently is completely restored by a final judgment of a probate court or the person's guardianship has been modified to include the right to vote. The bill amends other Election Code provisions relating to voter registration eligibility and public officeholder or candidate qualifications to reflect a requirement that a voter, officeholder, or candidate not have been determined by a court to be totally mentally incapacitated or partially mentally incapacitated without the right to vote and to reflect the right of such an applicant or candidate to remove the person's disqualification for voting or holding office by providing a statement that the person's mental capacity has been completely restored or that the person's guardianship has been modified to include the right to vote.

**House Bill 519**

**Effective:** 9-1-07

**House Author:** Naishtat

**Senate Sponsor:** Wentworth

House Bill 519 amends the Probate Code to clarify that on application by an appropriate person as provided by law and a determination of the facts at a hearing, an order that creates a trust for the management of a trust estate of an incapacitated person who does not have a guardian may be entered by a proper court exercising probate jurisdiction. The bill also requires a court in which an application for the creation of a management trust is pending on September 1, 2007, but that is not a proper court exercising probate jurisdiction to transfer the proceeding to a proper court exercising probate jurisdiction and sets forth procedures for the transfer.

**House Bill 564**

**Effective:** See below

**House Author:** Hartnett

**Senate Sponsor:** Wentworth

House Bill 564 amends provisions in the Property Code relating to the administration and operation of certain trusts and other property interests held for the benefit of another. The bill clarifies that the terms of a trust may not limit any common-law duty to keep a beneficiary of an irrevocable trust who is 25 years of age or older informed any time the beneficiary is entitled to a distribution from the trust or would receive a distribution from the trust on its termination. The bill provides a uniform definition of “person” applicable to various provisions relating to trusts and redefines “trustee” to include an original, additional, or successor trustee, whether or not the person is appointed or confirmed by a court. The bill provides that a settlor is not considered a trust beneficiary solely because the trust authorizes a trustee to reimburse the settlor for, or pay directly to the taxing units, any tax on trust income or principal that is payable by the settlor.

Subject to certain restrictions, House Bill 564 allows the termination of an uneconomic trust—consisting of property with a total value of less than \$50,000—if its trustee, after considering the trust’s purpose and the nature of its assets, concludes that its value does not justify the continued cost of administration. The bill allows the bond required of a noncorporate trustee to be made payable to the trust estate or court registry rather than to each person interested in the trust, allows any interested person to bring an action to require a bond, and allows a court to require a bond even if the instrument creating the trust provides otherwise.

House Bill 564 provides liability protection for persons dealing in good faith with a trustee by exempting them from liability to the trustee or to the trust’s beneficiaries when the trustee exceeds the trustee’s authority and by limiting the duty of a person other than a trust beneficiary to inquire into that trustee’s exercise of power or to ensure the proper application of the money or assets delivered by that person to the trustee.

House Bill 564 authorizes a trustee, in lieu of providing a copy of the trust instrument to a person other than a beneficiary, to provide a certification of trust containing certain information. The certification may be authenticated by any trustee, must state that the trust has not been changed in any manner that would cause the representations in the certification to be incorrect, and is not required to contain dispositive terms of a trust. The bill allows a recipient of a certification of trust to require a trustee to furnish copies of excerpts of the original instrument and amendments designating the trustee and conferring the power to act in a pending transaction, and it protects a person who acts in reliance on that certification unaware that its representations are incorrect from liability to any person for that action, allowing that person to assume without inquiry the facts in the certification. The bill sets forth when a transaction is enforceable and when it is not based on whether a person acts in good faith relying on a certification of trust or with prior knowledge that the trustee is acting outside the scope of the trustee’s powers.

House Bill 564 expands a district court's original and exclusive jurisdiction to include all proceedings by or against a trustee, and it clarifies that the statutory list of proceedings over which a district judge has jurisdiction is not exhaustive and may include proceedings not listed.

The bill clarifies provisions relating to the apportionment of receipts with regard to proration of deferred compensation payments and annuities, and the allocation between income and principal of rental receipts from an interest in minerals or other natural resources.

House Bill 564 amends the Texas Uniform Transfers to Minors Act to redefine "benefit plan" and to define "qualified minor's trust." It increases from \$10,000 to \$15,000 the limit on value of a minor's property that may be transferred by an obligor—other than a trustee, guardian, or other fiduciary—to an adult member of the minor's family or to a trust company if there is no custodian to whom the property may be transferred. It also authorizes a custodian, without a court order, to transfer all or part of the custodial property to a qualified minor's trust, and it provides that the transfer terminates the custodianship to the extent of the property transferred.

House Bill 564 amends provisions relating to the management of property recovered in a suit by a next friend or guardian ad litem to define "beneficiary" as a minor or incapacitated person who has no legal guardian and is represented by a next friend or an appointed guardian ad litem. The bill authorizes a court in a suit involving a beneficiary, on application and on finding that creating a trust would be in the beneficiary's best interests, to enter a decree directing the delivery of any funds accruing to the beneficiary under the judgment to a financial institution. If the value of the trust's principal is \$50,000 or less, the court may appoint a person other than a financial institution to serve as trustee if the appointment is in the beneficiary's best interests. If the value of the trust's principal is more than \$50,000, the court may appoint a person other than a financial institution only if no financial institution is willing to serve and the appointment is in the beneficiary's best interests. The bill allows a trustee to conclusively presume that medicine or treatments approved by a licensed physician are appropriate for the beneficiary's health in disbursing trust funds; clarifies that a financial institution serving as trustee serves without bond, and requires the first page of a trust instrument to contain notice regarding remedies available to the beneficiary and certain persons interested in the beneficiary's welfare. The bill authorizes the court to omit or modify any terms of the mandatory provisions if it determines that the omission or modification is necessary or appropriate to render the beneficiary eligible for public benefits or assistance under a state or federal program. In addition to ordering other appropriate remedies and grounds, a court, on a petition by certain persons, also may appoint a guardian ad litem to investigate and report to the court whether a trustee should be removed for failing or refusing to make distributions for the health, education, support, or maintenance of the beneficiary required under the terms of the trust.

House Bill 564 repeals a Finance Code provision that subjected a trust institution to restrictions on the loan, purchase, or sale of trust property, with respect to a trust if the trust was established by a client that resided in this state and was solicited from or accepted by an office of the trust institution in this state. The bill repeals a Property Code provision that required the trustee to keep the beneficiaries of the trust reasonably informed concerning the administration of the trust and the material facts necessary for the beneficiaries to protect the beneficiaries' interests. The provisions of the bill prohibiting the terms of a trust from limiting common law duties to keep certain trust beneficiaries informed regarding an entitlement to distributions from the trust and the repeal of provisions relating to informing beneficiaries take effect June 16, 2007. All other provisions of the bill take effect September 1, 2007.

**House Bill 585**

**Effective:** 6-16-07

**House Author:** Laubenberg

**Senate Sponsor:** Deuell

House Bill 585 amends the Family Code to authorize a probate court to exercise jurisdiction in a guardianship proceeding for a disabled person after that person becomes an adult. The bill amends the Probate Code to provide that a statutory probate court, or another court exercising the jurisdiction of a probate court, has jurisdiction in a guardianship proceeding involving a disabled adult for whom another court obtained jurisdiction in a suit affecting the parent-child relationship when the person was a child.

House Bill 585 amends the Probate Code to permit the appointed conservator of a disabled child who is applying to be appointed guardian after that disabled person becomes an adult to present to the court that obtains jurisdiction a written letter or certificate from a licensed physician containing certain information about the disabled person. The bill requires the court, if it receives such a letter or certificate and is able to make certain findings, to appoint the conservator as guardian without conducting a hearing and to preserve, to the extent possible, the terms of possession and access to the ward that applied before the court obtained jurisdiction.

**House Bill 1295**

**Effective:** 9-1-07

**House Author:** Hartnett

**Senate Sponsor:** Wentworth

House Bill 1295 amends the Local Government Code and the Government Code to create a \$20 supplemental court-initiated guardianship fee in probate original actions and adverse probate actions for the support of the judiciary in guardianships. The bill requires the clerk of a statutory county court, statutory probate court, or county court to collect the supplemental fee, to be deposited into the county treasury to provide supplemental funding for compensation of court-appointed guardians ad litem and court-appointed attorneys ad litem and to fund local guardianship programs for indigent incapacitated persons. The bill also provides that a supplemental court-initiated guardianship fee is in addition to all other fees charged in probate original actions and adverse probate actions, that it must be paid by the person against whom the fee for such action is charged, and that it is due at the time that fee is due.

**House Bill 1352**

**Effective:** 9-1-07

**House Author:** Paxton

**Senate Sponsor:** Harris

Under previous law, if a decedent's estate owned a farm, ranch, factory, or other business, the disposition of which had not been specifically directed by will and was not required to be sold immediately for the payment of debts or other lawful purposes, the estate's representative was required, on order of the court with proper probate jurisdiction, to continue operating that business, arrange for its continued operation, or rent the business for the best interest of the estate. In granting such power, the law required the court to consider the condition of the estate and the necessity that could exist for future sale of such property or business for the payment of debts, claims, or other lawful expenditures, and it prohibited the court from extending the time of renting any of the property beyond what appeared to be consistent with the speedy settlement of the estate.

House Bill 1352 amends the Probate Code to authorize a court, in the circumstances noted above and after notice to all interested persons and a hearing, to order the personal representative of a decedent's estate to operate a business of the estate, including a farm, ranch, or factory, and to grant that representative the powers to operate the business that the court determines are appropriate, taking into consideration the same factors as before, including the order's effect on a speedy settlement. The bill also provides for the fiduciary duties of the personal representative in operating the business, imposing on the representative the same considerations as are imposed

on the court, and it requires the representative before purchasing, selling, leasing, or otherwise encumbering any real property of the business, to file a notice in the real property records of the county in which the estate is located.

**House Bill 1709**  
**Effective:** 9-1-07

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

House Bill 1709 amends the Probate Code to provide a probate judge under certain circumstances the discretion either to enter immediately and without notice an order requiring a guardian or personal representative of an estate to provide a new bond as a condition for assuming the guardian or representative's duties or to order, by citation as required by previous law, that person to show cause why a new bond is not necessary. The bill requires the order to state the reasons for, the amount of, and the deadline for giving the new bond and authorizes a guardian or personal representative to demand a hearing on the order, to be held before the expiration of the deadline for giving the new bond.

**House Bill 1710**  
**Effective:** 9-1-07

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

Previous law provided for the formal administration of community property after the death of a spouse by a surviving spouse pursuant to the authority vested in the surviving spouse by an order of a probate court. House Bill 1710 amends the Probate Code to repeal several provisions regarding the formal administration of a community estate and to make conforming changes by deleting references to a survivor's qualification as community administrator in other provisions relating to the spouse's powers, duties, and liabilities in administering the estate.

**House Bill 2393**  
**Effective:** 9-1-07

**House Author:** Flynn  
**Senate Sponsor:** Janek

Previous law set out specific guidelines for the investment of funds held in a prepaid funeral benefits trust and for the standard of care required of its trustee. House Bill 2393 amends the Finance Code to require that the investment of such funds be in accordance with the Uniform Prudent Investor Act and consistent with provisions of the trust, and to require the trustee to meet the standard of duty set out in the Texas Trust Code, with certain restrictions. The bill requires the trustee to consider as a trust beneficiary a funeral provider or other party that delivered a contracted funeral or is otherwise designated in a prepaid funeral benefits contract as being entitled to payment from the funds in the trust.

**Senate Bill 505**  
**Effective:** 4-25-07

**Senate Author:** Uresti  
**House Sponsor:** Naishtat

Senate Bill 505 amends the Government Code to provide that the Guardianship Certification Board is entitled to obtain from the Department of Public Safety criminal history record information maintained by the department that relates to a person who is an applicant for or the holder of a certificate issued by the board. The bill sets out the purposes for which the board may use the criminal history record information, prohibits its release or disclosure to any person except under certain conditions, and requires that the information be destroyed by the board after use.

**Senate Bill 506**  
**Effective:** 4-25-07

**Senate Author:** Uresti  
**House Sponsor:** Naishtat

Senate Bill 506 amends the Government Code to allow the Guardianship Certification Board to issue a provisional certificate for providing guardianship services to an individual who does

not meet all of the qualifications required by law for obtaining certification but who possesses the qualifications required by rules adopted by the supreme court for provisional certification. The bill requires the board to establish qualifications for obtaining provisional certification and issue certificates to individuals who meet provisional certification requirements. The bill also restricts the guardianship services of a provisional certificate holder and permits the supreme court to adopt rules and procedures for issuing a provisional certificate that meet certain minimum requirements.

In addition, Senate Bill 506 amends the Texas Probate Code to clarify that "certified" includes holding a certain provisional certificate.

**Senate Bill 507**  
**Effective:** 9-1-07

**Senate Author:** Uresti  
**House Sponsor:** Naishtat

Senate Bill 507 amends the Government Code to require the Office of Court Administration to reimburse members of the Guardianship Certification Board for travel expenses and other actual and necessary expenses incurred in the performance of official board duties, as provided by the General Appropriations Act.

**Senate Bill 593**  
**Effective:** 9-1-07

**Senate Author:** Wentworth  
**House Sponsor:** Hartnett

Senate Bill 593 amends the Probate Code to require a personal representative of a decedent's estate, within a certain time period after an order admitting the decedent's will to probate, to give notice to each beneficiary named in the will whose identity and address are known or, through reasonable diligence, can be ascertained, and to file a sworn affidavit or certificate with the court listing the beneficiaries notified as well as those beneficiaries who either filed a waiver of notice or could not be identified or located. The bill sets out required content for the notice and requires the notice to be sent by registered or certified mail, return receipt requested. The bill specifies the individual or individuals to whom a personal representative must give notice when the beneficiary is a trust, guardianship, minor, or charity, and exempts a personal representative from the duty to give notice to a beneficiary who made an appearance in a proceeding with respect to the decedent's estate before the will was admitted to probate or who received a copy of a will before it was admitted to probate and waived the right to receive the notice.

Senate Bill 593 deletes provisions relating to providing notice to an entity named as a devisee in a will and to certain procedures relating to such notice. The bill amends House Bill 391, Acts of the 80th Legislature, Regular Session, 2007, to remove the estate of a decedent who dies before September 1, 2007, if the probate or administration of the estate is pending on or commenced on or after that date, from the limited application of that bill.

**Senate Bill 819**  
**Effective:** 9-1-07

**Senate Author:** Wentworth  
**House Sponsor:** Hartnett

Previous law established a \$25 late fee if an inventory and appraisal in a probate action is filed more than 120 days after the date the probate action is filed. Senate Bill 819 amends the Government Code and the Local Government Code to make the late fee applicable only if the instrument is filed after the 90th day after the date the personal representative has qualified to serve or, if the court grants an extension, after the date of the extended deadline.



**Senate Bill 1624**

**Effective:** 9-1-07

**Senate Author:** Watson

**House Sponsor:** Gonzales

Senate Bill 1624 amends the Probate Code to authorize a probate court, on its own motion, to order genetic testing in a proceeding to declare heirship and provides guidelines for the use of genetic testing. The bill also requires the court to order such testing at the request of a party to the proceeding. The bill requires the cost of genetic testing ordered by a court to be advanced by the party requesting the testing, under a court-approved agreement among the parties, or as ordered by the court. The bill also requires a court to order subsequent genetic testing if a party to a proceeding contests the results of the original testing and pays for the additional testing in advance, permits a court to order certain relatives of an individual whose genetic material is not available to submit a sample of genetic material for testing under circumstances the court considers just, and permits a court to order genetic testing of a deceased individual. The bill makes it a misdemeanor offense to intentionally and without authorization release an identifiable sample of the genetic material of another individual provided for a proceeding to declare heirship.

Senate Bill 1624 provides for the admissibility and use of the results of genetic testing in a proceeding to declare heirship. The bill requires a court, unless certain test results are admitted as rebuttal evidence, to determine whether an individual who petitions the court and claims to be a biological child of a decedent is an heir if the results of genetic testing identify or exclude another tested individual who is an heir of the decedent as the ancestor of the individual claiming heirship. If the results do not identify or exclude a tested individual as the ancestor to the individual claiming heirship, a court may not dismiss the proceeding, and the results of the testing and other relevant evidence are admissible in the proceeding. The bill authorizes a court to order the name of an individual determined by testing to be an heir to be changed and an amended birth record for the individual to be issued; it also provides that the proceeding and records in the proceeding are open to the public.

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

House Bill 2359 - Courts

House Bill 3787 - Military Forces and Veterans

Senate Bill 291 - Human Services



## Property Interests and Housing

This chapter covers legislation on issues relating to property interests and housing, including eminent domain, the landlord-tenant relationship, affordable housing, and property owners' associations. Bills relating to property taxation are in the **Taxes and Tax Administration** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 271**

**Effective:** 1-1-08

**House Author:** Gonzales et al.

**Senate Sponsor:** Lucio et al.

House Bill 271 amends the Property Code to require the disclosure notice certain home sellers must complete regarding the condition of the property to include any known previous use of the premises for manufacturing methamphetamine.

#### **House Bill 989**

**Effective:** 9-1-07

**House Author:** Zerwas

**Senate Sponsor:** Hegar

Current law prohibits a person from filing for record or having recorded in the county clerk's office a plat or replat of a subdivision of real property unless it has attached to it an original tax certificate from each taxing unit with jurisdiction of the real property indicating that no delinquent ad valorem taxes are owed on the real property. House Bill 989 amends the Property Code to establish the same filing requirements for condominiums and for subdivision amended plats and amended replats.

#### **House Bill 1100**

**Effective:** 6-16-07

**House Author:** Lucio III

**Senate Sponsor:** Lucio

House Bill 1100 amends the Local Government Code to allow an owner of real property in certain subdivisions to apply to the county commissioners court for permission to cancel an existing subdivision plat in whole or part and to reestablish the property using lots and blocks descriptions consistent with a previous plat. The bill establishes conditions and procedures for the plat's cancellation and reestablishment.

#### **House Bill 2207**

**Effective:** 1-1-08

**House Author:** Gallego et al.

**Senate Sponsor:** Watson

House Bill 2207 amends the Property Code to prohibit a person from conveying an interest in or entering into a contract to convey an interest in residential real property that will be encumbered by a recorded lien when the interest is conveyed unless, at least seven days before the earlier of the effective date of the conveyance or the execution of a contract, the person provides the purchaser and each lienholder with a separate written disclosure statement containing certain information about the property and the lien. The bill provides exceptions to this notice requirement for transfers of property made under certain circumstances or made by or to certain parties and stipulates that violating the requirement does not invalidate the conveyance. If a contract is entered into without the seller providing the required notice, the purchaser may terminate the contract for any reason within seven days after receiving the notice, in addition to other remedies. The bill stipulates that a violation of these provisions is not actionable if the person required to give notice of the lien reasonably believes and takes any necessary action to ensure that the lien will be released within 30 days after the property's title is transferred. The

bill prohibits certain deed restrictions or other covenants running with the land applicable to the conveyance and provides that such a restriction or conveyance is void and unenforceable, with certain exceptions.

**House Bill 2738**

**Effective:** 6-15-07

**House Author:** Solomons

**Senate Sponsor:** Harris

State law requires that certain notification be given at least 21 days before the sale of real property under a contract lien at a public auction, including by posting a written notice at the courthouse door of each county in which the property is located and filing a copy of that notice with the county clerk of each of those counties. House Bill 2738 amends the Property Code to provide that, if the courthouse or county clerk's office has been closed because of a natural disaster, inclement weather, or another act of God, the written notice may be posted or filed up to 48 hours after the office reopens. The bill prohibits a sale that takes place in an area other than at the courthouse of a county where the property is located, as designated by the county's commissioners court, from being held before the 90th day after the designation is recorded. In addition, the bill allows more than one person authorized as a trustee to exercise the power of sale under a security instrument, clarifies the qualifications for a trustee, and requires that the purchase price in a sale held by a trustee be payable immediately on acceptance of the bid by the trustee or a substitute trustee.

**House Bill 2931**

**Effective:** 9-1-07

**House Author:** King, Tracy

**Senate Sponsor:** Zaffirini et al.

House Bill 2931 amends the Property Code to authorize a person who owns real property in this state that is enclosed by a fence or other structure obviously designed to exclude intruders or to contain livestock or other animals to obtain a court judgment entitling the person to a lien against a motor vehicle that damages the person's fence. The bill provides that the amount of the lien is equal to the lesser of the fair market value of the motor vehicle on the date the person's fence is damaged or certain actual costs, including the cost to have the vehicle towed from the property and stored. The bill requires a peace officer who investigates or responds to an incident in which a motor vehicle damages a fence and who reasonably believes that the fence is intended to contain livestock or other animals to notify the landowner of the type and extent of the damage if the landowner has registered with the political subdivision in accordance with the law.

**House Bill 2936**

**Effective:** 9-1-07

**House Author:** Farrar

**Senate Sponsor:** Ellis

House Bill 2936 amends the Property Code to provide that, when a nonprofit community development corporation contracts with a home builder to construct or manage the construction of a house and does not act as the home builder directly, the home builder rather than the corporation is responsible for complying with the requirements of the Texas Residential Construction Commission.

**Senate Bill 300**

**Effective:** 4-23-07

**Senate Author:** Ellis

**House Sponsor:** Paxton

Senate Bill 300 amends the Property Code to provide that a judgment in favor of the state or a state agency does not become dormant and the judgment lien on real property continues for 20 years or until the judgment is satisfied or the lien is released. The bill provides that the judgment lien may be renewed for one additional 20-year period and that the renewed lien relates back to the date the original abstract of judgment was filed.

**Senate Bill 512**  
**Effective:** 9-1-07

**Senate Author:** Harris  
**House Sponsor:** Solomons

State law and the Texas Constitution exempt a person's homestead from seizure or forced sale because of certain liens on the property. Senate Bill 512 amends the Property Code to clarify that this exemption applies to a judgment lien and to authorize a judgment debtor to file at any time in the real property records of the county in which the debtor's homestead is located an affidavit attesting to the release of such a lien. The bill sets out proposed language for the debtor's affidavit and specifies that it serves as a release of record of the lien unless the judgment creditor files a contradicting affidavit in the county's real property records asserting that the debtor's affidavit is untrue or that another reason exists for the lien's attachment to the property. The bill maintains that a bona fide purchaser or a mortgagee for value, or a successor or assign of such a person, may rely conclusively on the debtor's affidavit if it includes certain evidence that the debtor notified the creditor about the affidavit.

**Senate Bill 1666**  
**Effective:** 6-15-07

**Senate Author:** Averitt  
**House Sponsor:** Corte, Frank

Previous law prohibited a lien for reclamation costs from being filed against the property of a person who owned the surface before May 2, 1977, and did not consent to, participate in, or exercise control over, the mining operation that necessitated the reclamation. Senate Bill 1666 amends the Natural Resources Code to delete the requirement of ownership before May 2, 1977.

## **Affordable Housing**

**House Bill 1637**  
**Effective:** 9-1-07

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

House Bill 1637 amends the Government Code to provide for the operation and administration of the Texas First-Time Homebuyer Program by the Texas Department of Housing and Community Affairs (TDHCA) to facilitate the origination of single-family mortgage loans for first-time homebuyers. The bill provides that the program may assist potential homebuyers with down payment and closing costs, and establishes eligibility requirements for a mortgage loan under the program.

**House Bill 1742**  
**Effective:** 9-1-07

**House Author:** Giddings  
**Senate Sponsor:** West, Royce

The Texas Legislature in 2003 enacted an urban land bank demonstration program for a municipality with a population of 1.8 million or more located mostly in a county with a total area of less than 1,000 square miles, and in 2005, it enacted an urban land bank program for a municipality with a population of 1.9 million or more. Both measures authorize an eligible municipality to adopt an urban land bank program, allowing the private sale of tax-foreclosed property to a municipally created land bank for the purpose of affordable housing development. House Bill 1742 amends the Local Government Code to enact a new urban land bank program for municipalities not covered by the previous legislation that have never adopted a homestead land bank program. Similar to the previously enacted programs in its purpose and administrative provisions, the urban land bank program enacted by House Bill 1742 requires a municipality that adopts an urban land bank program to establish or approve a land bank to acquire, hold, and transfer unimproved real property according to a mandatory urban land bank plan.

The bill also amends provisions relating to the other urban land bank programs, including raising the cap on gross household income for a low-income household to qualify for affordable housing developed by a land bank, revising requirements for property that may be sold privately to a land bank and for deed restrictions on land bank property to be sold for development and subsequent sale to low income households, shortening the period for the right of first refusal for qualified community housing development organizations, and, under certain circumstances, limiting the ability of third parties to bring a cause of action to set aside or otherwise challenge the sale of property to a land bank.

The bill makes Local Government Code provisions relating to the creation of homestead preservation districts and reinvestment zones applicable to a city that adopted an urban land bank demonstration program under the 2003 legislation, and it amends Health and Safety Code provisions relating to the Solid Waste Disposal Act to exempt an urban land bank, under certain conditions, from responsibility for the release or threatened release of solid waste from a land bank-owned facility or at a land bank-owned site and from the consequent responsibility either for certain enforcement actions or for the reimbursement cost for site remediation.

The bill amends the Tax Code to recognize an organization created to acquire, hold, and transfer real property under the 2003 or 2007 legislation as, or on behalf of, a land bank as a tax-exempt charitable organization.

**House Bill 2353**

**Effective:** 9-1-07

**House Author:** Thompson

**Senate Sponsor:** West, Royce

House Bill 2353 amends the Local Government Code to apply the Texas Fair Housing Act to public housing authorities.

**Senate Bill 1185**

**Effective:** 9-1-07

**Senate Author:** Nelson

**House Sponsor:** Bailey

Senate Bill 1185 amends Government Code provisions relating to certain low-interest home loan programs administered by the Texas State Affordable Housing Corporation. In addition to making minor revisions in dates and dedicated portions of funds, the bill combines the professional educator and professional nursing program faculty member loan programs and adds allied health program faculty members to that combined program. For loan eligibility determination, the bill allows, as an alternative to current income limits based on area median family income, the maximum amount of income permitted by the federal Internal Revenue Code.

**Senate Bill 1908**

**Effective:** 9-1-07

**Senate Author:** Ellis et al.

**House Sponsor:** Menendez

Senate Bill 1908 enacts a number of provisions relating to the Texas Department of Housing and Community Affairs (TDHCA), affordable housing, and rehabilitation of certain property.

The bill amends the Government Code to provide for the operation and administration of the Texas First-Time Homebuyer Program by TDHCA to facilitate the origination of single family mortgage loans for first-time homebuyers. The bill provides that the program may assist potential homebuyers with down payment and closing costs, and establishes eligibility requirements for a mortgage loan under the program.

The bill requires the comptroller, in determining school district property values, to exclude the value of property within certain reinvestment zones. It revises provisions relating to the allocation of housing funds and establishes a regional allocation formula. The bill adds to the criteria that are the basis for the point system for scoring and ranking applications for low

income housing tax credit allocations in order to include points for proposed development sites in a disaster area and for applicants who provide free notary public service to the residents of their development.

Senate Bill 1908 revises provisions relating to TDHCA administration, including board meetings, special advisory councils, compliance assessments, budget preparation and submission, annual reports, low income housing plan preparation and submission, alternative dispute resolution procedures, administration of certain federal economic opportunity programs, uniform application and funding cycles for certain housing programs, the executive award and review advisory committee, ex parte communications, documents supporting mortgage loans, issuance of private activity bonds, and construction requirements for single family affordable housing; it also establishes an administrative penalty.

The bill requires a lease agreement with a tenant in a development supported with a housing tax credit allocation to include certain federal and state standards and to be consistent with federal and state law. It requires TDHCA to maintain an electronic mail notification service to which any person may electronically subscribe to receive information concerning the status of preapplications and applications for low income housing tax credit allocations.

Senate Bill 1908 amends the Local Government Code to include non-residential property in provisions relating to legal actions against owners of property that is not in compliance with certain municipal ordinances and appointment of a receiver to rehabilitate the property. The bill provides for a receivership fee and a receiver's lien on the property, and makes changes in provisions relating to the sale of the property. The bill revises provisions of the urban land bank program for municipalities with a population of 1.9 million or more to add to the conditions of purchase of land offered for sale by a land bank and to limit certain causes of action after the first anniversary of the sale of property to a land bank. The bill establishes an urban land bank program for certain municipalities not covered under other chapters in the code.

Senate Bill 1908 amends the Tax Code to provide that real property that has been acquired, held, and transferred by a qualified charitable organization serving as or on behalf of a land bank is exempt from taxation.

## **Eminent Domain**

### **House Bill 389**

**Effective:** 6-15-07

**House Author:** Callegari et al.

**Senate Sponsor:** Estes

House Bill 389 repeals an obsolete statutory reference to the power of eminent domain vested in the board of regents of the Texas State College for Women of Texas, now Texas Woman's University (TWU). The bill also amends the Education Code to specify that the TWU board of regents' power of eminent domain is subject to provisions of the Property Code governing its use, except for certain bond deposit requirements.

### **House Bill 1495**

**Effective:** 2-1-08

**House Author:** Callegari et al.

**Senate Sponsor:** Nichols

House Bill 1495 amends the Government Code to require the attorney general (AG) to prepare a landowners bill of rights for property owners involved in the eminent domain process, specifies elements to be included, and requires that the statement be made available on the AG's website.

**House Bill 2006**

**Effective:** Vetoed

**House Author:** Woolley et al.

**Senate Sponsor:** Janek

House Bill 2006 enacts a number of provisions relating to the power of eminent domain. Among other provisions, the bill requires the comptroller, not later than January 1, 2009, to identify all public and private entities with eminent domain authority and to make recommendations to the governor and legislature regarding changes.

The bill amends the Government Code to define "public use" and to prohibit the taking of private property through the use of eminent domain if the taking is not for a public use. It sets out procedures required to initiate an eminent domain proceeding and adds court costs relating to an eminent domain proceeding to the lists of district and statutory county court fees and costs.

The bill amends the Property Code to:

- require an entity with eminent domain authority to make a bona fide offer to a property owner in order to acquire the property, specify what constitutes a bona fide offer, and specify court actions that may be taken on making a determination that an entity did not make a bona fide offer
- change the price at which an owner or the owner's heirs, successors, or assigns are entitled to repurchase property acquired through eminent domain if the public use is canceled from fair market value at the time of cancellation to the price paid to the owner by the governmental entity
- revise requirements relating to the disclosure and production of information during condemnation proceedings by entities that have eminent domain authority and are not subject to the state public information law
- revise provisions relating to the determination of fair market value
- require, rather than allow, certain governmental entities to provide relocation advisory services and pay certain moving expenses and relocation costs to an individual family, a business concern, a farming or ranching operation, or a nonprofit organization in accordance with federal law as a cost of acquiring real property through a condemnation proceeding

The bill amends the Natural Resources Code to set out procedures for a condemnation proceeding initiated by a common carrier and amends the Water Code to authorize certain water and sewer utilities to acquire, by condemnation, only easements or lesser property interests necessary to comply with federal and state regulations relating to sanitation.

Reason Given for Veto: "House Bill No. 2006 contains two provisions that would vastly expand the cost to Texas taxpayers of public projects to the point where they grossly outweigh the bill's benefits.

"It is important to balance the rights of Texas landowners whose land is acquired through eminent domain against the needs of the greater taxpaying public. However, two amendments were added in the 11th hour to House Bill No. 2006 that would send the cost of public projects spiraling beyond the amount Texas taxpayers should reasonably be required to pay. Estimates indicate the price tag would easily exceed \$1 billion above and beyond what is reasonable for state and local taxpayers.

"In essence, the state and local government would be over-paying to acquire land through eminent domain in order to enrich a finite number of condemnation lawyers at the expense of Texas taxpayers.

"I am greatly concerned that taxpayers will suffer and needed public projects will be dramatically delayed if we promote increased litigation by creating a new category of damages after a property has been condemned and property owners have already been paid fair market value for the land taken. Virtually every major city, county and highgrowth area of the state asked me to veto this legislation because of the prohibitively high costs for future road construction and safety improvements and new schools that would be caused by these amendments.



“Specifically, I find extremely problematic the provision that would expand damages a landowner can recover to include any diminished access to the roadway from remaining property when a portion of a landowner’s property is condemned. Currently, a landowner is appropriately entitled to have reasonable access to their property maintained when a portion of their property is condemned. However, the provision contained in this bill would require large payments of taxpayer dollars for properties that continue to have reasonable access to the road but where that access has been only altered in some fashion. This is an unreasonable burden to place on taxpayers.

“The second problematic provision would greatly increase the cost taxpayers would pay to compensate an owner for the land which is left after some of the property is acquired through eminent domain. It would allow the recovery of damages for factors such as changes in traffic patterns and visibility of the property from the road. Texas courts have long disallowed this practice because it would make public projects that benefit the greater population prohibitively expensive to build.

“With plenty of time left in the legislative session, I asked the bill author in the House of Representatives and the bill sponsor in the Senate to work with my office to address these concerns and find a compromise. The Senate sponsor agreed while the House author did not.

“While I am firmly committed to ensuring increased fairness for Texas landowners, amendments added to an otherwise good bill very late in the process were done to enrich condemnation lawyers and place a disproportionate burden on Texas taxpayers who pay the bill in condemnation cases. Taxpayers should not have to bear the burden of legislation designed so that condemnation lawyers can exploit a new category of damages for their own personal gain. I encourage the legislature to continue to work to strike a balance that allows Texas landowners to be treated with fairness and respect for their property rights while simultaneously asking their neighbors to pay only so much in taxes as is reasonable and necessary. I pledge to work with the legislature toward this goal.”

**House Joint Resolution 30**  
**For Election:** 11-6-07

**House Author:** Jackson, Jim et al.  
**Senate Sponsor:** Janek

House Joint Resolution 30 proposes an amendment to the state constitution to authorize a governmental entity, under certain circumstances, to sell real property acquired through eminent domain to the person who owned the real property interest immediately before the entity acquired the property interest, or to that person’s heirs, successors, or assigns, at the price paid by the entity.

**Landlord-Tenant**

**House Bill 167**  
**Effective:** 9-1-07

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

House Bill 167 amends the Property Code to add a religious bible or other book containing sacred writings of a religion that is seized by a creditor other than a landlord who is exercising the right to seize personal property after a tenant breaches a lease agreement to the list of personal property items that are exempt from seizure for the satisfaction of debts. The bill provides that the value of such a book seized by a landlord may not be counted against the aggregate amount of personal property that is exempt from seizure.

**House Bill 177**  
**Effective:** 9-1-07

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

House Bill 177 amends the Property Code to require, under certain circumstances, a landlord to make a diligent effort to repair or remedy a condition in a residential unit arising from the landlord’s failure to provide and maintain in good working order a device to supply hot water of at least 120 degrees Fahrenheit.

**House Bill 3101**

**Effective:** 1-1-08

**House Author:** Anchia et al.

**Senate Sponsor:** Carona

House Bill 3101 amends the Property Code to expand a residential tenant's rights and remedies. The bill prohibits a landlord from intentionally preventing a tenant who is delinquent in paying rent from entering the leased premises by means of changing the door locks on the door to the tenant's individual unit unless the landlord's right to change the locks because of failure to timely pay rent is placed in the lease. The bill prohibits a landlord who changes the locks or otherwise prevents a tenant from entering the tenant's unit from changing the locks or otherwise preventing a tenant from entering a common area of the residential rental property. The bill increases the civil penalty that a tenant may recover from the landlord for a violation of related provisions to one month's rent plus \$1,000, rather than \$500, in addition to other expenses and fees. The bill prohibits a landlord from changing the locks while the tenant or other legal occupant is in the dwelling or more than once during a rental payment period. The bill restricts a landlord to requesting from a tenant, as a precondition for parking privileges, only the make, model, color, year, license number, and state of registration of the vehicle to be parked in a specific space or common parking area. The bill prohibits a landlord from charging a late fee for failing to pay rent except under specific conditions and makes a landlord liable to a penalty for a violation. The bill requires a landlord that has an on-site management or superintendent's office to provide tenants a telephone number that will be answered 24 hours a day for reporting emergencies related to a condition that materially affects a tenant's physical health or safety. The bill requires a lease to contain conspicuous notice that informs the tenant of the remedies available relating to repairs to the unit. The bill requires the landlord to make available to the applicant a printed notice of the landlord's selection criteria and grounds for which an application is denied and it requires some form of acknowledgement on the tenant's part indicating the notice was made available, the absence of which is a rebuttable presumption that the notice was not made available.

**Senate Bill 1483**

**Effective:** 9-1-07

**Senate Author:** Lucio

**House Sponsor:** Gonzales

Senate Bill 1483 amends the Property Code to require a citation issued by a justice in a suit to evict and recover possession of rented premises to include a specific notice on the first page of the citation in English and Spanish and in conspicuous bold print that informs the defendant that the suit involves immediate deadlines and that a tenant who cannot afford to hire an attorney may be eligible for free or low-cost legal assistance. The notice also must provide the toll-free number to call the State Bar of Texas for assistance in locating an attorney.

**Senate Bill 1733**

**Effective:** 9-1-07

**Senate Author:** Gallegos

**House Sponsor:** Bailey

Senate Bill 1733 amends the Government Code to require a lease agreement with a tenant in a development supported with a housing tax credit allocation to include certain federal and state standards and to be consistent with federal and state law.

## Property Owners' Associations

### House Bill 2218

**Effective:** 9-1-07

**House Author:** Hochberg

**Senate Sponsor:** Janek et al.

House Bill 2218 amends the Property Code to set forth the circumstances under which a civic association other than a property owners' association is vested with the authority of the architectural control committee created by the restrictive covenants in certain subdivisions.

### House Bill 2402

**Effective:** 9-1-07

**House Author:** Truitt

**Senate Sponsor:** Brimer

House Bill 2402 amends the Property Code to prohibit a property owners' association from amending a dedicatory instrument to grant the association an easement through or over an owner's lot without the consent of the owner. The bill states that this provision does not prohibit a property owners' association from adopting or enforcing a restriction in a dedicatory instrument that would allow the association access to an owner's lot to remedy a violation. The bill prohibits a dedicatory instrument created by a subdivision's developer or by a property owners' association in which the developer has a majority of the voting rights or control from being amended during the period between the time the developer loses the majority of the voting rights or other form of control of the association and the time a new board of directors of the association assumes office.

### House Bill 3518

**Effective:** 9-1-07

**House Author:** Creighton

**Senate Sponsor:** Nichols

House Bill 3518 amends the Property Code to provide that the powers of a property owners' association relating to restrictive covenants in certain residential subdivisions in a particular county prevail over an express designation in a document creating deed restrictions if the designation either requires more than 75 percent of the subdivision's property owners to approve an extension of, addition to, or other modification of the document or prohibits any such change.

### House Bill 3674

**Effective:** 9-1-07

**House Author:** Davis, John

**Senate Sponsor:** Jackson, Mike

House Bill 3674 amends the Government Code to specify that a property owners' association is subject to state laws relating to open meetings and public information in the same manner as a governmental body if it provides maintenance, preservation, and architectural control of residential and commercial property in a defined area in a county with a population of 2.8 million or more or in an adjacent county and is a corporation formed before 2006 with no mandatory membership requirement and governed by a board of trustees authorized to hire a general manager in an executive and administrative capacity. The bill also amends the Property Code to require such property owners' association to make its books and records, including financial records, available to any person requesting access to the information and to prohibit it from barring a property owner from voting in an association election solely on the basis of a pending enforcement action against that owner or of any delinquent assessments, fees, or fines due by the owner. The bill exempts certain restrictive covenants from the statutory provisions relating to terms, extensions, renewals, or creation of restrictions, if the covenants provide for automatic extensions for one or more successive periods of at least 10 years or if they require less than a majority of affected property owners to approve of extensions of at least that long.

## Property Interests and Housing

The bill allows property owners subject to restrictive covenants to file a petition with the county clerk to modify an existing provision in a covenant to provide for an extension of restrictions or to modify the restriction that provides for extensions and renewals.

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

- House Bill 716 - Criminal Justice
- House Bill 1038 - Occupational Regulation
- House Bill 1472 - Local Government
- House Bill 1787 - Civil Remedies and Procedures
- House Bill 3232 - Local Government
- Senate Bill 1520 - Taxes and Tax Administration

# Public Education

This chapter covers issues relating to the state's public school system, including school finance and school district, campus, and charter school operations. It includes legislation on the powers and duties of the Texas Education Agency, the State Board of Education, the State Board for Educator Certification, school district boards of trustees, school administrators, teachers, professional staff, and school employees, as well as legislation relating to students and school curricula. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 188

**Effective:** 6-16-07

**House Author:** Hochberg et al.

**Senate Sponsor:** Van de Putte

House Bill 188 amends the Education Code to require the State Board of Education to adopt rules, including specific requirements for textbook publishers, for the midcycle review and adoption of textbooks for a subject for which textbooks are not under current review. It also requires the board, in determining the six-year textbook review and adoption cycle, to consult with the Legislative Budget Board and the governor's office of budget, planning, and policy before approving and publishing any notice or amendment of the cycle; consider certain historic data for past textbook purchases and cost projections for future purchases, projected student enrollments, scheduled curriculum revisions, and the budgetary impact of adopting textbooks in a subject area; and limit the cycle to subject areas for which textbooks can be purchased with expected state textbook funding levels for the school year in which they are to be adopted.

Other bill provisions allow the board to adopt a supplemental textbook not on the conforming or nonconforming list provided the textbook meets certain content requirements and other generally applicable criteria and is not to be used as the sole textbook for the course, make a supplemental textbook subject to all review and adoption cycle provisions, and establish conditions for a district or charter school to purchase supplemental textbooks.

The bill also entitles a school district or open-enrollment charter school to receive credit for textbooks purchased at a cost below the cost limit for that textbook in an amount equal to the difference between the price paid and the cost limit, with the total textbook credit allocated equally between the state textbook fund and credits applicable to district or school requisition of additional textbooks or electronic textbooks.

### House Bill 208

**Effective:** 5-24-07

**House Author:** Flores

**Senate Sponsor:** Lucio

House Bill 208 amends the Education Code to clarify that a student otherwise eligible to participate in an extracurricular activity or University Interscholastic League competition is not rendered ineligible by the fact that the student is enrolled in a course offered for joint high school and college credit, or in a course offered under a concurrent enrollment program, regardless of the location at which the course is provided.

### House Bill 314

**Effective:** 5-15-07

**House Author:** Eissler et al.

**Senate Sponsor:** Van de Putte

House Bill 314 amends the Education Code to allow a parent of multiple birth siblings assigned to the same grade level and school to submit a written request that the school place the siblings in the same classroom or in separate classrooms, and it requires the school to comply

with the parent's request unless the school principal determines at the end of the first grading period, in consultation with each classroom teacher, that the placement requested by the parent is disruptive to the school or complying with a parent's request to place multiple birth siblings in separate classrooms would require the district to add another class to that grade level.

The bill allows a parent to appeal the principal's placement of the siblings on a finding that the placement has been disruptive, and it allows the school to recommend the appropriate classroom placement of the siblings to the parent and to provide professional educational advice to aid the parent in making the placement decision.

**House Bill 566**

**Effective:** 5-10-07

**House Author:** Hamilton

**Senate Sponsor:** Williams

House Bill 566 amends the Education Code to allow a school district board of trustees to adopt a policy requiring a person who voluntarily enrolls in or attends school after the person's 18th birthday to attend school until the end of the school year. A person required to attend school under this policy commits a Class C misdemeanor offense if the person fails to attend school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period and is subject to prosecution for that offense. The bill exempts such student's parent from prosecution for contributing to the student's nonattendance, and exempts a school district or open-enrollment charter school from the requirement to send a warning notice to the parent of such student regarding the consequences of a prolonged absence from school.

**House Bill 708**

**Effective:** 5-8-07

**House Author:** Puente

**Senate Sponsor:** Uresti

House Bill 708 amends the Education Code to change the week designated as Celebrate Freedom Week in public schools from the week in which November 11 falls to the week in which September 17 falls.

**House Bill 978**

**Effective:** 5-8-07

**House Author:** Smith, Wayne

**Senate Sponsor:** Jackson, Mike

House Bill 978 amends the Local Government Code to extend the deadline for publication of a school district's annual financial statement from not later than the 120th day after the date the fiscal year ends to not later than the 150th day after the date the fiscal year ends to coincide with the deadline for submission of the school district's annual audit report to the Texas Education Agency.

**House Bill 1137**

**Effective:** 6-15-07

**House Author:** Hochberg

**Senate Sponsor:** Zaffirini

House Bill 1137 amends the Education Code to allow a person who is between 21 and 26 years of age to be admitted to a public school to complete the requirements for a high school diploma. The bill allows a district to receive state funding for such student's attendance by making that student eligible for benefits under the Foundation School Program and the available school fund. However, the bill exempts a student 21 years of age or older admitted to a public school under these provisions from the state's compulsory school attendance laws and allows such a student who attends class for at least 75 percent but less than 90 percent of the days that a class meets to receive credit for that class on completion of a plan approved by the school principal that provides for the student to meet the class's instructional requirements.

The bill also provides that a student admitted to a public school under these conditions is ineligible for placement in a disciplinary alternative education program or a juvenile justice alternative education program if the student engages in conduct that otherwise would require such placement, and it prohibits the placement of a student who has not attended school in the preceding three years with a student who is 18 years of age or younger in a classroom setting, a cafeteria, or another district-sanctioned activity.

**House Bill 1563**  
**Effective:** 6-15-07

**House Author:** Bolton  
**Senate Sponsor:** Shapleigh

House Bill 1563 amends the Education Code to require a school district, on a parental request, to issue a high school diploma posthumously to a student who died while enrolled in the district at grade level 12, provided that the student was academically on track at the time of death to receive a diploma at the end of the school year in which the student died. This requirement applies beginning with students who were in 12th grade during the 2005-2006 school year.

**House Bill 2171**  
**Effective:** 6-15-07

**House Author:** Swinford  
**Senate Sponsor:** Seliger

House Bill 2171 amends the Education Code to allow a school district that does not offer each grade level from kindergarten through grade 12 and whose prospective or former students generally attend school in another state for the grade levels the district does not offer to start school on any date permitted under the law of the other state.

**House Bill 2455**  
**Effective:** 6-16-07

**House Author:** Cook, Byron et al.  
**Senate Sponsor:** Seliger

House Bill 2455 amends the Education Code to require a school district to grant an excused absence for a student ordered to make a court appearance.

**House Bill 2563**  
**Effective:** 9-1-07

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

House Bill 2563 adds and amends Education Code provisions relating to school district board of trustees powers and duties. The bill stipulates that a board may act only by majority vote of the members present at a meeting held in compliance with the state's open meetings law at which a quorum is present and voting; requires the meeting minutes, agenda, or recording to reflect each member's attendance at or absence from the meeting and to be publicly accessible; and prohibits a member from acting individually on the board's behalf unless specifically authorized to do so. The bill sets forth specific board powers and duties, lists additional superintendent duties, outlines specific areas where collaboration between the board and the district superintendent is required, and adds or amends provisions regarding other interactions between the board and the district superintendent, including with respect to the superintendent's employment and evaluation by the board, the employment of other district personnel by the board on its acceptance or rejection of the superintendent's recommendation regarding those personnel decisions, or the board's delegation of its authority to select district personnel to the superintendent. The bill also requires the minutes of the last regular board meeting held during a calendar year to reflect whether each trustee has met or is delinquent in meeting the training required to be completed as of the date of the meeting. The bill clarifies the prohibition against nepotism for regional education service centers by providing that, for purposes of all employees of each regional education service center, the executive director and each member of the center's board of directors are public officials subject to the state's nepotism laws.

**House Bill 3092**  
**Effective:** 6-15-07

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

Current law provides that students confined by court order in a residential program or facility operated by or under contract with the Texas Youth Commission are not considered students of a school district for the purpose of determining the performance or accreditation status of the school district in which the program or facility is located. House Bill 3092 amends the Education Code to extend the exclusion to students in programs and facilities of the Texas Juvenile Probation Commission and any other governmental entity, including juvenile boards.

**House Bill 3678**  
**Effective:** 6-8-07

**House Author:** Howard, Charlie et al.  
**Senate Sponsor:** Williams et al.

House Bill 3678 amends the Education Code to require that a school district, beginning with the 2007-2008 school year, adopt and implement a local policy that provides for a limited public forum and voluntary student expression of religious viewpoints at school events and graduation ceremonies, in class assignments, and in noncurricular school groups and activities. The bill requires the district to treat such expression on an otherwise permissible subject in the same manner as the expression of a secular or other viewpoint and prohibits the district from discriminating against a student based on his or her expressed religious viewpoint. The policy must require the district to ensure that a student speaker does not engage in obscene or indecent speech and to provide a disclaimer that a student's speech is not endorsed or sponsored by the district. The bill provides a model policy that, if adopted, would place the district in compliance with these requirements.

**Senate Bill 670**  
**Effective:** 4-25-07

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

Senate Bill 670 amends the Education Code to authorize a school district's board of trustees to change the length of the terms of its trustees not later than December 31, 2007, and to set out requirements for the transition.

**Senate Bill 673**  
**Effective:** 5-8-07

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

Senate Bill 673 amends the Education Code to require a school district to issue a certificate of attendance to a student who receives special education services and who has completed four years of high school but has not completed the student's individualized education program (IEP). The bill also requires a district to allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. The bill prohibits a student from participating in more than one graduation ceremony but does not preclude a student from subsequently receiving a diploma on completion of the student's IEP.

**Senate Bill 1031**  
**Effective:** 9-1-07

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

Senate Bill 1031 amends the Education Code to phase out the high school exit-level test and replace it with end-of-course tests for high school courses in Algebra I and II, geometry, biology, chemistry, physics, English I through III, world geography, world history, and United States history. The bill allows the Texas Education Agency (TEA) to adopt end-of-course tests for other courses not listed, but a student's performance on those end-of-course tests is not subject to the same requirements. To the extent practicable, the bill requires each end-of-course test to allow measurement of a student's college readiness and each statewide standardized test given in grades three through 11 to allow measurement of annual improvement in student achievement.



To this end, it requires TEA to develop a vertical scale for assessing student performance on the math and reading tests in grades three through eight that allows the agency to compare a student's performance on the tests from one grade level to the next.

The bill requires TEA, with Texas Higher Education Coordinating Board input, to adopt two series of questions to be included in a separate section of an end-of-course test for use in assessing an entering college student's readiness to undertake freshman-level course work and identifying students who are likely to succeed in an advanced high school course. The bill requires the State Board of Education to establish a performance level on these special-purpose questions that indicates a student's college readiness, but it also requires that a student's performance on these questions be evaluated separately from the student's performance on the rest of the end-of-course test and not be used to determine the student's test performance for high school graduation purposes. The bill also requires the agency to ensure the tests are capable of being administered by computer.

The bill requires a student in the recommended or advanced high school program to take each end-of-course test, requires a student in the minimum high school program to take an end-of-course test only for a course in which the student is enrolled and for which an end-of-course test is given, establishes the satisfactory performance standards on end-of-course tests required for high school graduation, and includes provisions for students required to retake a test to meet those standards. A school district must provide each student who does not score at least 70 on an end-of-course test with accelerated instruction in the subject tested. If a district determines that a student, at the end of the 11th grade, is unlikely to achieve the required scores for one or more subjects needed to receive a diploma, it must require the student to enroll in a corresponding content-area college preparatory course for which an end-of-course test has been adopted, if available. A student who enrolls in a college preparatory course must be given an end-of-course test for that course, which the student may use toward satisfying the end-of-course test score requirements above. The bill requires the commissioner of education to adopt a transition plan to implement the end-of-course test provisions, providing for the tests to be given beginning with students entering ninth grade during the 2011-2012 school year, with the current exit-level test given to students in the grades above that and district accountability provisions being phased in.

Contingent on appropriations, the bill requires each district to give students in the eighth and 10th grades a nationally norm-referenced preliminary college preparation test to diagnose the academic strengths and deficiencies of eighth grade students before entering high school and to measure 10th grade students' progress toward college and workplace readiness. The bill also allows high school students, in either the 11th or 12th grade, to take, at state expense, one of the national college entrance exams used by colleges and universities as part of their undergraduate admissions processes.

The bill adds provisions to maintain test security and the integrity of the state assessment system, including provisions for record retention, random audits, subpoena powers, criminal penalties, confidentiality, the development and use of statistical methods and standards for identifying potential violations of testing procedures, and training for test administrators. The bill requires certain school administrators to report to the State Board for Educator Certification a teacher suspected of having engaged in conduct that violated test security procedures.

The bill creates the 15-member Select Committee on Public School Accountability to conduct a comprehensive review of the public school accountability system, including a study of the mission, organizational structure, design, processes, and practices of similar accountability systems in other states and the requirements established by federal law. The bill lists specific accountability system issues that must be thoroughly investigated.

**Senate Bill 1161**

**Effective:** 6-15-07

**Senate Author:** Jackson, Mike

**House Sponsor:** Smith, Wayne

If a student accumulates 10 or more unexcused absences from school within a six-month period in the same school year, Texas truancy law requires a school district to file a complaint against the student, the student's parent, or both parent and student in a county, justice, or municipal court or to refer the student to a juvenile court under certain circumstances. Senate Bill 1161 amends the Education Code to extend the time limit given a district to take the required action from within seven to within 10 school days of a student's last absence.

**Senate Bill 1433**

**Effective:** 6-16-07

**Senate Author:** Van de Putte

**House Sponsor:** Rose

Senate Bill 1433 amends the Education Code to require the State Board of Education to create the Employers for Education Excellence Award to recognize employers that implement policies to encourage and support their employees' active participation in school activities. The bill establishes three levels of recognition based on the degree of employee participation encouraged and supported by the recipient's policy, and it requires the board to establish criteria to certify businesses to receive the award at the appropriate level of recognition. An eligible employer may apply for consideration to receive an award, and the application must be reviewed by the commissioner of education, who then must make recommendations to the board regarding employers to be recognized and the level of recognition to be given.

**Senate Bill 1517**

**Effective:** 6-15-07

**Senate Author:** Janek

**House Sponsor:** Hochberg

The Education Code previously required a public school student to be suspended from participation in extracurricular activities after a grading period in which the student received a failing grade in any academic class other than an identified honors or advanced class, with the suspension continuing in effect pending a periodic review of the student's grades in each course, as applicable. Senate Bill 1517 amends the Education Code to specify that the suspension requirement does not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in English language arts, mathematics, science, social studies, economics, or a language other than English. The bill requires the Texas Education Agency to review on a biennial basis courses exempted from the no pass/no play requirement to determine if other courses should be excluded from the requirement and to report its findings to the legislature not later than January 1 of each odd-numbered year.

## **Educators and Employees**

**House Bill 189**

**Effective:** 5-15-07

**House Author:** Hochberg et al.

**Senate Sponsor:** Janek

House Bill 189 amends the Education Code to prohibit a school district superintendent from receiving any financial benefit for personal services performed by the superintendent for any business entity that conducts or solicits business with the district. The bill requires any financial benefit received by the superintendent for performing personal services for any other entity, including another district, charter school, regional education service center, or public or private college or university, to be approved by the district's board of trustees on a case-by-case basis in an open meeting.

**House Bill 973****Effective:** 9-1-07**House Author:** Eissler**Senate Sponsor:** Averitt

House Bill 973 amends the Education Code to entitle a school district employee who resigns at the end of a school year to participate or be enrolled in the district's group health benefits plan for one year from the date the district's group health benefits plan was first made available to district employees for the last school year in which the employee was employed by the district. If an employee's resignation is effective after the last day of a school year, the bill prohibits the district from diminishing or eliminating the amount of a contribution available to the employee for coverage under Chapter 1581, Insurance Code, as long as the employee is entitled to participate or continues to be enrolled in the district's group health benefits plan.

**House Bill 1622****Effective:** 9-1-07**House Author:** Delisi et al.**Senate Sponsor:** Averitt

House Bill 1622 amends the Education Code to require a school district grievance policy to permit a district employee to report a grievance against a supervisor that alleges the supervisor's violation of the law in the workplace or the supervisor's unlawful harassment of the employee to a supervisor other than the supervisor against whom the employee intends to report the grievance.

**House Bill 2399****Effective:** 6-15-07**House Author:** Delisi**Senate Sponsor:** Shapiro

House Bill 2399 amends the Education Code to allow a school campus to use the 25 percent of its student achievement program award that is not allocated for classroom teacher incentive payments on a teacher retention demonstration project that uses innovative, research-based practices to identify and retain highly effective teachers, and it specifies certain types of demonstration programs that may be eligible for such funding.

**House Bill 2646****Effective:** Vetoed**House Author:** Rose**Senate Sponsor:** Watson

House Bill 2646 amends the Education Code to allow a school district to use the portion of its grant funds from the Educator Excellence Awards Program that is not allocated for rewards to individual teachers who improve student achievement to provide stipends to classroom teachers who have obtained national board certification through the National Board for Professional Teaching Standards.

Reason Given for Veto: "The legislature appropriated \$148 million to the Educator Excellence Awards Program to reward teachers who improve student performance. The program requires that school districts use at least 60 percent of the funds to directly reward classroom teachers who effectively improve student performance. The remaining funds must be used only for certain purposes, including providing stipends to effective mentors and to teachers with proven records of improving student performance assigned to campuses having difficulty retaining teachers. House Bill No. 2646 would add to the list of allowable uses for these funds by amending the program to allow districts to provide stipends to classroom teachers who have obtained certification through the National Board for Professional Teaching Standards (NBPTS).

"By allowing stipends only for NBPTS certification, House Bill No. 2646 essentially is a vendor-specific bill that would put NBPTS at a distinct advantage over competing certification programs, including the American Board for Certification of Teacher Excellence, which is currently under pilot and may soon be available in Texas. There is no reason to preference NBPTS certification over other worthwhile programs that recognize teachers who consistently improve student performance.

"In addition, the state's significant investment in teacher incentives should be used toward fulfilling our goal of raising student achievement through supporting teacher participation in programs proven to have a real impact on teacher effectiveness."

**Senate Bill 9**

**Effective:** 6-15-07

**Senate Author:** Shapiro et al.

**House Sponsor:** Branch et al.

Senate Bill 9 amends the Education Code to require the State Board for Educator Certification (SBEC) to review the national criminal history record information of any certified public school employee or applicant who has not previously submitted fingerprints to the Department of Public Safety (DPS) or been subject to such a review, and it requires the board to obtain all such information on all certified educators not later than September 1, 2011. The bill also requires each substitute teacher, each noncertified district and charter school employee hired on or after January 1, 2008, and certain employees of shared services arrangements and of district, charter school, or arrangement contractors hired on or after that date to submit to a national criminal history record information review and requires such persons' employers, before or immediately after the hiring, to send or ensure that the person sends to DPS information that DPS requires for obtaining national criminal history record information, which may include fingerprints and photographs. The bill requires the Texas Education Agency (TEA) to obtain all such information on all substitute teachers not later than September 1, 2011. The bill clarifies or sets forth additional requirements and authorizations for employers regarding criminal history background checks for current noncertified employees, contractor employees, student teachers, and volunteers who are not subject to national criminal history background checks. The bill prohibits a student teacher or volunteer from performing teaching or volunteering duties until all requirements for a criminal history background check have been met, with some exceptions for certain volunteers.

The bill prohibits a person from employment or service as a teacher, librarian, educational aide, administrator, or counselor for an open-enrollment charter school unless the person's national criminal history record information has been reviewed and the person approved by TEA. If TEA determines that the person would not be eligible for certification, TEA must notify the charter school that the person may not be employed in any of the listed capacities. The bill requires a charter school to provide TEA with any information it needs to complete a review and makes the failure to provide requested information a material violation of the school's charter.

With some exceptions, the bill requires a school district, open-enrollment charter school, or shared services arrangement to discharge an employee or refuse to hire a prospective employee on a discovery through a criminal history record information review that the employee or applicant has been convicted of certain offenses and at the time the offense occurred the victim of the offense was under 18 years of age or was enrolled in a public school.

Senate Bill 9 amends the Family Code to require the Department of Family and Protective Services to release information regarding a person alleged to have committed abuse or neglect to TEA, SBEC, a local school board, a school's governing body, a district superintendent, or a school principal or director if it determines that the person poses a substantial and immediate risk of harm to one or more children outside the family of a child who is the subject of the investigation and the information's release is necessary to protect one or more children from the person.

Senate Bill 9 amends the Government Code to require DPS to establish an electronic clearinghouse and subscription service for national criminal history record information, including automatic updates to a particular record to which a subscriber is entitled and allows DPS to provide access to state and national criminal history record information to nongovernmental entities. The bill requires SBEC and each school district, open-enrollment charter school, and shared services arrangement to subscribe to the clearinghouse and requires DPS to notify SBEC of the arrest of any educator who has fingerprints on file with DPS and entitles TEA to criminal

history record information maintained by DPS regarding employees and prospective employees of a school district or open-enrollment charter school and certain employees of shared services arrangements or of district, charter school, or shared services arrangement contractors. The bill entitles an entity providing contract services to a district, charter school, or shared services arrangement to obtain criminal history record information maintained by DPS regarding certain employees or prospective employees of the contractor.

Other provisions of the bill allow TEA to require regional education service centers to aid in collecting information needed for criminal history record information reviews, require SBEC to adopt procedures providing for immediate notice of alleged misconduct on an educators certification records if the misconduct presents a risk to a student or minor, specify that certain criminal offenses are considered to be related to the education profession, and provide that educator certification exam results are not subject to disclosure under the Public Information Act, unless the disclosure is made in regard to parental notification or the educator has failed an exam more than five times. The bill also broadens the scope of information that SBEC may obtain from law enforcement and criminal justice agencies in connection with the investigation of allegations against an educator or applicant; allows TEA and other employers to collect a fee to cover the cost of the criminal history reviews it must conduct for noncertified employees, charter school employees, and substitute teachers; and expands the Public Information Act exception for audit working papers to include audits relating to criminal history background checks.

**Senate Bill 135**

**Effective:** 4-23-07

**Senate Author:** Wentworth

**House Sponsor:** Eissler

Senate Bill 135 amends the Education Code to prohibit a school district's employment policy from restricting a district employee's ability to communicate directly with a member of the board of trustees about a matter relating to the district's operation, with the following exception: the policy may prohibit ex parte communication relating to a hearing on a proposed nonrenewal of a teacher's term contract, a proposed termination of a teacher's continuing or probationary contract, or a proposed suspension of a teacher without pay or relating to another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by a school district board of trustees.

**Senate Bill 158**

**Effective:** 9-1-07

**Senate Author:** Seliger et al.

**House Sponsor:** Eissler

Senate Bill 158 amends the Education Code to require an individual hired by a school district as an educational diagnostician on or after September 1, 2008, to be certified or hold an appropriate permit. The bill also exempts an educational diagnostician from minimum service contract provisions that require a school district employment contract to be for a minimum term of 10 months and require a 10-month contract to provide for a minimum of 187 days of service.

**Senate Bill 370**

**Effective:** 5-17-07

**Senate Author:** Shapiro

**House Sponsor:** Eissler

Senate Bill 370 amends the Education Code to prohibit a school district from requiring a district employee to waive immunity from liability for an act for which the employee is otherwise legally immune because the act is within the scope of the employee's job duties and involves the exercise of discretion on the employee's part. The bill prohibits a district from requiring a district employee who acts in good faith to pay for or replace property belonging to a student or other person that is or was in the employee's possession because of an act as described

above. The bill also prohibits a district from requiring a district employee who acts in good faith to pay for certain damaged materials, including electronic textbooks and equipment, and it prohibits a district employee from waiving this provision except by voluntarily entering into an agreement with the district, apart from the employee's employment contract, whereby the employee assumes financial responsibility for electronic textbook or technological equipment usage off school property or outside of a school-sponsored event in return for the employee's ability to use that equipment for personal business.

**Senate Bill 1912**

**Senate Author:** Shapleigh et al.

**Effective:** 6-16-07

**House Sponsor:** Haggerty

Senate Bill 1912 amends the Education Code to allow the State Board for Educator Certification to issue a temporary certificate to an educator who holds both a degree and an out-of-state certificate or other credential but who has not satisfied a Texas examination requirement. The bill allows the board to specify the term of a temporary certificate, but it requires a temporary certificate issued to an educator employed by a school district that has constructed or expanded at least one instructional facility as a result of increased student enrollment due to actions taken under the Defense Base Closure and Realignment Act of 1990 to remain valid for at least one year from the date on which the board completes its review of the educator's credentials and informs the educator of the examination or examinations the educator must pass to receive a standard certificate.

**School Finance**

**House Bill 828**

**House Author:** Hochberg et al.

**Effective:** See below

**Senate Sponsor:** Shapiro

House Bill 828 amends the Education Code to adjust the amount of state aid to which a school district is entitled to offset the loss of local revenue resulting from the tax rate reduction mandated by the 79th Texas Legislature, 3rd Called Session. The bill increases or decreases that additional state aid for any given year by the difference between the amount of a district's transportation allotment or its state aid for property tax credits under the Texas Economic Development Act for that given year and its transportation allotment or tax credits in the year on which the additional state aid is based.

The bill requires the commissioner to adjust the amount of a districts local maintenance and operations (M&O) revenue in determining its state aid if, in the 2007 tax year or later, the district adopts a new local option homestead property tax exemption, eliminates an exemption that was in effect in the 2005 or 2006 tax year, changes the amount of the exemption, grants a new tax abatement, ends an abatement that was in effect for the 2005 or 2006 tax year, agrees to deposit taxes into a tax increment fund under a new reinvestment zone financing plan, or ceases to deposit taxes into a fund created under a plan that was in effect for the 2005 or 2006 tax year. The commissioner must determine the effect of a district's actions in regard to a tax exemption or abatement on its total entitlement to state aid or its cost in reducing its wealth per student to the equalized wealth level as if the additional entitlement to state aid for tax reduction did not exist and to adjust that additional entitlement in an amount substantially equivalent to any change in total state revenue or recapture cost that would apply to the district if this additional entitlement did not exist.

The bill also modifies the guaranteed yield level for the first six cents of tax effort above a district's compressed M&O tax rate (or first four cents of tax effort above that compressed tax rate in 2006-2007 and 2007-2008), which is determined by the wealth per student in weighted

average daily attendance (WADA) for the Austin Independent School District, so that yield is the greater of the two values from a given year and the preceding year.

Except for the change to the guaranteed yield, which becomes effective on September 1, 2010, this bill takes effect September 1, 2007.

**House Bill 890**

**Effective:** 6-15-07

**House Author:** Hilderbran

**Senate Sponsor:** Fraser

House Bill 890 amends the Education Code to allow a county commissioners court to sell or otherwise dispose of county school lands, establish an irrevocable trust for the proceeds of the disposition of that land, and invest the principal of the trust in any investment permitted for other county funds. The bill makes the commissioners and their successors in office the trust's sole trustees and prohibits them from delegating the authority to manage or invest the trust, but allows them to contract with qualified persons for investment advice. The bill stipulates that the trust's principal constitutes a portion of the county permanent school fund to be held in perpetuity for the benefit of the county's public schools, and that the trust's income constitutes a portion of the county available school fund to be distributed as allowed by law.

**House Bill 1400**

**Effective:** 6-15-07

**House Author:** Dutton

**Senate Sponsor:** Shapiro

House Bill 1400 amends the Education Code to clarify provisions relating to the powers and duties of the charter school finance corporation created by the Texas Public Finance Authority. The bill states that the corporation acts on behalf of the state, as its duly constituted authority and instrumentality, when it issues revenue bonds to finance acquisition, construction, repair, or renovation of educational facilities for authorized open-enrollment charter schools, and that it has all powers granted under the Texas Non-Profit Corporation Act or granted to a nonprofit corporation under the Business Organizations Code.

The bill allows the corporation to exercise powers granted by state law to an issuer with regard to issuing obligations and executing credit agreements, and it allows the corporation to use money from the fund dedicated to the credit enhancement of charter school bonds to provide loans or other credit support for the obligations of any open-enrollment charter school issued by any issuer in any manner consistent with the Texas Non-Profit Corporation Act or provisions of the Business Organizations Code governing nonprofit corporations.

**House Bill 1922**

**Effective:** 9-1-07

**House Author:** Kolkhorst et al.

**Senate Sponsor:** Shapiro

House Bill 1922 amends the Education Code to adjust the amount of state aid to which a school district is entitled to offset the loss of local revenue resulting from the tax rate reduction mandated by the 79th Texas Legislature, 3rd Called Session. The bill increases or decreases that additional entitlement for any given year by the difference between the amount of a district's new instructional facility allotment for that given year and its allotment, if any, in the year on which the additional state aid is based.

The bill also rolls forward the eligibility date for the Existing Debt Allotment program to provide state assistance for the payment of debt service on bonds for which a district either made payments during the 2006-2007 school year or levied taxes that same school year for payment on the bond's principal and interest.

**House Bill 3226**  
**Effective:** 6-15-07

**House Author:** Branch et al.  
**Senate Sponsor:** West, Royce

The Education Code requires the commissioner of education to notify a school district when the commissioner finds that the district's taxable value of property per pupil exceeds a specified equalized wealth level. A district identified as having excess per-pupil property wealth must exercise one of five options to reduce its per-pupil property wealth or face a state action such as detachment of territory or mandatory consolidation. District options, some of which require an election to obtain voter approval for the redistribution of excess local revenue, include sending local tax revenue to the state to purchase attendance credits. In 2006, when the Texas Legislature reduced local property taxes by compressing school district tax rates, it included a "hold harmless" provision providing additional state funds to districts to offset local revenue lost as a result of the required tax rate compression. It also exempted a property wealthy district entitled to state revenue under that hold harmless provision from having to send recapture funds to the state if the funds sent to the state and the hold harmless funds received from the state would offset. However, a district newly identified as a property wealthy district would still be required to hold an election on the redistribution of revenue subject to recapture, even if the amount of recapture funds it sent to the state was less than or equal to the district's entitlement under the hold harmless provision. House Bill 3226 amends the Education Code to require the commissioner, on the initial identification of a school district as having a wealth per student for a school year above the equalized wealth level (for the 2006-2007 or subsequent school year), to (1) estimate the amount of hold harmless state funds to which the district is entitled for that school year and the cost to the district to purchase the amount of attendance credits needed to reduce its per-pupil wealth to the equalized wealth level for that same year; and (2) notify the district if the amount of hold harmless state funds to which it is entitled is greater than the cost of the needed credits. The district then, without a local election, may authorize the commissioner to withhold from the district's hold harmless funds an amount equal to that needed to purchase the attendance credits in lieu of exercising one of the five options available to it. If the commissioner determines that the district's cost to reduce its per-pupil property wealth to the equalized wealth level for a school year exceeds the amount of state funds to which it is entitled for that year, the bill requires the commissioner to withhold the entire amount of the district's hold harmless state funding for that year and to withhold any additional amount of the cost required to reduce the district's per-pupil property wealth for that year from its hold harmless state funding for a subsequent school year. The bill also exempts the district from having to take any further action to reduce its wealth per student for that year.

**Senate Bill 389**  
**Effective:** 5-18-07

**Senate Author:** Shapiro  
**House Sponsor:** McCall

Bonds issued by school districts to finance capital construction or acquisitions require approval by the commissioner of education to be guaranteed by the corpus and income of the permanent school fund, but the Education Code restricts the total amount of bonds guaranteed by the fund to two-and-a-half times the fund's market value or its cost value, whichever is less. Senate Bill 389 amends the Education Code to set the maximum amount of bonds that can be approved by the commissioner for guarantee by the fund at two-and-a-half times the fund's market value and to allow the State Board of Education to increase the limit to an amount not to exceed five times the fund's cost value, provided that the increased limit is consistent with federal law and regulations and does not prevent the bonds to be guaranteed from receiving the highest available credit rating.



**Senate Bill 962**  
**Effective:** 9-1-07

**Senate Author:** Shapleigh  
**House Sponsor:** Haggerty

The state's public school finance system includes an instructional facilities allotment (IFA) to help school districts finance new capital projects and an existing debt allotment (EDA) to help districts pay off existing debt. While a district's IFA funding is determined in part by formula, subject to a cap on the guaranteed amount, it also is subject to limitations based on the total amount appropriated for all new projects in a given year. If the total amount appropriated is less than the amount to which districts applying for state aid are entitled for that year, IFA funding is prioritized by a ranking of the districts that have applied for aid on the basis of their relative property wealth per student, with the commissioner ranking the districts from the poorest to the wealthiest after making certain adjustments to those wealth levels. Senate Bill 962 amends the Education Code to reduce a district's wealth per student by 25 percent for IFA distribution purposes if it demonstrates to the commissioner's satisfaction that it must construct, acquire, or improve one or more instructional facilities to serve the children of military personnel transferred to a military base in or near the district under the Defense Base Closure and Realignment Act of 1990. The reduction is in addition to any other reduction and is computed before the district's wealth per student is reduced under those provisions, if applicable. The bill also entitles a district that demonstrates the need to construct or renovate facilities to serve children of military personnel to EDA funding based on the district's current year tax rate instead of the rate from the final year of the preceding biennium.

## Specialized Curricula and Programs

**House Bill 1270**  
**Effective:** 6-15-07

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

House Bill 1270 amends the Education Code to require the commissioner of education to establish an intensive reading or language intervention pilot program that was previously authorized, and it amends the existing criteria for a program that may be selected by a participating campus to require that they include scientifically based reading interventions and to specify that the methods, interventions, or tools included in the criteria must have been proven to accelerate acquisition and reading proficiency for struggling students. The bill also requires the selection of students to participate in the pilot program to be based on assessment data, with the administration of benchmark measures required at the beginning and end of the program.

**House Bill 1287**  
**Effective:** See below

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

House Bill 1287 amends the Education Code to authorize a school district to offer elective high school courses on the Bible's Hebrew Scriptures (Old Testament) and New Testament. The bill specifies the purpose of such a course, prohibits a student from being required to use a specific translation as the sole scripture text, and requires a course to follow applicable law and all federal and state guidelines to maintain religious neutrality and accommodate the students' diverse religious views, traditions, and perspectives. The bill requires the State Board of Education to submit the proposed essential knowledge and skills for a course to the attorney general for approval before adopting any related rules for offering the course to ensure that it complies with the First Amendment to the U.S. Constitution. The bill establishes teacher qualifications and teacher training requirements, includes provisions for determining the amount

of credit to be earned, and exempts a district from having to offer a course if fewer than 15 students at a campus register for the course. Except for provisions relating to school districts, which take effect for the 2009-2010 school year, the bill takes effect on June 15, 2007.

**House Bill 1609**

**Effective:** 9-1-07

**House Author:** Crownover et al.

**Senate Sponsor:** Shapleigh

House Bill 1609 amends the Education Code to create a mandatory set-aside from funds appropriated for the compensatory education allotment to support Communities In Schools (CIS) programs in each school district. The bill eliminates the Department of Protective and Regulatory Services' role in supporting CIS programs; abolishes the office of state CIS director; transfers the director's duties to the commissioner of education; and expands those duties with respect to the establishment of state performance goals, objectives, and measures for the program and the adoption of policies concerning the Texas Education Agency's responsibilities and the use of state and federal funds for the program. The bill also allows the commissioner to withhold funding from a CIS program that consistently fails to achieve the performance goals, objectives, and measures established by the commissioner and to require the program to compete through a competitive bidding process for program funding.

**House Bill 1700**

**Effective:** 6-15-07

**House Author:** Hilderbran

**Senate Sponsor:** Fraser

House Bill 1700 amends the Education Code to require the State Board of Education to aid the Outdoor School at Texas Tech University Center at Junction, the Texas Science, Technology, Engineering, and Math (T-STEM) Center of Texas Tech University, and South Llano River State Park in the joint development of a nature science curriculum for students in grades six through 12. The bill requires the curriculum to incorporate the essential knowledge and skills for science, math, social studies, and language arts, to the extent practicable and relevant to nature science studies, and it requires the curriculum to be made available through an Internet website.

**House Bill 1844**

**Effective:** 6-15-07

**House Author:** Howard, Charlie et al.

**Senate Sponsor:** Janek

House Bill 1844 amends the Education Code to require a school district to allow a home-schooled student to participate in the district's administration of the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) or a college advanced placement test. The bill requires each district to post notice on its Internet website or, if the district does not maintain its own website, in a local newspaper of the dates that these tests will be administered, a home-schooled student's eligibility to register for the test, and the registration procedures.

**House Bill 2176**

**Effective:** 9-1-07

**House Author:** Deshotel et al.

**Senate Sponsor:** West, Royce

House Bill 2176 amends the Education Code to require the State Board of Education, in conjunction with the office of the attorney general, to develop a parenting and paternity awareness program for mandatory use by a school district in its high school health curriculum, and it establishes content requirements regarding issues that must be addressed by the program, such as parenting skills and responsibilities, including child support and other legal rights and obligations; relationship skills, including money management, communication, and marriage preparation; and, in schools that do not have a family violence prevention program, skills relating to the prevention of family violence.

**House Bill 2237****Effective:** See below**House Author:** Eissler et al.**Senate Sponsor:** Shapiro

House Bill 2237 amends the Education Code to implement various measures to address dropout prevention, high school success, and college workforce readiness in public schools.

The bill establishes the High School Completion and Success Initiative Council to identify strategic priorities and make recommendations to improve effectiveness, coordination, and alignment of high school completion and college and workforce readiness efforts and requires it to adopt a plan to: (1) specify strategies to identify, support, and expand programs to improve high school completion rates and college and workforce readiness; (2) establish specific goals with which to measure the strategies' success in achieving those aims; (3) identify strategies for aligning and coordinating federal and other funding sources that may be pursued for high school reform, dropout prevention, and preparation of students for college or for work; and (4) identify key objectives for appropriate research and program evaluation. The council also must make recommendations based on the strategic plan to the commissioner of education or the commissioner of higher education for the use of federal and state funds appropriated or received for high school reform, college readiness, and dropout prevention. Under the initiative, a school district or campus is eligible to participate in certain newly created programs if it exhibited during each of the three preceding school years characteristics that strongly correlate with high dropout rates. The bill requires the Texas Higher Education Coordinating Board (THECB) to allocate \$8.75 million each year to establish mathematics, science, and technology teacher preparation academies and implement an intensive summer program in accordance with the initiative's goals and the goals in the state's master plan for higher education.

The bill requires or authorizes the commissioner to establish several programs, setting forth, as applicable, funding levels, caps, and sources; eligibility criteria for individuals, campuses, districts, or other program applicants or participants; restrictions on uses of program funds, and program evaluation and other requirements. These programs are as follows:

- a science laboratory grant program to provide competitive grants to school districts for the construction or renovation of high school science laboratories
- a teacher and administrator professional development grant program to provide funds to districts, regional education service centers, nonprofit organizations, and colleges and universities to provide technical assistance and professional development activities in the staff development training of public school teachers and administrators
- a mathematics instructional coaches pilot program to provide districts and campuses grants to help develop the content knowledge and instructional expertise of teachers who teach mathematics in middle school, junior high school, or high school
- reading academies required for teachers who teach reading, mathematics, science, or social studies in the sixth, seventh, or eighth grade at a campus rated academically unacceptable on the basis of its students' performance on the Texas Assessment of Knowledge and Skills (TAKS) reading test
- a student club grant program to provide state grant money for school districts to fund student club activities at a district high school for students at risk of dropping out of school
- a collaborative dropout reduction grant program to provide funds for districts and charter schools to implement local collaborative programs that coordinate services and programs among local entities to reduce dropout rates in the community and increase the job skills, job opportunities, and continuing education opportunities of at-risk students

- an intensive technology-based academic intervention pilot program to award matching grants to campuses to provide intensive technology-based supplementary instruction in English, mathematics, science, or social studies to at-risk high school students
- higher education and workforce readiness programs supported by grants awarded to organizations that provide volunteers to teach classroom or after-school programs to enhance college readiness, workforce readiness, dropout prevention, or personal financial literacy
- a technology-based supplemental instruction pilot program to provide grants to finance technology-based supplemental instruction at certain campuses in districts with fewer than 5,000 students and located outside of a standard metropolitan statistical area
- a high school innovation grant program to help high school campuses and districts: (1) implement innovative high school improvement programs based on the best available research on high school reform, dropout prevention, and preparing students for college coursework or employment; (2) enhance education practices that have been demonstrated by significant evidence of effectiveness; and (3) align grants and programs to the High School Completion and Success Initiative Council's strategic plan

The bill also provides for the establishment of the following programs:

- mathematics, science, and technology teacher preparation academies established by THECB at colleges and universities to improve the teaching skills of certified teachers and to train teacher preparation program students in mathematics, science, and technology instruction
- an intensive summer program pilot project established by the commissioner of education and the commissioner of higher education to award matching grants to participating campuses to provide intensive academic instruction during the summer semester to promote college and workforce readiness to students at risk of dropping out of school or college

Provisions of the bill require a school district or charter school with a high dropout rate to submit a plan to the commissioner of education describing how it intends to use its compensatory education allotment or high school allotment for developing and implementing research-based dropout prevention strategies, prohibit the district or school from spending more than 25 percent of that allotment without commissioner approval of its plan, and establish deadlines for the plan's submission and initial commissioner review. The bill requires each district and charter school offering certain grade levels to designate a week of the school year as "Education: Go Get It" Week and requires each middle school, junior high school, and high school to provide students with information about higher education options available to students, standard college admission requirements, automatic college admission programs, and financial aid availability and requirements.

Beginning with the 2008-2009 school year, the bill requires the State Board of Education (SBOE) to incorporate college readiness standards and expectations into the essential knowledge and skills of the foundation curriculum courses in which high school students generally enroll.

The bill requires the Texas Education Agency to set minimum standards for a personal graduation plan and encourages each district to establish for each student entering grade nine a personal graduation plan that identifies a course of study that promotes college and workforce readiness and facilitates the student's high school to college transition.

The bill also amends both the Education Code and the Family Code to allow a law enforcement officer with probable cause to believe that a child is in violation of the compulsory school attendance law to take the child into custody and return the child to the child's campus.

House Bill 2237 takes effect June 15, 2007, except for the Education Code and Family Code provisions pertaining to a law enforcement officer's authority to take a suspected truant into custody, which take effect September 1, 2007.

**House Bill 2383**  
**Effective:** 6-15-07

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

House Bill 2383 amends the Education Code to provide a subsidy for licensing or certification examination fees for students who complete a school district's career and technology program in which they receive job training and instruction in a specific trade or occupation, pass a qualifying examination for a trade or occupational license or certificate, and demonstrate financial need. To obtain the subsidy, a student must pay the examination fee and submit a written application demonstrating financial need and the amount of the fee paid by the student.

The bill also amends eligibility requirements of the Early High School Graduation Scholarship program to require a student to have graduated from a public high school in this state, have attended one or more public high schools in this state for the majority of the time the person attended high school, and be a U.S. citizen or legal resident. The bill extends from 45 to 46 consecutive months the time frame in which a student may graduate and still be eligible for an award, if the student graduates with at least 30 hours of college credit and successfully completed the recommended or advanced high school program.

**House Bill 2503**  
**Effective:** 6-15-07

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

House Bill 2503 amends the Education Code to require the commissioner of education to establish a pilot program for school districts to assess students' technology proficiency. The bill requires the Texas Education Agency to adopt an existing, currently available test to assess an individual's mastery of the essential knowledge and skills in technology for participating districts to administer. The bill requires the test to be administered online, be aligned with the essential knowledge and skills requirements for technology applications, and incorporate certain performance-based measures; the test also must be capable of providing a district with an automatic report of a student's proficiency in a format compatible with the district and agency data information systems. The bill requires the test to be given annually to students in a grade level to be determined by the district administering the test.

**House Bill 2504**  
**Effective:** 6-15-07

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

House Bill 2504 amends the Education Code to require the commissioner of education to establish an intervention pilot program in which participating districts will provide intensive mathematics intervention for students who are not performing at grade level in mathematics in grades four through seven and algebra readiness intervention for students who are not performing at grade level in mathematics in grade eight. The bill also requires the commissioner to adopt a list of intervention programs, reviewed and recommended by a panel of recognized experts in mathematics education, that may be implemented by a district and funded under this program. An intervention program must meet certain minimum criteria adopted by the commissioner to be included on the commissioner's list. Districts may implement the intensive mathematics and algebra intervention pilot program at a campus whose population of at-risk students exceeds the

state average proportion of at-risk students, but a participating campus must identify a student who does not perform at grade level on the specified assessment instrument as a program-eligible student and must use progress monitoring assessments to ensure that a student is making appropriate progress during a student's placement in the program.

**House Bill 2814**

**Effective:** 6-15-07

**House Author:** Eissler et al.

**Senate Sponsor:** Van de Putte

House Bill 2814 amends the Education Code to require the commissioner of education to establish a pilot project in selected school districts to examine dual language education programs and their effect on a student's ability to graduate from high school. The bill establishes criteria for the selection of up to 10 districts and up to 30 campuses, which must include a three-year district commitment to operate a dual language education program, but it limits a district during the first year of the program to planning activities, including the hiring and training of certified teachers, establishing parental and community support, and acquiring the necessary instructional materials. The bill also requires each participating district or campus to establish a community educational pipeline progress team, appointed by the district's board of trustees and consisting of educators, district-level administrators, and parents, to assist in developing and implementing the dual language education pilot project.

To expand language learning opportunities for all public school students and district or campus employees, including students and employees in districts or campuses not participating in the pilot project, the bill requires the commissioner to enter into a contract to license language learning software using language immersion methods and to make the software available online to public school students and employees across the state not later than January 1, 2008.

**House Bill 2864**

**Effective:** 6-15-07

**House Author:** Chisum

**Senate Sponsor:** Shapiro

House Bill 2864 amends the Education Code to require the commissioner of education to establish a pilot program to award state grants for supplemental technology-based instruction for students in grades 6 through 12 at participating campuses in rural school districts. The bill establishes campus eligibility criteria for program participation and the receipt of state funds and requires the commissioner to develop a campus application and selection process and to give priority to a campus that offers a relatively limited course selection to students in comparison to the courses generally offered to students in metropolitan areas. A participating campus is entitled to state funds up to \$200 per program-eligible student per year, but to receive the state funds, the campus must contribute at least \$100 per program-eligible student per year in additional funding for the campus's program activities. The additional funding may consist of local funds, private funds, or state funds other than pilot program grant funds. The bill requires a participating campus to provide students with individual access to technology-based supplemental instruction for at least 10 hours each week.

**House Bill 3171**

**Effective:** 6-15-07

**House Author:** Swinford

**Senate Sponsor:** Wentworth

House Bill 3171 amends the Education Code to require the Texas Education Agency to develop and make available to school districts a list of resources on Internet safety, including a list of organizations and websites that may help teachers and students learn about the dangers of allowing personal information to appear on a website, the significance of copyright laws, and the consequences of cyber-plagiarism and theft of audiovisual works, including motion pictures, software, and sound recordings, through uploading and downloading files on the Internet.

**House Bill 3259**  
**Effective:** 6-15-07

**House Author:** Branch  
**Senate Sponsor:** Shapiro

House Bill 3259 amends the Education Code to require the commissioner of education to establish a program for participating school districts to administer international assessment instruments to their students. The bill requires the commissioner to select both rural and urban districts, and it allows the commissioner, if necessary, to require a district's participation. The bill further requires the commissioner to compare the performance on these instruments of Texas students with students of the same grade level in other countries, compare these instruments with Texas assessment instruments and educational goals, and provide professional development for educators in interpreting and using test results. The bill allows the commissioner to use not more than \$2 million per biennium in Foundation School Program funds for the program, and it requires the commissioner to deliver a biennial report describing the results of student performance on these instruments to the governor, legislature, and school districts.

**House Bill 3485**  
**Effective:** 6-15-07

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

House Bill 3485 amends the Education Code to require the Texas Education Agency to form a panel, consisting of persons with expertise developing or administering career and technology education (CTE) programs and employers who hire students with certification or credentials from a CTE program, to review and recommend revisions to the CTE curriculum and for the program in which high schools and articulated postsecondary institutions allow high school students to take advanced technical credit courses. The panel must complete its review and submit recommendations to the State Board of Education not later than November 1, 2008, and the board must revise the CTE curriculum's essential knowledge and skills based on the recommendations for implementation beginning with the 2010-2011 school year. The bill encourages each district to establish for each entering high school student a personal graduation plan identifying a course of study that promotes college and workforce readiness and career placement and advancement and facilitates the student's transition from secondary to postsecondary education. The bill also allows high school students to (1) earn college credit under the College Credit Program through international baccalaureate, advanced placement, or dual credit courses; articulated postsecondary courses or advanced courses provided for local or state credit; or any combination of the above; and (2) comply with the recommended or advanced high school curriculum requirements for a mathematics course following Algebra II or a science course following physics by completing an advanced CTE course designated as substantively similar and rigorous in content.

**Senate Bill 136**  
**Effective:** 6-15-07

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

Senate Bill 136 amends the Education Code to require the Texas School Safety Center, in cooperation with the attorney general, to develop and make available to public schools a program that provides instruction concerning Internet safety, including instruction on the dangers of allowing personal information to appear on a website; the manner in which to report an inappropriate online solicitation; and the prevention, detection, and reporting of bullying or threats occurring over the Internet.

**Senate Bill 282**

**Effective:** 6-15-07

**Senate Author:** Gallegos et al.

**House Sponsor:** Dutton

Senate Bill 282 amends the Education Code to require each school district annually to notify the parent of each district student in grade nine or above of the availability of programs in the district that allow a student to earn college credit, including advanced placement, dual credit, joint high school and college credit, and international baccalaureate programs. A district may provide the required notification on its Internet website, but the notification must include the offering entity's name and contact information. The bill also requires a counselor to provide this information to each student and the student's parent or guardian during the first school year the student is enrolled in a high school or at the high school level in an open-enrollment charter school and again during the student's senior year.

**Senate Bill 1788**

**Effective:** 9-1-07

**Senate Author:** Shapiro et al.

**House Sponsor:** Madden

Senate Bill 1788 amends the Education Code to establish and provide for the operation of a state virtual school network, administered by an authority designated by the commissioner of education, to allow a school district, open-enrollment charter school, or public or private college or university to provide electronic courses, online testing, and other student-teacher interactions and instructional activities over the Internet. The bill sets forth provisions relating to the commissioner's powers and duties with respect to the network's administration; the administering authority's powers and duties with respect to the criteria for and the development, evaluation, approval, listing, and offering of electronic courses; the State Board of Education's responsibility to establish an objective standard criteria for an electronic course to ensure alignment with the essential knowledge and skills and other content requirements; student eligibility requirements for enrollment in one or more electronic courses, eligibility requirements for a school district or charter school to provide electronic courses, and qualification requirements for each teacher of an electronic course. The bill specifies that its provisions do not create or authorize the creation of a telecommunications or information services network, nor does it require or prohibit the furnishing of a home computer or Internet access to a student by a school district, charter school, service provider, or the state. The bill requires the state to pay the costs of operating the network and provides for an allocation of per-pupil funding for districts and charter schools.

**Senate Bill 1871**

**Effective:** 6-15-07

**Senate Author:** Zaffirini et al.

**House Sponsor:** Hochberg

Senate Bill 1871 amends the Education Code to require a district that is required to offer bilingual education or special language programs to include certain demographic information on students enrolled in those programs in its Public Education Information Management System (PEIMS) report, including the number and percentage of students enrolled in each instructional model of those programs offered by the district and the number and percentage of students of limited English proficiency (LEP) who do not receive specialized instruction. For reporting purposes, the bill establishes several classifications for bilingual education programs and special language programs based on specific criteria, and it requires a program to be classified in the PEIMS report as "no bilingual education or special language services provided" if the district has received a waiver and is not required to offer a program or other conditions apply.

The bill amends provisions relating to the school readiness certification system developed by the State Center for Early Childhood Development and used to certify the effectiveness of prekindergarten programs and certain federal or government-subsidized child-care programs to allow districts using the system and the Texas Education Agency to compile and report student



raw score results on the state's reading diagnosis test. The bill also requires performance on certain indicators in the Academic Excellence Indicator System to be based on longitudinal student data disaggregated by the bilingual education or special language program, if any, in which LEP students are or former LEP students were enrolled.

## Student Discipline

### House Bill 426

**Effective:** 6-15-07

**House Author:** Madden et al.

**Senate Sponsor:** Zaffirini

House Bill 426 amends the Education Code to require each school district's disciplinary alternative education program (DAEP) to provide not less than the seven-hour minimum of instructional time per day required by law for the regular school day. The bill also requires the Texas Education Agency to adopt minimum standards for DAEP operations, including standards relating to student/teacher ratios; student health and safety; reporting of student abuse, neglect, or exploitation; teacher training in behavior management and safety procedures; and planning for a student's transition from a DAEP to a regular campus.

### House Bill 2112

**Effective:** 9-1-07

**House Author:** Patrick et al.

**Senate Sponsor:** Hegar

Previous law made it an offense to exhibit or use, or threaten to exhibit or use, a firearm in a manner that interferes with the normal use of a building or portion of a school campus or of a school bus. House Bill 2112 amends the Education Code to add to the conditions that must be present to constitute an offense that such use, exhibition, or threat is made in a manner intended to cause alarm or personal injury to another or to damage school property. The bill expands the places in which such conduct is prohibited to include in or on any school property, including a parking lot, parking garage, or other parking area.

### House Bill 2532

**Effective:** 6-15-07

**House Author:** Patrick, Diane et al.

**Senate Sponsor:** Shapiro

House Bill 2532 amends the Education Code to allow a school district to expel and place a student in an alternative setting if, with respect to certain felony conduct, the student has: received deferred prosecution, probation, or deferred adjudication; been referred to a juvenile court; or been arrested for, charged with, or convicted of the offense. The bill requires the student to be placed in a juvenile justice alternative education program (JJAEP), if the district is in a county that operates a JJAEP or the district contracts with another county's juvenile board for JJAEP services, or in a disciplinary alternative education program (DAEP) until the student graduates from high school, felony charges are dismissed or reduced to a misdemeanor offense, or the student completes the term of the placement or is assigned to another program. The bill requires a district to reimburse the JJAEP for its actual daily costs. To assess a student's academic growth, the bill requires a district to test a student placed in a DAEP for 90 or more school days on the initial placement and on the student's program exit date or as near that date as possible, using a test approved by the commissioner for that purpose.

The bill also establishes requirements and conditions for the removal of a registered sex offender from a regular classroom and placement in an appropriate alternative education setting, including requirements and conditions for placement of a student with disabilities who receives special education services. The bill requires a district to convene a committee or, in the case of a student with disabilities, the student's admission, review, and dismissal committee, to review

the sex offender's placement after the first semester of the placement. The bill establishes a 24-hour deadline for notification of a school district of the conviction or adjudication of a district student for certain offenses and whether the student must register as a sex offender.

## **Student Health and Safety**

### **House Bill 121**

**Effective:** 5-18-07

**House Author:** Dukes et al.

**Senate Sponsor:** Hinojosa

House Bill 121 amends the Education Code to require each school district to adopt and implement a dating violence policy to be included in the district improvement plan. The bill requires the policy to include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, and to address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

### **House Bill 278**

**Effective:** 9-1-07

**House Author:** Madden et al.

**Senate Sponsor:** Hinojosa

The Education Code authorizes a school district's board of trustees to adopt rules for the safety and welfare of students, employees, and property, and other rules it considers necessary for the protection of buildings and grounds, including rules providing for the operation and parking of vehicles on school property. Previous law made any violation of school district rules adopted under this provision a Class C misdemeanor offense. House Bill 278 amends the Education Code to provide that violations only of rules specifically relating to the operation and parking of vehicles on school property are criminal offenses.

### **House Bill 1059**

**Effective:** 5-15-07

**House Author:** Parker et al.

**Senate Sponsor:** Nelson

House Bill 1059 amends the Education Code to require the Department of State Health Services (DSHS) to prepare a list, in English and Spanish, of immunizations required for admission to public schools and of any additional immunizations the DSHS recommends for school-age children. The bill requires the DSHS to make the list available in a manner that permits a school district to easily post the list on the district's Internet website, and it requires each district that maintains a website to post this list prominently on its website. That website also must include a list of health clinics in the district that the district knows offer the influenza vaccine and a link to the DSHS website where a person may obtain information about the procedures for claiming an exemption from the immunization requirements.

### **Senate Bill 7**

**Effective:** 6-15-07

**Senate Author:** Hinojosa et al.

**House Sponsor:** Eissler et al.

Senate Bill 7 amends the Education Code to require each school district to (1) have at each campus at least one automated external defibrillator (AED), which must be readily available during any University Interscholastic League athletic activity on the campus, including practices if possible, (2) annually provide instruction in cardiopulmonary resuscitation and the use of an automated external defibrillator for employees and volunteers, and (3) ensure the presence at each location where a defibrillator is required of at least one employee trained in its proper use whenever a substantial number of students are at the location. The bill requires certain school personnel, any other employee specified by the commissioner, and each student athletic

trainer to participate in the instruction and to receive and maintain certification in automated external defibrillator use from the American Heart Association, the American Red Cross, or other similar association. The bill requires the State Board of Education to include elements relating to instruction in cardiopulmonary resuscitation and defibrillator use as part of the health curriculum's essential knowledge and skills, and it requires the commissioner to establish a pilot program under which sixth grade students at participating campuses are given a cardiovascular screening, including an electrocardiogram and an echocardiogram. In selecting campuses, the commissioner must ensure that an ethnically diverse range of students is screened and that campuses provide the results of a student's screening to the student's parent or guardian. Each campus also must provide a summary of the screening results to the commissioner, who must report to the legislature not later than January 1, 2009. The bill also requires that private schools that receive AEDs or funding for AEDs from TEA comply with the requirements set out for public schools.

**Senate Bill 8**

**Effective:** 6-15-07

**Senate Author:** Janek et al.

**House Sponsor:** Flynn

Senate Bill 8 amends the Education Code to require the University Interscholastic League (UIL) to administer a program under which high school students participating in UIL-sponsored or sanctioned sports are tested at multiple times throughout the year for the presence of steroids in their bodies. The bill requires the program to randomly test a statistically significant number of students competing in UIL sports, be administered at approximately 30 percent of the high schools participating in UIL sports, provide for the confirmation of any initial positive test result through a subsequent test conducted as soon as practicable after the initial test, have the testing be performed only by an anabolic steroid testing laboratory with current certification from a recognized certifying organization, and render any student with a confirmed positive test result or any student refusing to submit to random testing temporarily ineligible to participate in a UIL sport. The bill also requires the UIL, before allowing a student to participate in a UIL sport, to obtain from the student's parent a signed statement acknowledging that the student, if in high school, may be subject to random steroid testing, and it requires each district to require that each employee coaching athletics at or above the seventh grade level in a UIL sport complete the UIL's educational program or a comparable program developed by the district or a private entity with relevant expertise.

**Senate Bill 82**

**Effective:** 6-15-07

**Senate Author:** Van de Putte et al.

**House Sponsor:** Eissler

Senate Bill 82 amends the Education Code to require the commissioner of education to develop an extracurricular activity safety training program that provides (1) certification by the American Red Cross, American Heart Association, or similar organization or the University Interscholastic League (UIL); (2) training in emergency action planning, cardiopulmonary resuscitation, communicating effectively with 9-1-1 operators and emergency personnel, and recognizing symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, asthma attacks, heatstroke, cardiac arrest, and injuries requiring defibrillator use; and (3) a periodic safety drill that incorporates the training and simulates the injuries described above. The bill requires each coach, trainer, extracurricular sport sponsor, marching band director, and certain school physicians or volunteer physicians to complete the training. The bill requires each district to provide student athletes training on recognizing the symptoms of injuries described above and the risks of using performance enhancing dietary supplements. Among other provisions, the bill requires each student athlete, as a condition for playing a sport, to complete

the specified UIL forms relating to medical clearance and acknowledgement of rules, each of which must be signed by the student and the student's parent or guardian. The bill prohibits a coach, trainer, or sponsor from encouraging or permitting a student athlete to engage in any unreasonably dangerous athletic technique that unnecessarily endangers a student's health, and it requires each coach, trainer, and sponsor to ensure that certain safety precautions are taken at each practice or competition.

**Senate Bill 530**

**Effective:** 6-15-07

**Senate Author:** Nelson et al.

**House Sponsor:** Eissler

Senate Bill 530 amends the Education Code to transfer authority for daily physical activity requirements from the State Board of Education to individual school districts and to establish minimum requirements for moderate or vigorous daily physical activity for students at various grade levels. If a district determines that requiring moderate or vigorous daily physical activity is impractical because of scheduling or other factors, the bill allows a district to establish alternative requirements for a student to participate in moderate or vigorous physical activity for a specified minimum amount of time per school week or per two-week block. With certain exceptions, the bill requires each district to assess the physical fitness of students in grades 3 through 12 each year using an instrument adopted by the commissioner of education to assess physical fitness, and to compile the assessment's results and provide a summary, aggregated by grade level and any other category identified by commissioner rule, to the Texas Education Agency. The summary may not contain the names of individual students or teachers. The bill requires the agency to analyze the results and identify, for each district, any correlation between the results and academic achievement, school attendance, student obesity, disciplinary problems, and school meal programs. The bill also requires the agency to report its analysis of the results obtained during the preceding school year to the School Health Advisory Committee.

**Senate Bill 606**

**Effective:** 6-16-07

**Senate Author:** Ogden

**House Sponsor:** Gattis

Senate Bill 606 amends the Education Code to specify that the name of a student or minor who is the victim of abuse or unlawful conduct by an educator must be included in a report filed with the State Board for Educator Certification by the school district superintendent, regional education service center director, or other school administrator, but that the name of the student or minor is not public information under the state's public information law.

**Senate Bill 1456**

**Effective:** 6-16-07

**Senate Author:** Uresti

**House Sponsor:** Castro

Senate Bill 1456 amends the Education Code to require the Texas Education Agency to maintain on its Internet website a list of links to websites that provide information on the prevention of child abuse and to develop and periodically update a child abuse prevention training program that a school district may use for staff development.

**Senate Bill 1504**

**Effective:** 9-1-07

**Senate Author:** Van de Putte

**House Sponsor:** Villarreal

Senate Bill 1504 amends the Education Code to require a school district to include in its multihazard emergency operations plan a policy for responding to a train derailment near a district school if a district school is located within 1,000 yards of a railroad track, as measured from any point on the school's property.

## Student Transportation

### House Bill 273

**Effective:** 6-16-07

**House Author:** Truitt

**Senate Sponsor:** Harris et al.

House Bill 273 amends the Education Code to allow a board of county school trustees or a school district board of trustees to establish and operate an economical public school transportation system outside the county or district, as applicable, if the county or district enters into an interlocal contract as provided by Chapter 791, Government Code. The bill also allows those trustees to contract with a juvenile board for all or any part of a district's public school transportation if the juvenile board requires its bus drivers to be certified in accordance with Department of Public Safety standards and uses only buses that meet or exceed specified school bus safety standards when transporting 15 or more students.

The bill requires a school district that enters into a purchasing contract valued at \$25,000 or more to document any contract-related fee, including any management fee, and to present as an agenda item the amount, purpose, and disposition of any such fee in a written report submitted annually in an open meeting of the district's board of trustees.

The bill also makes mandatory a previously permissive provision relating to certain factors that a district could consider in determining to whom to award a contract.

### House Bill 323

**Effective:** 9-1-07

**House Author:** Hamilton et al.

**Senate Sponsor:** Lucio et al.

House Bill 323 amends provisions of the Transportation Code and Education Code relating to buses that transport schoolchildren. The bill requires a school bus and school activity bus purchased by a school district on or after September 1, 2010, and each school-chartered bus contracted for use by a school district on or after September 1, 2011, to be equipped with a three-point seat belt for each passenger, including the operator. The bill specifies that this requirement does not take effect unless the legislature appropriates money specifically for the purpose of reimbursing school districts for expenses incurred in complying with the requirement. The bill authorizes a person to donate three-point seat belts or funding for them and authorizes a school district board of trustees to acknowledge the donation in a prescribed manner. The bill requires a school district to require a student to wear a seat belt if the student is riding in a bus equipped with seat belts for all passengers and requires a district to report annually to the Texas Education Agency the number of accidents in which the district's buses are involved. The agency is required by rule to require that school districts report certain accident information and to publish the reports on its website. The bill requires the State Board of Education to develop and make available to each school district a program of instruction in the proper use of a three-point seat belt and to serve as a clearinghouse of best practices relating to school bus safety.

### House Bill 3190

**Effective:** 9-1-07

**House Author:** Giddings

**Senate Sponsor:** Carona

House Bill 3190 amends the Transportation Code to require the minimum standards adopted by the Texas Department of Transportation for a person operating a school bus for the transportation of students to provide that a person's driving record is not acceptable if the person has been convicted of certain Penal Code offenses within the 10-year period preceding the date of the check of the person's driving record. The bill also defines "multifunction school activity bus" for purposes of defining vehicles that are subject to rules of the road and adds a school bus, including a multifunction school activity bus, to the jurisdiction of the law governing operation and movement of vehicles. The bill provides that a person commits an offense if

the person, as the operator of a school bus equipped with a safety belt for the operator's seat, is not secured by the safety belt. The bill adds provisions relating to the operation of a school bus to prohibit a person from operating a school bus if the door of the school bus is open or the number of passengers is greater than the manufacturer's design capacity for the bus and to require a person operating a school bus to prohibit a passenger from standing in the bus or sitting on the floor or in any location that is not designed as a seat. The Texas Department of Transportation is authorized to adopt rules necessary to administer and enforce these provisions. The bill amends the Education Code to authorize the Department of Public Safety to adopt rules necessary to implement provisions requiring each school district, pursuant to school bus safety standards established by the department, to conduct a training session beginning with the 2007-2008 school year for students and teachers concerning procedures for evacuating a school bus during an emergency.

**House Bill 3457**  
**Effective:** Vetoed

**House Author:** Hochberg  
**Senate Sponsor:** Zaffirini

House Bill 3457 amends the Education Code to prohibit the driver of a school bus equipped with a diesel engine from allowing the bus engine to idle while the bus is parked at a school or school event except for the minimum time necessary to heat or cool the bus before departure or as necessary to accommodate the physical needs of a student who receives special education services.

Reason Given for Veto: "House Bill No. 3457 would prohibit school buses from idling while parked on a school campus or at a school event under certain circumstances. I believe educators should be focusing on more pressing priorities, such as: teaching a standards-based curriculum; providing a classroom environment conducive to children with special needs; providing free lunch for students from low-income families; providing a safe learning environment; providing extra-curricular activities such as athletics, the arts and band; providing a bilingual education to more than 600,000 students who speak English as a second language; operating day and after-school programs, and; providing after-hour tutoring services. These are the core functions of our education system. If schools believe they should also regulate and enforce school bus idling policies, I think they should do so, not because it is mandated by the state, but because they have chosen to do so as a matter of policy decided on the local level.

"I am also concerned that schools would have a difficult time enforcing this law with regard to the provision prohibiting a school bus engine from idling for more than the *minimum time necessary to heat or cool the bus before departure*."

**Senate Bill 1713**  
**Effective:** 6-15-07

**Senate Author:** Eltife et al.  
**House Sponsor:** Patrick, Diane

Senate Bill 1713 amends the Education Code to require a county school board or a school district, in establishing and operating a public school transportation system, to allow a parent to designate a child-care facility or the home of a grandparent of the child, instead of the child's residence, as the regular location for purposes of the child's transportation to and from school, if the location is an approved stop on an approved route.

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

House Bill 2 - Appropriations and State Finance  
House Bill 5 - Taxes and Tax Administration  
House Bill 425 - Family Law and Juvenile Justice  
House Bill 447 - Government Purchasing  
House Bill 776 - Family Law and Juvenile Justice  
House Bill 945 - Elections  
House Bill 1098 - Health and Safety  
House Bill 1187 - Higher Education  
House Bill 1250 - Higher Education  
House Bill 1470 - Taxes and Tax Administration  
House Bill 1748 - Higher Education  
House Bill 1886 - Government Purchasing  
House Bill 3618 - Health and Safety  
House Bill 3699 - State Government  
Senate Bill 230 - Corrections  
Senate Bill 827 - Agriculture  
Senate Bill 883 - Local Government





## Public Officials and Employees

This chapter covers legislation relating to the qualifications, rights, compensation, and benefits of elected and appointed officials, court personnel, public safety personnel, and other public employees, as well as legislation on ethics, reporting, and disclosure requirements. Bills relating to a public employee's retirement investments are in this chapter, while bills on public pension systems are in the **Public Retirement Systems** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 496**

**Effective:** 6-15-07

**House Author:** Cook, Robby et al.

**Senate Sponsor:** Hegar

House Bill 496 amends the Agriculture Code to change the mileage reimbursement rate for directors of soil and water conservation districts, and for delegates from those districts who attend state district conventions, from 18 cents per mile to the state mileage reimbursement rate specified in the biennial General Appropriations Act.

#### **House Bill 1297**

**Effective:** 9-1-07

**House Author:** Delisi

**Senate Sponsor:** Nelson

House Bill 1297 amends the Government Code to require the Department of State Health Services to designate a statewide wellness coordinator to create and develop a model state employee wellness program. The bill prescribes elements required to be included in the program, specifies the responsibilities and duties of the statewide wellness coordinator, and establishes the worksite wellness advisory board to advise DSHS, the executive commissioner of the Health and Human Services Commission, and the statewide wellness coordinator on certain worksite wellness issues. House Bill 1297 also authorizes a state agency to facilitate the development of a wellness council composed of the agency's employees and managers and to permit employees certain privileges, including time off for exercise and other wellness-related activities. The bill repeals provisions relating to state agency health fitness programs.

#### **House Bill 2341**

**Effective:** 9-1-07

**House Author:** Truitt

**Senate Sponsor:** Duncan

House Bill 2341 amends provisions relating to the qualified investment products certain educational institutions may offer employees to allow such an institution to refuse to offer a 403(b) retirement investment product to an employee if the company offering the product does not comply with the institution's administrative requirements, providing that those requirements are imposed uniformly on all companies offering such plans and are necessary to comply with employer responsibilities under the Internal Revenue Code or related provisions.

#### **House Bill 2917**

**Effective:** 6-15-07

**House Author:** Macias

**Senate Sponsor:** Wentworth

House Bill 2917 amends the Local Government Code to include a county with a population of more than 77,000 and less than 80,000 among the counties that are eligible to increase the compensation and allowances of a county auditor above the established limit.

**Senate Bill 457**  
**Effective:** 5-21-07

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

Senate Bill 457 amends the Government Code to specify that a surviving minor child, rather than a surviving dependent child, of certain public employees killed in the line of duty is eligible to receive tuition and fee exemptions as a full-time student at an institution of higher education. The change applies in relation to a death that occurred on or after September 1, 2001, with respect to education benefits awarded beginning with the 2007 fall semester.

**Senate Bill 737**  
**Effective:** 9-1-07

**Senate Author:** Williams  
**House Sponsor:** Kolkhorst

Senate Bill 737 amends the Government Code to remove the \$300 cap on the amount of hazardous duty pay for certain state employees.

**Senate Bill 833**  
**Effective:** 6-15-07

**Senate Author:** Lucio  
**House Sponsor:** Escobar

Senate Bill 833 amends the Local Government Code to include a county with a population of more than 1,000 and less than 21,000 that borders the Gulf of Mexico among the counties that are eligible to increase the compensation and allowances of a county auditor above the established limit.

**Senate Bill 1630**  
**Effective:** 6-15-07

**Senate Author:** Wentworth  
**House Sponsor:** Macias

Senate Bill 1630 amends the Local Government Code to add counties with a population above 50,000 and below 85,000 to the counties that are eligible to increase the compensation and allowances of a county auditor above the established limit.

## **Ethics, Reporting, and Disclosure**

**House Bill 590**  
**Effective:** 9-1-07

**House Author:** Delisi  
**Senate Sponsor:** Zaffirini

House Bill 590 amends Government Code provisions relating to standards of conduct for state officers and employees. The bill provides that a state employee who violates certain standards of conduct specified in state law or an ethics policy adopted by the employing state agency is subject to termination of employment or other sanction, as well as to any applicable civil or criminal penalty. It further provides for the notification and involvement of the Texas Ethics Commission (TEC) in a related criminal investigation.

The bill requires each state agency to adopt and distribute to its employees, not later than January 1, 2008, a written ethics policy and to provide the policy to each new employee within a certain time frame. The bill requires the office of the attorney general, in coordination with the TEC, to develop and distribute, not later than November 1, 2007, a model ethics policy that a state agency may use in developing its policy.

**House Bill 2468**  
**Effective:** 9-1-07

**House Author:** Solomons  
**Senate Sponsor:** Carona

House Bill 2468 amends the Local Government Code to require a justice of the peace or a candidate for the office of justice of the peace in a county with a population of 125,000 or more to file a personal financial statement with the county clerk in that county, subjecting the justices and candidates to the same financial disclosure requirements applicable to other county officers and candidates for county office in counties with a population of 100,000 or more.

**House Bill 2489**  
**Effective:** 9-1-07

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

House Bill 2489 amends the Government Code to require a lobbyist to report compensation of more than \$200,000 in greater detail and to require a person who is entitled to receive compensation as a lobbyist to register with the Texas Ethics Commission.

**House Bill 2589**  
**Effective:** 9-1-07

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

House Bill 2589 amends the Government Code to provide that certain required statements, registrations, or reports that are filed with the Texas Ethics Commission are not considered to be late if any error or omission in a document as originally filed was made in good faith and, not later than the 14th business day after the date the person filing the document learns that the document is inaccurate or incomplete, the person files a corrected or amended document and an affidavit stating that the error or omission was made in good faith.

**House Bill 2735**  
**Effective:** 9-1-07

**House Author:** Berman  
**Senate Sponsor:** Harris

House Bill 2735 amends the Government Code to require a registered lobbyist, in a joint expenditure made with a nonregistrant, to report the nonregistrant's portion of the expenditure if it is not reported elsewhere. The bill provides that the portion of a joint expenditure attributed to the person who is not a registrant is not an expenditure subject to bribery provisions of the Penal Code. The bill also provides that the total value of a joint expenditure for entertainment, gifts, or an award or memento may exceed \$500 if each portion of the expenditure is made by a registrant and does not exceed \$500.

**House Bill 2839**  
**Effective:** 5-25-07

**House Author:** King, Susan  
**Senate Sponsor:** Fraser

Previous law set the deadline for the filing of a personal financial statement by persons appointed to certain state offices to not later than the 14th day after the date of appointment or the date of qualification for the office, or if confirmation by the senate is required, before the first committee hearing on the confirmation, whichever date is earlier. House Bill 2839 amends the Government Code to change the 14th day to the 30th day.

**Senate Bill 129**  
**Effective:** 9-1-07

**Senate Author:** West, Royce et al.  
**House Sponsor:** Naishtat et al.

Senate Bill 129 amends the Government Code to require a state officer or employee who must file a financial statement, in reporting a gift of cash or a cash equivalent such as a negotiable instrument or gift certificate of value in excess of \$250, to include in the description of the gift a statement of the value of the gift. The bill applies to a financial statement required to be filed on or after January 1, 2008.

## **Court Personnel**

**House Bill 3135**  
**Effective:** 9-1-07

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

House Bill 3135 amends the Government Code to increase the amount of state compensation paid to a retired judge or justice or former judge or justice while assigned as a visiting judge in a district court. The bill provides that the visiting judge's salary is determined pro rata on the

sum of the regular judge's salary from the county plus the greater of the regular judge's salary from the state on August 31, 2007, rather than 1997, or 100 percent, rather than 85 percent, of the regular judge's salary from the state as set by the General Appropriations Act for any fiscal year.

**Senate Bill 497**

**Effective:** 9-1-07

**Senate Author:** Duncan

**House Sponsor:** McReynolds

Senate Bill 497 amends the Government Code to make the state prosecuting attorney subject to the statutory provisions applicable generally to professional prosecutors, which provide for the compensation, expenses, and limitations on practicing law and accepting fees for professional prosecuting attorneys.

**Senate Bill 600**

**Effective:** 10-1-07

**Senate Author:** Duncan

**House Sponsor:** Hartnett

Senate Bill 600 amends the Government Code to require the state to pay an annual salary supplement to all statutory county court judges, to increase the annual salary supplement of a statutory county court judge from \$35,000 to an amount equal to 60 percent of a district court judge's state salary, and to require all counties to collect the fees and court costs that support the salary supplement program. The bill amends the Government Code and the Local Government Code to increase the additional salary supplement court cost on conviction from \$4 to \$6 and increase the additional salary supplement civil suit filing fee from \$37 to \$42. The bill eliminates or repeals various provisions that exempted certain counties from these judicial salary requirements or from the collection of related court fees and court costs.

**Senate Bill 821**

**Effective:** 6-15-07

**Senate Author:** Wentworth

**House Sponsor:** Hartnett

Senate Bill 821 amends the Government Code to allow excess contributions to the judicial fund that are remitted to a county and deposited into the county's contribution fund to be used for payment of the compensation of a statutory probate court associate judge. The remitted excess contributions may be used for compensation purposes on the recommendation of the statutory probate court judges and subject to the approval of the county commissioners court.

**Senate Bill 844**

**Effective:** 9-1-07

**Senate Author:** Hinojosa

**House Sponsor:** Gattis

Senate Bill 844 amends the Government Code to rename the felony prosecutor supplement fund as the assistant prosecutor supplement fund and to redefine "assistant prosecutor" to include all assistant county attorneys, not just those compensated by the state to perform the duties of a district attorney, thus entitling all assistant county attorneys to longevity pay from the assistant prosecutor supplement fund.

**Senate Bill 1519**

**Effective:** 9-1-07

**Senate Author:** Wentworth

**House Sponsor:** Hartnett

Senate Bill 1519 amends the Government Code to entitle a judge or justice who is paid by the state, is a member of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two, and is an active judge to longevity pay of \$20 for each year of service credited in the applicable retirement system, up to a maximum of 16 years of creditable service. The bill also clarifies that, for provisions relating to the computation of member contributions and benefits for judicial retirement purposes, "state salary" does not include the amount of any longevity pay payable to these judges and justices.

## Public Safety Personnel

### House Bill 280

**Effective:** 6-15-07

**House Author:** Madden et al.

**Senate Sponsor:** Gallegos

House Bill 280 amends the Government Code to make juvenile correctional officers employed by the Texas Youth Commission eligible for the firefighter and law enforcement or security officer home loan program.

### House Bill 618

**Effective:** 6-16-07

**House Author:** Bonnen et al.

**Senate Sponsor:** Jackson, Mike

House Bill 618 amends the Government Code to make emergency medical services personnel eligible to participate in a low-interest home loan program previously created for firefighters, law enforcement officers, and security officers.

### House Bill 866

**Effective:** 9-1-07

**House Author:** Davis, Yvonne

**Senate Sponsor:** West, Royce

House Bill 866 amends the Local Government Code to establish provisions for certain municipalities with a population of one million or more to negotiate with a meet and confer team representing all firefighter and police officer employee groups in the municipality regarding certain conditions of employment.

The bill sets out provisions for an election to resolve whether an association represents a majority of the covered personnel and provisions for the governing body of the municipality to recognize an association, or as an alternative, conduct an election to authorize the municipality to meet and confer with the association. The bill also sets out provisions for withdrawing recognition or repealing authorization to meet and confer and provides that an agreement between the municipality and the team must be ratified by an election of the members represented by the team.

House Bill 866 provides that the municipality may not be denied local control over matters relating to certain terms and conditions of employment or other personnel issues on which the municipality and the association agree. It prohibits firefighters and police officers from engaging in a strike or organized work stoppage against the state or a political subdivision of the state, and does not allow a municipality to meet and confer with a team that advocates the illegal right to strike by public employees. The bill provides that the municipality may not prevent automatic payroll deductions for dues paid to a firefighter or police officer employee group.

### House Bill 1473

**Effective:** 6-15-07

**House Author:** Turner

**Senate Sponsor:** Whitmire

House Bill 1473 amends the Local Government Code to provide for the waiver of sovereign immunity of a political subdivision for claims brought by certain firefighters and police officers alleging denial of monetary benefits associated with the recovery of back pay if there is no applicable grievance, administrative, or contractual appeal procedure available.

### House Bill 1561

**Effective:** 6-15-07

**House Author:** Bailey

**Senate Sponsor:** Gallegos

House Bill 1561 amends Local Government Code provisions relating to the investigation of a firefighter in certain municipalities. The bill provides that not later than the 30th day after a complaint is received by an investigator, the investigator must inform the firefighter in writing of the nature of the investigation and the name of each person who made a complaint related to the matter under investigation. The bill provides exceptions to this requirement relating to a criminal investigation.

**House Bill 1562**  
**Effective:** 5-14-07

**House Author:** Bailey  
**Senate Sponsor:** Gallegos

House Bill 1562 amends provisions of the Local Government Code relating to overtime compensation of members of a fire department in a municipality with a population of more than 10,000. The bill excludes a fire chief or the assistant chief or an equivalent classification from eligibility for overtime compensation.

**House Bill 1768**  
**Effective:** 9-1-07

**House Author:** Anchia et al.  
**Senate Sponsor:** West, Royce

House Bill 1768 amends the Local Government Code to prohibit requiring a police officer in certain municipalities with a population of more than one million to work more than 40 hours during a calendar week. The bill specifies what hours are to be counted as hours worked.

**House Bill 2498**  
**Effective:** 9-1-07

**House Author:** Gonzalez Toureilles et al.  
**Senate Sponsor:** Zaffirini

House Bill 2498 amends the Government Code to increase hazardous duty pay for certain full-time correctional officers employed by the Texas Department of Criminal Justice by increasing the per year of service amount used to calculate hazardous duty pay from \$10 to \$12. The bill retains the hazardous duty pay cap of \$300 per month for such correctional officers and removes the cap for other state employees.

**House Bill 3352**  
**Effective:** Vetoed

**House Author:** Woolley  
**Senate Sponsor:** Whitmire

House Bill 3352 amends provisions of the Local Government Code relating to civil service for fire fighters and police officers in certain municipalities with a population of 1.5 million or more. In addition to certain technical updates, the bill authorizes the police department to administer the entrance examinations for beginning peace officer positions after the examinees are admitted to a police officer training academy and before the examinees graduate from the academy. The bill sets out other requirements regarding administering the examination and creating an eligibility list based on examination results and adds to the eligibility requirements for a beginning position in the police department. The bill requires the employing municipality to make automatic payroll deductions of police employee group dues for the members of a police employee group recognized by the municipality as the exclusive bargaining agent for its police officers.

Reason Given for Veto: "House Bill No. 3352 would require automatic payroll deductions for the police employee group that has been recognized as the sole and exclusive bargaining agent under the "meet and confer" process authorized in a municipality with a population of 1.5 million or more (City of Houston). Yet, the bill only permits automatic payroll deduction for members of other police employee groups by agreement between the chief executive officer of the municipality (mayor) and the recognized bargaining agent. This type of approval requirement appears to serve only the interests of the current bargaining agent and undermines the meet and confer process."

**Senate Bill 189**  
**Effective:** 5-21-07

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

Senate Bill 189 amends the Local Government Code to require that police officers in certain municipalities with a population of less than 560,000 be granted sick leave with pay accumulated at the rate of 10 hours, rather than 4.61 hours, for each full month employed in a calendar year.

**Senate Bill 339**  
**Effective:** 9-1-07

**Senate Author:** Ellis  
**House Sponsor:** Bailey

Senate Bill 339 amends the Local Government Code to authorize a police department in a municipality with a population of 1.5 million or more to administer the entrance examination for beginning peace officers after the examinees are admitted to a police officer training academy and before the examinees graduate from the academy. The bill sets out other requirements regarding administering the examination and creating an eligibility list based on examination results.

**Senate Bill 342**  
**Effective:** 9-1-07

**Senate Author:** Ellis  
**House Sponsor:** Turner

Senate Bill 342 amends the Local Government Code to add to the eligibility requirements for a beginning position in a police department in a municipality with a population of 1.5 million or more.

**Senate Bill 772**  
**Effective:** 9-1-07

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

Current law provides “meet and confer” rights to certain police departments, under which police officers may negotiate agreements on issues such as wages, benefits, staffing, and training. Senate Bill 772 amends the Local Government Code to revise the provision specifying the departments and municipalities to which this law applies.

**Senate Bill 1104**  
**Effective:** 5-23-07

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

Senate Bill 1104 amends the Local Government Code to establish provisions for emergency medical services personnel employed by certain municipalities with a population of 460,000 or more to meet and confer with the employing municipality regarding certain conditions of employment.

The bill provides that the governing body of the municipality may recognize an association that submits a petition signed by a majority of paid emergency medical services personnel, excluding certain exempt employees, as the sole and exclusive bargaining agent. The municipality and the association are not required to meet and confer or reach an agreement on any issue. The municipality may not be denied local control over matters relating to employee pay, hours of employment, other terms and conditions of employment, or other personnel issues on which the municipality and the association agree. An agreement between the municipality and the association must be in writing and is binding if both the municipality’s governing body and the association ratify the agreement by a majority vote. An agreement supersedes a previous statute concerning pay, hours of employment, or other terms and conditions of employment, and preempts any contrary executive order, local ordinance, or rule adopted by the state or a political subdivision of the state. The applicable statutes, local ordinances, and civil statutes govern a term or condition of employment on which the public employer and the association do not agree.

The bill prohibits emergency medical services personnel from engaging in a strike or organized work stoppage against the state or a political subdivision of the state, and does not allow a municipality to meet and confer with an association that advocates the illegal right to strike by public employees.

The bill sets out provisions for an election to resolve whether an association represents a majority of the covered personnel and provisions for the governing body of the municipality to recognize an association, or as an alternative, conduct an election to authorize the municipality to meet and confer with the association. The bill also sets out provisions for withdrawing recognition, for conducting an election to repeal authorization, and for repealing an agreement.

Senate Bill 1104 also contains provisions relating to selection of bargaining agents, open records requirements, enforceability of agreements, rights of individual employees, and binding interest arbitration.

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

House Bill 35 - Taxes and Tax Administration

House Bill 1290 - Elections

House Bill 1491 - Government Purchasing

House Bill 1652 - Elections

House Bill 3826 - Higher Education

Senate Bill 1269 - Civil Remedies and Procedures



## Public Retirement Systems

This chapter covers legislation on the Employees Retirement System of Texas, Teacher Retirement System of Texas, local government retirement systems, judicial retirement systems, and public safety personnel retirement systems. Bills relating to a public employee's retirement investments are found in the **Public Officials and Employees** chapter.

### General

#### House Bill 155

Effective: 6-15-07

House Author: Pickett et al.

Senate Sponsor: Lucio

Previous law required the governing body of a public retirement system to correct an error in the distribution of retirement benefits that resulted in a person receiving an incorrect benefit payment and, where practicable, to adjust that persons future payments so that the person received the actuarial equivalent of the benefit to which the person was entitled. If the error resulted in an overpayment of benefits and no future payments were due the recipient, the governing body was authorized to recover the overpayment from the recipient through regular debt collection processes. House Bill 155 amends the Government Code to set deadlines by which the public retirement systems must give written notice of an error to the person receiving an incorrect amount of money, begin to adjust future payments, or institute recovery of an overpayment of benefits, and to create a complaint and appeal process.

#### House Bill 2365

Effective: 6-15-07

House Author: Truitt et al.

Senate Sponsor: Duncan

House Bill 2365 amends the Government Code to allow state and local governments to follow state statutory modified accrual standards of accounting as prescribed in the bill, if other accounting bases conflict with state law. The bill contains provisions for the state or its political subdivisions to account for post-employment benefits other than pensions (OPEBs) on this statutory basis if generally accepted accounting principles (GAAP) of the state or a political subdivision require accounting on any basis other than pay-as-you-go. The bill further allows these governmental entities that choose the alternate accounting methods established by this legislation to account for OPEBs in a manner that differs from requirements set forth in federal Governmental Accounting Standards Board (GASB) statement 45, which requires governmental entities to account for OPEBs, in particular retiree health benefits, in a manner similar to methods used for pension benefits.

The provisions of the bill require a state system to fully disclose to its members, retirees, and other beneficiaries that the system is not obligated to provide benefits beyond existing statutory, constitutional, or other legal requirements, including the requirements that limit the duration of certain obligations, limitations due to other funding obligations, or whether the funding obligations extend throughout the life of the member.

The bill requires the comptroller to provide guidance to the state and its political subdivisions in implementing the requirements and goals of this legislation.

The bill amends the Local Government Code by repealing provisions requiring the use of a particular accounting system by certain counties. It requires that the changes in financial accounting and reporting take effect for the Teacher Retirement System of Texas beginning with fiscal year 2007 and for the Employees Retirement System of Texas, The Texas A&M University System, and The University of Texas System beginning with fiscal year 2008. The Teacher

Retirement System is required to comply with the requirements related to member disclosure by December 1, 2007, and the Employees Retirement System of Texas, The Texas A&M University System, and The University of Texas System must comply by December 1, 2008.

**House Bill 2664**

**Effective:** 9-1-07

**House Author:** Truitt

**Senate Sponsor:** Duncan

House Bill 2664 amends the Government Code to require a qualified independent actuary to audit the actuarial valuations, studies, and reports of certain public retirement systems every five years. The first audit must be conducted by September 1, 2008, and must include an audit of each actuarial valuation, study, and report prepared for such a system in the preceding five years.

**Senate Bill 247**

**Effective:** 1-1-08

**Senate Author:** Ellis et al.

**House Sponsor:** Van Arsdale et al.

Senate Bill 247 amends the Government Code to prohibit the Employees Retirement System of Texas (ERS) and the Teacher Retirement System of Texas (TRS) from investing pension funds in the publicly traded securities of a company that engages in certain business activities in Sudan. The bill requires the state comptroller to compile, maintain, and update a list of "scrutinized companies" that engage in such activities and requires ERS and TRS to identify any listed company in which the entity owns holdings, notify the company of its listed company status, and warn the company that it may become subject to divestment by the entity. After a specified deadline, if the company continues to conduct operations in Sudan, the system must divest its direct holdings. The bill requires ERS and TRS to file annually a publicly available report summarizing its compliance with these provisions and provides for the expiration of these provisions if the U.S. government declares that the Darfur genocide has been halted for at least 12 months, that the mandatory divestment is interfering with the conduct of U.S. foreign policy, or revokes its sanctions against the government of Sudan.

## **Employees Retirement System**

**House Bill 957**

**Effective:** 6-15-07

**House Author:** Orr

**Senate Sponsor:** Ellis

House Bill 957 amends the Government Code to make participation in a 401(k) plan chosen by the board of trustees of the Employees Retirement System of Texas automatic for any new state employee hired after January 1, 2008, unless the employee elects not to participate or later decides to cease participation. The bill requires a participating employee to contribute a minimum of one percent of earned compensation to the plan.

**House Bill 3322**

**Effective:** 6-15-07

**House Author:** Truitt

**Senate Sponsor:** Watson

House Bill 3322 amends the Government Code to require the board of trustees of the Employees Retirement System of Texas to allow the transfer of all deferred amounts and investment income from its TexSaver 457 plan for employees of an institution of higher education to the plan administrator of a 457 plan created by that institution of higher education.

**House Bill 3470**  
**Effective:** 6-15-07

**House Author:** Delisi  
**Senate Sponsor:** Williams

House Bill 3470 amends the Insurance Code to authorize the Employees Retirement System (ERS) to contract with any entity that is authorized to offer health insurance to provide ERS health plan members supplemental coverage under the TRICARE Military Health System. The bill authorizes the ERS board of trustees to determine whether ERS or another entity is named the policyholder under such a contract.

**House Bill 3609**  
**Effective:** Vetoed

**House Author:** Talton  
**Senate Sponsor:** Ellis

House Bill 3609 amends the Government Code to allow certain persons who retired from the employee class of the Employees Retirement System of Texas (ERS) with more than 14 years of service credit and who, after retirement, resumed employment with a house of the legislature, not as an employee of an individual member, to receive additional employee class service for the period served in that position after retirement.

House Bill 3609 also provides elected class credit to a member of ERS who is an appointed or elected senate officer of the 80th Legislature and who has at least 20 years of service credit or a member of ERS who is an appointed or elected officer of the House of Representatives of the 80th Legislature, has at least 15 years of service credit, and has credit as an employee of a state judicial agency.

Reason Given for Veto: "House Bill No. 3609 would entitle a select group of state employees to receive special retirement benefits which other state employees will not have the opportunity to receive. State law governing retirement benefits requires a state employee to work for a certain number of years while contributing to the pension trust fund in order to establish the requisite amount of service credit to receive retirement benefits. House Bill No. 3609 would allow a select few to receive increased benefits without meeting established state requirements."

## **Teacher Retirement System**

**House Bill 2190**  
**Effective:** 6-15-07

**House Author:** Truitt  
**Senate Sponsor:** Duncan

House Bill 2190 amends the Government Code to change the eligibility requirements for serving as executive director of the Teacher Retirement System of Texas. The bill removes a requirement that the director must have been a citizen of Texas for three years and adds language requiring the person to have executive ability and experience to carry out the duties of the office.

**House Bill 2358**  
**Effective:** 9-1-07

**House Author:** Otto  
**Senate Sponsor:** Duncan

House Bill 2358 amends the Government Code to require that federal or private funds received by an employer, and noneducational and general funds received by certain educational institutions, for state contributions to the Teacher Retirement System of Texas (TRS) be deposited in TRS's state contribution account rather than the state's general revenue fund as required under previous law. The bill makes a conforming change to the Insurance Code.

**House Bill 2427**  
**Effective:** 9-1-07

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

House Bill 2427 amends the Government Code to continue the Teacher Retirement System of Texas (TRS) until September 1, 2019. In addition to across-the-board sunset provisions, the bill requires the TRS board of trustees to adopt policies governing retirement benefits counseling services that will make such counseling available to groups and individuals throughout the state and to adopt rules limiting the plan's disability retirement benefits. The bill amends the Education Code to discontinue the TRS health insurance comparability study and amends the Insurance Code to expand the public school employees group benefits program to include certain TRS disability retirees. In addition, the bill amends provisions of the Business & Commerce Code and other statutes in connection with the registration, sale, and administration of 403(b) retirement investment products offered by a retirement system to state employees.

**Senate Bill 1039**  
**Effective:** 6-16-07

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

Senate Bill 1039 amends the Government Code to provide that a retiree of the Teacher Retirement System of Texas who returns to work at a public school after September 1, 2007, to continue employment beyond May 31 but not later than June 15 of that year does not lose the monthly annuity payment paid in June. Professional development activities are not considered work for purposes of the provisions of the bill.

**Senate Bill 1447**  
**Effective:** 5-17-07

**Senate Author:** Duncan  
**House Sponsor:** Gattis

Senate Bill 1447 amends the Government Code to provide additional authority to the Teacher Retirement System of Texas (TRS) to make certain private investments before September 1, 2012. The bill allows the TRS board of trustees to delegate investment authority over a portion of the assets of the retirement trust fund to external managers. Contracts for external management allowed under the provisions of the bill cannot extend past September 1, 2012. Additionally, the bill authorizes the TRS board of trustees to delegate investment authority to TRS staff and allows the trustees to consider certain investment-related matters in closed session. Finally, the bill restricts investments in hedge funds to no more than five percent of the value of the system's investment portfolio.

**Senate Bill 1846**  
**Effective:** 9-1-07

**Senate Author:** Duncan  
**House Sponsor:** Truitt

Senate Bill 1846 amends the Government Code to authorize the board of trustees of the Teacher Retirement System of Texas (TRS) to require an increase in the rate of a member's contribution to not more than 6.58 percent of the member's annual salary if certain requirements are met. The bill specifies that the state contribution rate to TRS in a fiscal year may not be less than the member contribution rate during that fiscal year and is 6.58 percent of the member's annual salary for the fiscal biennium ending September 1, 2009. The bill requires TRS to make a one-time supplemental benefit payment to eligible annuitants by September 2007 equal to the lesser of \$2,400 or the amount of the annuitant's August 2007 regular annuity payment.

**Senate Bill 1877**  
**Effective:** 9-1-07

**Senate Author:** Averitt  
**House Sponsor:** Keffer, Jim

Senate Bill 1877 amends the Government Code to specify that salary amounts designated by an employee as health care supplementation are included, rather than excluded, as salary

and wages in determining total compensation under the Teacher Retirement System of Texas and that certain amounts received from awards for student achievement are considered salary and wages for that purpose.

## Other Retirement Systems

### House Bill 1244

**Effective:** See below

**House Author:** Kuempel

**Senate Sponsor:** Williams

House Bill 1244 amends the Government Code to give the board of trustees of the Texas Municipal Retirement System (TMRS) the authority to allow additional voluntary municipality contributions, to set amortization periods for funding its pension liabilities, and to pay qualified health insurance premiums, federally tax-free, for retired public safety officers. The bill repeals a provision relating to the computation of the service compensation of certain individuals who terminated employment with a participating municipality without applying for retirement benefits or a refund of accumulated contributions. This provision applies to a person who retires on or after September 1, 2007, and takes effect on that date; all other provisions of the bill take effect January 1, 2008.

### House Bill 1318

**Effective:** 9-1-07

**House Author:** Dukes

**Senate Sponsor:** Watson

House Bill 1318 amends provisions relating to the administration and benefits of a police retirement system in a municipality with a population between 600,000 and 700,000, and an increase in certain lump-sum death benefits. The bill modifies the interest factor used to purchase a member's service credit, limits future accrual of interest to vested members, authorizes the board of trustees to reimburse a board member or system employees for certain legal expenses or purchase liability insurance for this purpose, and provides for the confidentiality of information in system records.

### House Bill 1390

**Effective:** See below

**House Author:** Turner

**Senate Sponsor:** Jackson, Mike

House Bill 1390 amends the law relating to a firefighter's relief and retirement fund in certain municipalities. The bill revises provisions relating to the Firefighters' Relief and Retirement Fund Board of Trustees and the deferred retirement option plan (DROP) and establishes a post-retirement option plan (PROP). The bill sets forth eligibility requirements for participation in the PROP, and provides that a PROP participant may elect to have all or part of a monthly service pension or other taxable benefits, less certain group medical insurance costs, credited to the PROP account. The bill requires that a participant's PROP account be credited with hypothetical earnings in the same manner as that of a member's DROP account. A participant may stop the amounts being credited to his or her PROP account and elect to resume receiving monthly service pension or other taxable benefits at any time. The bill allows a PROP participant to receive partial payments from his or her PROP account and allows a member's surviving spouse to receive a single lump-sum payment of partial payments, subject to certain requirements. The bill provides that if a PROP participant dies prior to full distribution of the PROP account, the balance shall be distributed in the same manner as a DROP account.

The provisions of House Bill 1390 take effect September 1, 2007, except the provisions establishing the post-retirement option plan, which take effect October 1, 2007.

**House Bill 1587**

**Effective:** See below

**House Author:** Kuempel

**Senate Sponsor:** Brimer

House Bill 1587 makes various changes in the Government Code relating to the Texas County and District Retirement System (TCDRS). The bill allows a participating subdivision with a fixed-rate plan to offer the plan options available to a subdivision with a variable-rate plan and allows a lump-sum "present value" payment, including employer matching dollars, to a retiring employee who would have a small annuity. The bill decreases the minimum cost-of-living increase for a retiree from 30 to 10 percent, allows a subdivision other than a county to deduct plan contributions from an employee's compensation in anticipation of its participation in the plan, and provides for special retirement eligibility and vesting with the approval of the TCDRS board of trustees. The bill provides a survivor annuity that is actuarially equivalent to the deceased members accrued benefit and changes the procedures for reestablishing service credit that was previously forfeited.

In addition, House Bill 1587 allows the TCDRS director to approve certain disability retirement applications without medical board review, modifies requirements relating to disclosure of confidential information, and authorizes the board to set systemwide standards for the recognition of service and to define the calculation for prior service. Provisions making variable-rate plan options available to members of fixed-rate plans, allowing employee contributions in anticipation of plan participation, and exempting certain subdivisions from changes relating to the computation of current service credit take effect September 1, 2007; all other provisions take effect January 1, 2008.

**House Bill 2400**

**Effective:** 9-1-07

**House Author:** Keffer, Jim

**Senate Sponsor:** Averitt

House Bill 2400 amends provisions of the Government Code relating to the Texas Emergency Services Retirement System (TESRS), including changes in its disability retirement annuities, temporary disability benefits, and death benefits. The bill modifies the requirements for a member certified as permanently disabled to receive a continuing annuity as a disability benefit and adds criteria for terminating such an annuity. In addition, the bill authorizes the TESRS state board of trustees to permit a participating department to make supplemental payments or provide annuity increases and provides immunity from liability for good-faith acts or omissions by a TESRS board member, commissioner, or employee.

**House Bill 2751**

**Effective:** 10-1-07

**House Author:** McClendon

**Senate Sponsor:** Wentworth

House Bill 2751 amends provisions relating to the administration and benefits of a police and firefighter retirement health trust in a municipality with a population of at least 1,140,000 and less than 1,180,000. The bill establishes criteria for contributions to the fund by members, their beneficiaries, and the municipality, rather than requiring that such amounts be determined through collective bargaining agreements as provided under previous law. The bill sets out contribution requirements for a member who enters a uniformed service of the United States and increases the maximum deductible per person in a calendar year beginning January 1, 2008. In addition, the bill makes mandatory adjustments to future retiree contributions, out-of-pocket payments, and deductibles.

**House Bill 2752**  
**Effective:** 10-1-07

**House Author:** McClendon  
**Senate Sponsor:** Wentworth

House Bill 2752 amends provisions relating to a police and firefighter retirement system in a municipality with a population between 1,140,000 and 1,180,000. The bill increases the system's lump-sum death benefit for persons who die without a beneficiary from 5 to 10 years and changes the years-of-service multiplier for members who retire on or after October 1, 2007. The bill extends the annual cost-of-living adjustment to a member who retired between October 1, 1993, and September 30, 1997, extends a death benefit to certain persons who married a disability retiree after retirement, and provides for a catastrophic injury disability retirement annuity of 87.5 percent of the members average total salary if certain conditions are met. In addition, the bill provides a \$200 monthly increase to the annuity of a member who retired before October 1, 1989, and a minimum benefit of \$1,850 per month for all retirees.

**House Bill 2799**  
**Effective:** 6-15-07

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

House Bill 2799 amends the Texas Local Fire Fighters Retirement Act to authorize a political subdivision that is not located exclusively outside the boundaries of a municipality to organize under the act for the benefit of its paid employees unless it is governed by another state law providing for retirement benefits for full-time paid fire department personnel.

**House Bill 2870**  
**Effective:** 9-1-07

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

Previous law limited the required contribution by a member of a pension system for police officers and firefighters in certain municipalities to 10 percent of the member's annual compensation. House Bill 2870 adds a provision allowing certain municipalities to set a contribution amount exceeding that limit.

**House Bill 2882**  
**Effective:** 9-1-07

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

House Bill 2882 amends provisions of the Government Code relating to the retirement benefits of members of the Judicial Retirement System of Texas Plan One (JRS1) and Plan Two (JRS2). The bill modifies the formula used to calculate such benefits by changing the multiplier from 2 to 2.3 percent and increases the maximum retirement benefit from 80 to 90 percent of state salary (as adjusted from time to time for JRS1 retirees and at the time of retirement for JRS2 retirees).

**House Bill 3355**  
**Effective:** See below

**House Author:** Haggerty et al.  
**Senate Sponsor:** Brimer et al.

House Bill 3355 amends provisions relating to administration and benefits of a police and firefighter pension fund in a municipality with a population greater than 550,000 and less than 600,000, including changes to the membership of the fund's board of trustees and a requirement that any decision by the board to modify or change member benefits be approved by a qualified actuary selected by a four-fifths vote of the board and by the municipality's governing body. If the governing body does not approve the changes, the bill sets out procedures for a municipal election on the question. The bill also establishes criteria for increased contributions to the fund if an actuary determines it is underfunded and the governing body approves. These provisions take effect September 1, 2007, if, not later than July 31, 2007, the municipality deposits at least

\$100 million in the pension fund; otherwise, those provisions do not take effect and the previous law is reenacted as of September 1, 2009, if, not later than July 31, 2009, the municipality deposits at least \$110 million in the fund.

**House Bill 3392**

**Effective:** 6-15-07

**House Author:** Guillen et al.

**Senate Sponsor:** Zaffirini

House Bill 3392 amends the Government Code to specify that a person who retired from a municipal department because the department became privatized and who later resumes employment with the same municipality in a successor department again becomes a member of the Texas Municipal Retirement System, and the person's retirement annuity from the retirement system is not suspended.

**House Bill 3731**

**Effective:** 6-15-07

**House Author:** Guillen

**Senate Sponsor:** Gallegos

House Bill 3731 amends the Texas Local Fire Fighters Retirement Act to eliminate language that requires the board of trustees of a retirement plan to issue a certificate of service to a terminated member. The bill specifies that in order to be eligible for election as a member of a board of trustees in a firefighters' retirement system, a person must be a participating member of the retirement system. The bill also changes the level of contributions a municipality or a political subdivision is required to make to an affected retirement system for each participating employee to the same rate paid by employees or 12 percent, whichever is less.

**Senate Bill 976**

**Effective:** 6-15-07

**Senate Author:** Brimer

**House Sponsor:** Truitt

Senate Bill 976 amends the law governing the administration of a public retirement system previously established by municipal ordinance of a municipality with a population of 500,000 or more for employees of all departments of the municipality. Specifications related to participation in, and benefits and changes in benefits of, the system are included in the bill. As soon as practicable after the effective date of the bill, a new board of trustees must be elected or appointed to administer the system and to adopt amendments to the administrative rules.

**Senate Bill 1626**

**Effective:** 6-15-07

**Senate Author:** Watson

**House Sponsor:** Rodriguez

Senate Bill 1626 amends the Government Code to prohibit the governing body of certain municipalities from participating in the proportionate retirement program unless an actuary acting on behalf of the municipality reviews the initial cost to the municipality of making the election. The bill further provides that if the governing body of a public retirement system adopts a resolution to participate in the proportionate retirement program, the governing body of the municipality that finances the retirement system must pay to the retirement system, at the same time the municipality makes its monthly contribution to the retirement system, the additional amount necessary to fund the additional liabilities incurred by the retirement system as a result of participating in the proportionate retirement program.



## Special Districts

This chapter covers legislation relating to special districts, including economic development authorities and districts, emergency services and hospital districts, transportation authorities and districts, and water authorities and districts. Bills that refer to special districts, but are about **elections, government purchasing, local government, and water** are in those chapters, respectively. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

**House Bill 3166**  
**Effective:** 4-1-09

**House Author:** Swinford  
**Senate Sponsor:** Brimer

House Bill 3166, a continuation of the legislature's ongoing statutory revision program, transfers provisions relating to various special districts from the session laws to the Special District Local Laws Code. The bill also makes conforming changes to portions of certain local laws that are not recodified and repeals provisions of the code that are recodified while preserving the validation made by previous law.

## Economic Development

### Defense Base Development Authorities

**House Bill 3879**  
**Effective:** 9-1-07

**House Author:** Menendez  
**Senate Sponsor:** Uresti

House Bill 3879 amends the Local Government Code to authorize a defense base development authority to establish and operate an inland port and related port facilities to engage in world trade and participate in national and international agreements advancing world trade. The bill also authorizes members of a defense base development authority board or board committee to attend meetings via telephone conference call, video conference call, or by other similar telecommunication device if certain members are physically present at the meeting.

**Senate Bill 1237**  
**Effective:** 9-1-07

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

Senate Bill 1237 amends the Local Government Code to authorize a defense base development authority to establish and operate an inland port and related port facilities to engage in world trade and participate in national and international agreements advancing world trade. The bill also authorizes members of a defense base development authority board or board committee to attend meetings via telephone conference call, video conference call, or by other similar telecommunication device if certain members are physically present at the meeting.

**Senate Bill 1743**  
**Effective:** 6-15-07

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

Senate Bill 1743 amends the Special District Local Laws Code to grant additional powers to the Red River Redevelopment Authority (RRRA), including the power to create an industrial development corporation and issue related bonds, the powers of an emergency services district, and the powers of a rural or urban transit district. The bill also limits the RRRA's use of eminent domain powers and prohibits the RRRA from imposing a tax.

## Improvement Districts

**House Bill 1694**  
**Effective:** 6-15-07

**House Author:** Bailey  
**Senate Sponsor:** Gallegos

House Bill 1694 amends the law to revise the boundaries of the Airline Improvement District in Harris County.

**House Bill 4015**  
**Effective:** 6-15-07

**House Author:** Otto  
**Senate Sponsor:** Williams

Current law grants the East Montgomery County Improvement District the powers of a municipal management district, the powers of an industrial development corporation, certain economic development and improvement project powers, and, contingent on voter approval, authority to impose sales and use taxes. House Bill 4015 amends that law to authorize the district to impose a hotel occupancy tax—except on a hotel located wholly or partly in Splendora as that city's boundaries existed on April 1, 2007—and to use the proceeds for tourism, convention, and certain other purposes for which a municipality or county may use hotel occupancy tax revenue. The district also is authorized to provide for certain types of community venue projects, and may impose associated event admissions taxes and event parking taxes. The bill authorizes the district to create an economic development zone in a primarily nonresidential area, subject to a confirmation election, and to appoint the zone's governing board. The bill creates an exception to a previous prohibition on imposing ad valorem taxes, to allow an economic development zone of the district to impose ad valorem taxes in specified areas. Like the district itself, the zone may impose sales and use taxes, but both those taxes and ad valorem taxes require the approval of voters in the zone. The bill includes, or incorporates by reference, limitations on the amounts or rates of the newly authorized taxes. It authorizes an economic development zone to issue bonds and notes in the same manner as a municipal management district, and amends provisions relating to district bonds to revise the types and percentages of revenue sources that may be pledged and used in support of such bonds.

**House Bill 4091**  
**Effective:** Vetoed

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

House Bill 4091 amends the law to revise the boundaries and the composition and terms of the board of directors of Harris County Improvement District No. 6.

Reason Given for Veto: "House Bill No. 4091 seeks to amend the enabling statute creating the Harris County Improvement District No. 6, which is a municipal management district governed by Chapter 375, Local Government Code. The changes proposed by House Bill No. 4091 would add territory to the district, increase the district's board of directors from 11 to 13 members, and list seven new directors by name.

"Municipal management districts are intended to provide a means for municipalities to focus additional resources on specific areas or neighborhoods for improvements or revitalization. Currently, the law governing these districts applies concepts of local control under the Local Government Code. I support the use of management districts to promote and encourage employment, commerce, economic development and the public welfare.

"Under the Local Government Code, members of a district's board of directors are approved by the governing body of the municipality in which the district is located. However, House Bill No. 4091 would increase the number of directors serving on the board of the Harris County Improvement District No. 6, and specifically, would designate replacement board members and name new directors - all without the approval from the local governing body. Similarly, House Bill No. 4091 would expand the district's territory in a manner that does not allow input from the citizens and property owners of the annexed land being brought into the management district. I support the current method of a district annexing property subject to the approval of the local governing body and the safeguards that public input provides.

“House Bill No. 4091 would usurp municipal oversight that is critical to the proper functioning of these districts and the appointment of board members and approval of boundary changes is a vital part of the municipalities’ oversight responsibility.”

**House Bill 4093**  
**Effective:** 6-15-07

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

House Bill 4093 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the Chambers-Liberty Counties Improvement District. The bill authorizes the district to levy an assessment, impose a property tax, and issue bonds or other obligations to provide certain improvements and services to promote the economic health, vitality, and public welfare of the district.

**House Bill 4109**  
**Effective:** See below

**House Author:** Eissler  
**Senate Sponsor:** Williams

House Bill 4109 updates and revises provisions in Texas law relating to the administration, powers (including revenue generation and expenditure powers), boundaries, operations, financing, and dissolution of the Town Center Improvement District of Montgomery County, Texas. Among other provisions, the bill authorizes the district to enter into regional participation agreements; to add territory, subject to a confirmation election; to provide fire protection and emergency medical services; and to impose an ad valorem tax, with the approval of district voters, to repay district bond indebtedness.

Article 2 of the bill is effective on the date certain propositions are approved at a confirmation election; the article has no effect if the propositions are not approved by district voters. Article 1 of the bill is effective June 15, 2007.

**House Bill 4110**  
**Effective:** 6-15-07

**House Author:** Coleman  
**Senate Sponsor:** Whitmire

House Bill 4110 amends the Special District Local Laws Code to create the Harris County Improvement District No. 9. The bill authorizes the district to levy an assessment, property tax, or fee, and to issue bonds or other obligations to provide certain improvements and services to promote the economic health, vitality, and public welfare of the district.

**House Bill 4134**  
**Effective:** 6-15-07

**House Author:** Miles  
**Senate Sponsor:** Ellis

House Bill 4134 amends the Special District Local Laws Code to create the Harris County Improvement District No. 10. The bill authorizes the district to levy an assessment, property tax, or fee, and to issue bonds or other obligations to provide certain improvements and services to promote the economic health, vitality, and public welfare of the district.

**Senate Bill 1123**  
**Effective:** 6-15-07

**Senate Author:** Ellis  
**House Sponsor:** Miles

Senate Bill 1123 amends the Special District Local Laws Code to create the Harris County Improvement District No. 8. The district is authorized to impose assessments, ad valorem taxes, and impact fees, and to issue bonds or similar obligations to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

## Management Districts

### **House Bill 679**

**Effective:** 5-25-07

**House Author:** Swinford

**Senate Sponsor:** Seliger

House Bill 679 validates governmental acts and proceedings of the Downtown Midland Management District on or after June 19, 2005, and before April 1, 2007, including acts and proceedings related to the purchase or sale of real property by the district and excluding matters in litigation or invalidated by a final court judgment.

### **House Bill 4004**

**Effective:** 6-15-07

**House Author:** Vo et al.

**Senate Sponsor:** Ellis

House Bill 4004 amends the Special District Local Laws Code to create the International Management District. The bill authorizes the district to levy an assessment, impose a property tax, and issue bonds or other obligations to provide certain improvements and services to promote the economic health, vitality, and public welfare of the district.

### **House Bill 4045**

**Effective:** 6-15-07

**House Author:** Callegari

**Senate Sponsor:** Patrick, Dan

House Bill 4045 amends the Special District Local Laws Code to create the Towne Lake Management District. The bill authorizes the district to levy an assessment, impose a property tax, and issue bonds or other obligations to provide certain improvements and services to promote the economic health, vitality, and public welfare of the district.

### **House Bill 4053**

**Effective:** 6-15-07

**House Author:** Eiland

**Senate Sponsor:** Jackson, Mike

House Bill 4053 amends the Special District Local Laws Code to create the Galveston Grand Beach Management District. The bill authorizes the district to levy an assessment, impose a property tax, and issue bonds or other obligations to provide certain improvements and services to promote the economic health, vitality, and public welfare of the district.

### **House Bill 4085**

**Effective:** 6-15-07

**House Author:** Laubenberg et al.

**Senate Sponsor:** Deuell

House Bill 4085 amends the Special District Local Laws Code to create the Triple Creek Municipal Management District in portions of Kaufman and Rockwall Counties, subject to voter approval at a confirmation election. The bill grants the district powers beyond those of a municipal management district, including the powers of a municipal utility district, road district, road utility district, and Section 4B development corporation as well as certain powers applicable to a municipality or county under the Public Improvement District Assessment Act, and authorizes the district to undertake related improvement projects. Certain of its powers are subject to controls by the City of McLendon-Chisholm. Among other controls, improvement projects on the city's streets, highways, rights-of-way, or easements require the city's consent, and the imposition of maintenance and operation taxes or the issuance of ad valorem tax bonds require approval by both the city and the district's voters. The district may not impose an impact fee on the property of a public utility provider in the district, and an impact fee for residential property must be for the limited purpose of providing capital funding for public water and wastewater facilities, drainage and storm-water facilities, and streets and alleys.

**House Bill 4113**  
**Effective:** Vetoed

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

House Bill 4113 amends the law to revise the boundaries and the composition of the board of directors of the Buffalo Bayou Management District. The bill also increases the threshold amount of a district contract above which competitive bidding is required.

Reason Given for Veto: "House Bill No. 4113 seeks to amend the enabling statute creating the Buffalo Bayou Management District, which is a municipal management district governed by Chapter 375, Local Government Code. The changes proposed by House Bill No. 4113 would alter the boundaries of the district, reduce the district's board of directors from 31 to nine members, and list seven new directors by name.

"Municipal management districts are intended to provide a means for municipalities to focus additional resources on specific areas or neighborhoods for improvements and revitalization. Currently, the law governing these districts applies concepts of local control under the Local Government Code. I support the use of management districts to promote and encourage employment, commerce, economic development and the public welfare.

"Under the Local Government Code, members of a district's board of directors are approved by the governing body of the municipality in which the district is located. However, House Bill No. 4113 would decrease the number of directors serving on the board of the Buffalo Bayou Management District, and specifically, would designate replacement board members by name - all without the approval from the local governing body. Similarly, House Bill No. 4113 would expand the district's territory in a manner that does not allow input from the citizens and property owners of the annexed land being brought into the management district. I support the current method of a district annexing property subject to the approval of the local governing body and the safeguards that public input provides.

"House Bill No. 4113 would usurp municipal oversight that is critical to the proper functioning of these districts and the appointment of board members and approval of boundary changes is a vital part of the municipalities' oversight responsibility."

**House Bill 4123**  
**Effective:** Vetoed

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

House Bill 4123 amends the law to revise the boundaries of the Greater Southeast Management District.

Reason Given for Veto: "House Bill No. 4123 seeks to amend the enabling statute creating the Greater Southeast Management District, which is a municipal management district governed by Chapter 375, Local Government Code. The changes proposed by House Bill No. 4123 would increase the territory included in the district at the time of creation in 2001.

"Municipal management districts are intended to provide a means for municipalities to focus additional resources on specific areas or neighborhoods for improvements and revitalization. Currently, the law governing these districts applies concepts of local control under the Local Government Code. I support the use of management districts to promote and encourage employment, commerce, economic development, and the public welfare.

"Under the Local Government Code, additions of land to the district are subject to approval by the governing body of the municipality in which the district is located. House Bill No. 4123 would expand the district's territory in a manner that does not allow input from the citizens and property owners of the annexed land being brought into the management district. I support the current method of a district annexing property subject to the approval of the local governing body and the safeguards that public input provides.

"House Bill No. 4123 would usurp municipal oversight that is critical to the proper functioning of these districts and the appointment of board members and approval of boundary changes is a vital part of the municipalities' oversight responsibility."

## Special Districts

### **Senate Bill 671**

**Effective:** 5-18-07

**Senate Author:** Ellis

**House Sponsor:** Miles

Senate Bill 671 amends the law relating to the creation of the Greater Southeast Management District. The bill repeals provisions excluding state representative District 146 from the district and allowing its residents to join the Harris County Improvement District No. 5. The bill also validates all governmental acts and proceedings of the district as of their date of occurrence, except matters in litigation or invalidated by a final court judgment.

### **Senate Bill 878**

**Effective:** 6-16-07

**Senate Author:** Gallegos

**House Sponsor:** Coleman

Senate Bill 878 amends the Special District Local Laws Code to limit the types of residential property that are exempted from the imposition of a tax, assessment, or impact fee by the Greater East End Management District.

### **Senate Bill 919**

**Effective:** 6-16-07

**Senate Author:** Harris

**House Sponsor:** Pierson

Senate Bill 919 amends the Special District Local Laws Code to create the Viridian Municipal Management District in Tarrant County. The bill grants the district various powers including those of a municipal management district, municipal utility district, road district, road utility district, and Section 4B development corporation, as well as certain economic development powers and powers applicable to a municipality or county under the Public Improvement District Assessment Act. The district may undertake specified types of improvement projects and activities, and all or part of its area is eligible for inclusion in a tax increment reinvestment zone, tax abatement reinvestment zone, or enterprise zone created by the City of Arlington. The district, however, may not exercise the power of eminent domain, and may not impose an impact fee on the property of a public utility provider. The bill provides that certain powers of the district are subject to controls by the City of Arlington. Ad valorem taxes and tax bonds must be approved both by the city and by district voters, and before the district imposes taxes, issues bonds, or borrows money, the district and the city must negotiate and execute an interlocal project development agreement.

### **Senate Bill 1439**

**Effective:** 6-16-07

**Senate Author:** Hegar

**House Sponsor:** Callegari

Senate Bill 1439 amends the Special District Local Laws Code to authorize the West Fort Bend Management District to annex territory in the corporate limits or extraterritorial jurisdiction of Rosenberg or Richmond if certain conditions are met. Single-family residences may not be annexed under this authority.

### **Senate Bill 1969**

**Effective:** 6-15-07

**Senate Author:** Hegar

**House Sponsor:** Kolkhorst

Senate Bill 1969 amends the Special District Local Laws Code to provide for the creation of the Las Damas Management District. The district is authorized to levy assessments, impose taxes, and issue bonds to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

**Senate Bill 1984****Effective:** 6-15-07**Senate Author:** Ellis**House Sponsor:** Allen, Alma

Senate Bill 1984 amends the Special District Local Laws Code to provide for the creation of the Spectrum Management District. The district is authorized to levy assessments, impose taxes, and issue bonds to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

**Senate Bill 1993****Effective:** 6-15-07**Senate Author:** Nichols**House Sponsor:** Flynn

Senate Bill 1993 amends the Special District Local Laws Code to establish the terms to divide the Lake View Management and Development District into two or more districts. The bill validates governmental acts and proceedings of the district taken before April 1, 2007, excluding matters in litigation or invalidated by a final court judgment.

**Senate Bill 1999****Effective:** 6-16-07**Senate Author:** Jackson, Mike**House Sponsor:** Davis, John

Senate Bill 1999 amends the Special District Local Laws Code to create the NASA Area Management District, located in Harris County. Among other powers, the bill grants the district the powers of a municipal management district, Section 4B development corporation, and housing finance corporation, as well as tax abatement, tax increment financing, and certain economic development powers. The district, however, may not exercise the power of eminent domain. It may impose and collect assessments, but district financing of a service or improvement project with assessments requires a petition signed by specified majorities or numbers of real property owners meeting certain ownership parameters, and impact fees or assessments on certain utility properties are prohibited. The district must obtain the approval of the City of Nassau Bay to impose a sales and use tax, at a rate not to exceed the rate the city authorizes, but no district election on such a tax is required. If the district obtains approval from the city of a capital improvements budget covering a period up to five years, it may finance improvements and issue bonds that are specified in the budget without further city approval. Otherwise, the City of Nassau Bay must approve the issuance of bonds for an improvement project, plans and specifications of a project financed by the bonds, and plans and specifications of an improvement project involving the use of city land, a city easement, or a city street, road, or highway right-of-way. The district may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service, and may contract with a qualified provider to supply law enforcement services in the district.

## **Emergency Services and Hospital**

### **Emergency Services Districts**

**House Bill 492****Effective:** 9-1-07**House Author:** Orr**Senate Sponsor:** Averitt

House Bill 492 amends the Health and Safety Code to provide procedures by which an emergency services district located entirely in a county with a population of 2.8 million or more can exclude territory by making changes in the boundaries in accordance with an agreement between the district and certain planned communities. The bill sets out provisions relating to the effect of the agreement. The bill modifies the authority of a municipality to remove territory

## Special Districts

in the municipality's limits or extraterritorial jurisdiction from an emergency services district in a county with a population of 125,000 or less to remove that authority as it relates to territory in the municipality's extraterritorial jurisdiction.

### **House Bill 1412**

**Effective:** 9-1-07

**House Author:** McReynolds et al.

**Senate Sponsor:** Deuell et al.

The 77th Texas Legislature established the emergency medical dispatch resource centers pilot program. House Bill 1412 amends the Health and Safety Code to make the program a permanent, statewide program.

### **House Bill 2653**

**Effective:** 9-1-07

**House Author:** Harless

**Senate Sponsor:** Whitmire

House Bill 2653 amends provisions of the Health and Safety Code relating to an emergency services district located wholly in a county with a population of three million or more. The bill sets forth provisions relating to the election and terms of office of the board of emergency services commissioners and specifies who is disqualified from serving as a commissioner. The bill provides for an annual audit of the emergency services district's fiscal accounts and records and sets out transition provisions for commissioners currently serving on an affected board.

### **House Bill 3407**

**Effective:** 6-15-07

**House Author:** Hamilton

**Senate Sponsor:** Nichols

House Bill 3407 amends the Health and Safety Code to abolish the elected board of emergency commissioners that governs an emergency service district located partly in a county with a population of less than 21,000 and partly in a county with a population of more than 47,400 and to provide for an appointed board. The bill requires the commissioners court of the largest county in which the district is located to appoint a five-member board and sets out the terms of appointment and eligibility requirements for an appointee to the board.

### **Senate Bill 1502**

**Effective:** 6-15-07

**Senate Author:** Zaffirini

**House Sponsor:** Bolton et al.

Senate Bill 1502 amends the Health and Safety Code to create an exception to provisions that prohibit an emergency services district from adopting a sales and use tax, or increasing its rate, where that action in combination with other political subdivisions' sales and use taxes would cause the aggregate tax rate to exceed two percent at any location in the district. It allows a district that otherwise would be precluded by such provisions from adopting a tax to adopt the tax, change its rate, or abolish it at an election held on that action if the district's governing board excludes from the election, and the applicability of the tax, any territory in the district where the aggregate rate is at two percent. The bill includes related notice requirements to inform applicable county commissioners courts of proposed changes.

## Hospital Districts

### **House Bill 1298**

**Effective:** 6-15-07

**House Author:** Heflin

**Senate Sponsor:** Duncan

House Bill 1298 amends the law to revise the terms and election procedures for the members of the board of directors of the Stonewall County Hospital District.



**House Bill 2090**  
**Effective:** 5-25-07

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

House Bill 2090 amends the Transportation Code to authorize a hospital district or hospital authority to form a local government transportation corporation.

**House Bill 4047**  
**Effective:** 6-15-07

**House Author:** Farabee  
**Senate Sponsor:** Estes

House Bill 4047 amends the law relating to the Electra Hospital District. The bill modifies provisions relating to election of the board of directors, the board's powers and duties, and procedures for competitive bidding on certain construction contracts. The bill authorizes the district to create and sponsor a nonprofit corporation for the provision of health care or other services to the district and to contribute money to or solicit money for the corporation. The bill stipulates that the district may be dissolved only on the approval of a majority of the district voters.

**Senate Bill 267**  
**Effective:** 5-17-07

**Senate Author:** Duncan  
**House Sponsor:** Heflin

Senate Bill 267 amends Chapter 66, Acts of the 60th Legislature, Regular Session, 1967, to set out procedures and grounds for removal of a member of the board of directors of the Lynn County Hospital District.

**Senate Bill 1107**  
**Effective:** 9-1-07

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

Senate Bill 1107 amends provisions of the Government Code, Health and Safety Code, and Occupations Code relating to certain hospital districts. The bill authorizes an employee of a hospital district created in a county with a population of more than 800,000 that was not included in the boundaries of another hospital district before September 1, 2003, a charitable organization created by such a hospital district, or certain administrative agencies created for the purpose of supervising interlocal contracts, to combine service credit to determine whether the employee meets the length-of-service requirement under the employee's municipal retirement system. The bill adds such a hospital district to the list of entities authorized to issue revenue anticipation notes by including such a district in the definition of "eligible countywide district." The bill authorizes such a district to affiliate with any public or private entity to provide regional health care services for the indigent, employ health care providers under certain conditions, contract for services, and hold an election to approve a property tax rate in excess of the district's rollback tax rate. The bill repeals state law that prohibited such a district from imposing a sales and use tax.

**Senate Bill 1165**  
**Effective:** 6-15-07

**Senate Author:** Estes  
**House Sponsor:** Hardcastle

Senate Bill 1165 revises the provisions of law relating to the election, composition, and powers and duties of the board of directors of the Gainesville Hospital District.

**Senate Bill 1180**  
**Effective:** 6-15-07

**Senate Author:** Hegar  
**House Sponsor:** Morrison

Senate Bill 1180 amends the law relating to the DeWitt Medical District. The bill revises provisions relating to the election, terms, and powers and duties of the board of directors of the district and revises certain procedures relating to the appraisal, assessment, and collection of district taxes, the issuance of bonds, and the borrowing of money.

## Special Districts

### **Senate Bill 1236**

**Effective:** 5-17-07

**Senate Author:** Zaffirini

**House Sponsor:** Guillen

Senate Bill 1236 amends the law to modify provisions relating to the Starr County Hospital District's board of trustees, administration, and taxing authority. The bill expands the district's bonding authority to include issuance of bonds secured by operational revenue, ad valorem taxes, or both. The bill also allows the district to create and sponsor a nonprofit corporation and establishes procedures for the dissolution of the district.

### **Senate Bill 1752**

**Effective:** 9-1-07

**Senate Author:** Seliger

**House Sponsor:** Swinford

Senate Bill 1752 amends the law to set the election date for members of the board of directors of the Midland County Hospital District on the November uniform election date of each even-numbered year. The bill also authorizes the board to donate surplus property or equipment to another governmental entity under certain conditions, increases the contract spending threshold beyond which the district is required to follow certain advertising requirements for construction contracts or purchases from \$10,000 to \$25,000, and extends the term of a district contract with a bank for depository services from two years to four years.

### **Senate Bill 1972**

**Effective:** 9-1-07

**Senate Author:** Fraser et al.

**House Sponsor:** Smith, Wayne

Senate Bill 1972 amends the Health and Safety Code to modify the language of an election ballot that proposes an increase in the maximum rate of property taxes imposed by a hospital district and to repeal the provision that established an expiration date for law relating to a change in the property tax rate in a hospital district. The bill amends the law to authorize the Moore County Hospital District to employ health care providers under certain conditions.

## Transportation

### Navigation Districts

#### **House Bill 542**

**Effective:** 3-28-07

**House Author:** Bonnen

**Senate Sponsor:** Janek

House Bill 542 amends Chapter 55, Acts of the 40th Legislature, 1st Called Session, 1927, to change the name of the Brazos River Harbor Navigation District to Port Freeport and to provide for corresponding name changes relating to its governing body.

#### **House Bill 1311**

**Effective:** 5-23-07

**House Author:** Bonnen

**Senate Sponsor:** Janek

House Bill 1311 amends the Local Government Code to require certain municipalities that, without the consent of the district, annexed land owned by a navigation district to disannex that land no later than January 1, 2008, unless the district elects otherwise. The bill sets forth provisions for the continuation of municipal utility services on the disannexed land for one year.

#### **House Bill 1312**

**Effective:** 5-23-07

**House Author:** Bonnen

**Senate Sponsor:** Janek

House Bill 1312 amends the Local Government Code to require that certain municipalities have the consent of a navigation district before land owned by that district can be annexed.

**House Bill 1841**  
**Effective:** 9-1-07

**House Author:** Bonnen  
**Senate Sponsor:** Janek

House Bill 1841 amends the Water Code to create a presumption of validity, with certain exceptions, of an act or proceeding of a navigation district, its governing body, or certain corporations of the district after two years and if the act or proceeding is not the subject of a legal challenge.

**House Bill 2368**  
**Effective:** 6-15-07

**House Author:** Morrison  
**Senate Sponsor:** Hegar

House Bill 2368 amends the Special District Local Laws Code to provide that the Victoria County Navigation District is governed by a board composed of five navigation and canal commissioners appointed by the Commissioners Court of Victoria County and to require the commissioners court to make appointments to the board to achieve, as soon as practicable, this composition.

**House Bill 3158**  
**Effective:** 6-15-07

**House Author:** Smith, Wayne  
**Senate Sponsor:** Williams

House Bill 3158 amends the law to change the name of the Chambers County-Cedar Bayou Navigation District to Cedar Bayou Navigation District. The bill increases the number serving on the board of directors from five to seven directors and sets out provisions relating to eligibility for appointment, terms, and powers of the board. The bill authorizes the district to contract with another navigation district for the performance of services.

**House Bill 3634**  
**Effective:** 6-15-07

**House Author:** Deshotel  
**Senate Sponsor:** Williams

House Bill 3634 amends the law to change the name of the Jefferson County Waterway and Navigation District to the Sabine-Neches Navigation District of Jefferson County, Texas, and to expand the district's authority in connection with providing security and law enforcement services. The bill authorizes the district to impose fees, charges, and tolls for certain costs incurred by the district in providing those security services.

**Senate Bill 564**  
**Effective:** 6-15-07

**Senate Author:** Hegar  
**House Sponsor:** Garcia

Senate Bill 564 amends the law to change the name of The Calhoun County Navigation District to The Calhoun Port Authority and to revise statutory references accordingly.

**Senate Bill 1396**  
**Effective:** 6-15-07

**Senate Author:** Williams  
**House Sponsor:** Morrison

Senate Bill 1396 amends the Water Code to repeal provisions that established disclosure requirements for vendors and members of governing bodies of port authorities and navigation districts.

**Senate Bill 1531**  
**Effective:** 6-15-07

**Senate Author:** Hinojosa  
**House Sponsor:** Morrison

Senate Bill 1531 amends provisions of the Water Code relating to navigation districts generally. Among other provisions, the bill validates certain acts or proceedings of a district; provides that a peace officer employed or appointed by the navigation and canal commission has the same powers and duties as a peace officer as defined in the Code of Criminal Procedure; requires the executive director of a district, or an authorized representative, to approve certain

contracts; revises the threshold amount in connection with employee approval of a change order, use of alternative purchasing contract methods, and use of certain purchasing contract methods; and specifies that the competitive sealed proposals purchasing contract method can be used for construction, repair, rehabilitation, or alteration of a facility and for nonconstruction items. The bill amends provisions relating to navigation districts created under the Texas Constitution to authorize the navigation and canal commission to periodically dispose of surplus or salvage personal property in the same manner as the commissioners court of a county under specified law. The bill amends those provisions and other provisions relating to self-liquidating navigation districts to require that a contract be signed by the executive director of a district or an authorized representative.

**Senate Bill 1953**

**Effective:** 9-1-07

**Senate Author:** Hegar

**House Sponsor:** Garcia

Senate Bill 1953 amends the Special District Local Laws Code to rename the Aransas County Navigation District No. 1 as the Aransas County Navigation District and to provide for the terms, election, and compensation of members of the navigation and canal commission of the district. The bill also authorizes the district to purchase or lease property in the same manner as a county.

## Transportation Authorities and Districts

**House Bill 386**

**Effective:** 6-16-07

**House Author:** Callegari et al.

**Senate Sponsor:** Hegar

House Bill 386 repeals the provisions of the Water Code creating the Texas Deepwater Port Authority, which has not existed for 27 years.

**House Bill 504**

**Effective:** 5-14-07

**House Author:** Naishtat

**Senate Sponsor:** Wentworth

Previous law required the comptroller to withhold from the amount of sales and use tax revenue refunded to a municipality or other unit that has withdrawn from a metropolitan rapid transit authority one-half of the difference between the cost of providing services in the unit to persons with disabilities and the fares charged during the period in which the tax was collected. House Bill 504 amends the Transportation Code to require the comptroller to withhold the full amount of the difference.

**House Bill 1798**

**Effective:** 9-1-07

**House Author:** Martinez Fischer

**Senate Sponsor:** Uresti

House Bill 1798 amends the Transportation Code to make it a Class C misdemeanor offense to drive on a designated right-of-way of a metropolitan rapid transit authority that is used in connection with a motor bus rapid transit system. The bill creates an exception if the motor vehicle is owned by the authority or is an authorized emergency vehicle.

**House Bill 2510**

**Effective:** 9-1-07

**House Author:** Martinez, "Mando" et al.

**Senate Sponsor:** Hinojosa

House Bill 2510 amends the law to authorize the creation of a commuter rail district to provide commuter rail services to counties along the Texas-Mexico border and provide for a district's administration, powers, duties, operations, and financing. The bill authorizes a district to exercise the power of eminent domain, issue revenue bonds and notes with the approval of

the attorney general, and impose any kind of tax, except an ad valorem property tax, with voter approval. A district is prohibited from adopting a sales and use tax rate, including a rate increase, if that rate will make the combined local sales tax rate in the district exceed two percent.

**House Bill 2622****Effective:** Vetoed**House Author:** Ortiz, Jr.**Senate Sponsor:** Hinojosa

House Bill 2622 amends the Transportation Code to provide that a board member of a metropolitan rapid transit authority in which the principal municipality has a population of less than 300,000 is eligible to participate in any health or other insurance benefit program offered to an employee of the authority as if the board member were an employee.

Reason Given for Veto: "I am vetoing House Bill No. 2622 at the author's request. The bill would extend employee health insurance benefits to board members of the Corpus Christi Regional Transportation Authority (CCRTA); however the CCRTA board has recently withdrawn its support of the bill."

**House Bill 2682****Effective:** 9-1-07**House Author:** Solomons**Senate Sponsor:** Brimer

House Bill 2682 amends provisions of the Transportation Code relating to the administration and powers of a coordinated county transportation authority. The bill expands the procedures for adding the territory of a municipality to an authority by election to provide for a combined ballot proposition to lower or repeal any dedicated or special-purpose sales and use tax if approval by the municipal election would cause the tax to exceed the maximum allowable tax rate in an authority area, and to raise or adopt a sales and use tax imposed by the authority. The bill specifies when a sales and use tax imposed by an authority takes effect in a municipality added to the authority and provides for the payment of proportional capital recovery fees by the municipality. The bill also expands the types of contracts that an authority is authorized to negotiate without competitive sealed bids or proposals and authorizes an authority to acquire rolling stock or other real or personal property under a contract. The bill replaces the term "executive committee" with "board of directors" in provisions regarding the governing body of an authority.

**House Bill 2715****Effective:** 6-15-07**House Author:** Castro**Senate Sponsor:** Van de Putte

House Bill 2715 amends the Transportation Code to authorize a metropolitan rapid transit authority created before 1980 in which the principal municipality has a population of less than 1.2 million to allow peace officers of another political subdivision serving under a contract with the authority to enforce fares and other charges imposed by the board of the authority.

**House Bill 3437****Effective:** 5-25-07**House Author:** Flores**Senate Sponsor:** Hinojosa

House Bill 3437 amends provisions of the Transportation Code relating to registration of vehicles to add provisions that apply only to a county that borders the United Mexican States, that has a population of more than 300,000, and in which the largest municipality has a population of less than 300,000. The bill authorizes the commissioners court of such a county by order to impose an additional fee, not to exceed \$10, for registering a vehicle in the county. The bill requires the county assessor-collector and the Texas Department of Transportation to collect the additional fee, as appropriate, and to send the fee revenue to the regional mobility authority of the county to fund long-term transportation projects in the county. The department is required to adopt rules and to develop the necessary forms for vehicle registration by mail in the county. The bill provides for removal of the fee by the county.

**House Bill 3718**  
**Effective:** 5-23-07

**House Author:** Krusee  
**Senate Sponsor:** Watson

House Bill 3718 amends the Transportation Code to provide that directors of a regional mobility authority serve two-year terms, rather than six-year terms, with as near as possible to one-half of the directors' terms expiring on February 1 of each year.

**Senate Bill 964**  
**Effective:** 9-1-07

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

Senate Bill 964 amends the Transportation Code to modify the method by which appointments to the board of directors of a regional tollway authority are distributed among certain counties. The bill requires the commissioners court of each county of an authority to appoint an additional director if the county created the authority under the law authorizing two or more counties to create an authority or if all or part of a turnpike project of not less than 10 centerline miles in length is located in the county and has been open for use by the traveling public for at least three years. The bill requires the commissioners court of an eligible county to ensure that each appointed director resides in a different geographic region in that county and provides that, to the extent possible, appointments to the board must reflect the diversity of the population of the various counties. The bill repeals a provision that required all appointments to the board to be made without regard to disability, sex, religion, age, or national origin.

**Senate Bill 1074**  
**Effective:** 5-14-07

**Senate Author:** Wentworth  
**House Sponsor:** Corte, Frank

Senate Bill 1074 amends provisions of the Transportation Code relating to the issuance of short-term bonds by a metropolitan rapid transit authority. The bill provides that in an authority created before 1980 in which the principal municipality has a population of less than 1.2 million, bonds may have a term of not more than 10 years and are payable only from fee revenue received on or after the date the bonds are issued.

**Senate Bill 1077**  
**Effective:** 5-17-07

**Senate Author:** Carona  
**House Sponsor:** Harper-Brown

Senate Bill 1077 amends provisions of the Transportation Code relating to the requirement that a subregional board of a regional transportation authority having a principal municipality with a population of more than 800,000 contract every fourth state fiscal year for a performance audit of the authority. The bill changes certain audit requirements relating to performance indicators and amends definitions and formulas relating to the computation of those performance indicators.

**Senate Bill 1375**  
**Effective:** 9-1-07

**Senate Author:** Carona  
**House Sponsor:** Hill

Senate Bill 1375 amends the Transportation Code to provide that the law requiring voter approval in connection with a regional transportation authority's power to issue bonds does not apply to certain commercial paper notes issued under a commercial paper program. The bill prohibits the commercial paper program from being continued beyond five years unless certain conditions are met relating to repayment of the maximum principal amount of the program within five years from the date of any new certification.

**Senate Bill 1548****Effective:** 9-1-07**Senate Author:** Hinojosa**House Sponsor:** Martinez, "Mando"

Senate Bill 1548 amends the Government Code to add a regional mobility authority to the list of governmental bodies and economic development corporations that must concurrently post notice of a meeting and a meeting agenda on their Internet website in addition to meeting other posting requirements.

**Senate Bill 1659****Effective:** 6-16-07**Senate Author:** Nichols**House Sponsor:** Cook, Byron

Senate Bill 1659 amends the Special District Local Laws Code to create the Texas State Railroad Authority and to provide for the authority's governance, powers and duties, financing, and dissolution. The bill prohibits the authority from imposing an ad valorem tax and authorizes a taxing authority in Anderson or Cherokee County by contract to grant to the authority certain tax revenue. The bill requires the Parks and Wildlife Department to transfer all real and personal property associated with the Texas State Railroad to the authority not later than October 1, 2007. The bill establishes certain other deadlines relating to implementing the transfer and appointing the authority's board of directors.

## Water

### Freshwater Supply Districts

**House Bill 713****Effective:** 9-1-07**House Author:** Callegari**Senate Sponsor:** Seliger

House Bill 713 amends general-law provisions of the Water Code for fresh water supply districts (FWSDs) to allow an FWSD to contract with an authorized water district or water supply corporation so as to allow the FWSD to acquire and convey to the other water district or water supply corporation all or part of a water supply, treatment, or distribution system, a sanitary sewer collection or treatment system, or land drainage works or improvements. The bill specifies elements that may be included in such a contract and requires the contract to be approved by the governing bodies of the contracting entities. If constitutional provisions require voters of the FWSD or the other district to approve the imposition of a tax, the bill specifies that the FWSD or other district must call an election for that purpose.

**House Bill 2983****Effective:** 9-1-07**House Author:** Creighton**Senate Sponsor:** Hegar

Previous law required a petition to create a general-law fresh water supply district to contain the signatures of a majority of, or 50 of, the electors of the proposed district who own land in it. House Bill 2983 amends the Water Code to require such a petition to be signed by a majority of those who hold title to land the total value of which is more than half of the value of all land in the proposed district. If there are more than 50 persons who hold title to land in the proposed district, the petition is sufficient if signed by 50 of those title holders. The requirement that a signer of a petition be an elector is eliminated.

**House Bill 2984****Effective:** 9-1-07**House Author:** Creighton**Senate Sponsor:** Hegar

House Bill 2984 amends general-law provisions of the Water Code for fresh water supply districts, to change the qualifications for district supervisors, except in districts located wholly or partly in Denton County. For all other districts subject to the general-law provisions, the

bill replaces the requirement that a supervisor be a registered voter of the district with the requirement that a supervisor be a Texas resident, at least 18 years of age, and the owner of taxable property in the district.

## Groundwater Conservation Districts

### House Bill 1498

Effective: 6-15-07

House Author: Hopson

Senate Sponsor: Eltife

House Bill 1498 amends the Special District Local Laws Code to create the Panola County Groundwater Conservation District, coextensive with the boundaries of that county, subject to voter approval at a confirmation election. The bill authorizes the district to impose production fees on non-exempt wells, subject to specified maximum rates, as well as groundwater export fees. The bill limits ad valorem tax rates to not more than 1.5 cents per \$100 valuation and sets a \$500,000 limit on indebtedness from district bond and note issuances. A well drilled or operated in the district under a Railroad Commission of Texas permit is under the jurisdiction of that agency, and groundwater produced in an amount authorized by such a permit may be used or exported without a permit from the district. However, to the extent that groundwater is produced in excess of commission authorization, the holder of the commission permit must apply to the district for a permit for the excess production and becomes subject to applicable regulatory fees.

### House Bill 2070

Effective: 6-15-07

House Author: Guillen

Senate Sponsor: Zaffirini

House Bill 2070 amends the Special District Local Laws Code to postpone the deadline for voter confirmation of the Duval County Groundwater Conservation District by two years, to September 1, 2009. The bill authorizes Duval County to pay for any portion of the costs incident to the district's confirmation election.

### House Bill 2072

Effective: 6-15-07

House Author: Guillen

Senate Sponsor: Zaffirini

House Bill 2072 amends provisions of the Special District Local Laws Code relating to the Starr County Groundwater Conservation District. The bill requires the Starr County commissioners court to appoint temporary directors, who must hold an organizational meeting and conduct a confirmation election for the district. If the district is not confirmed before September 1, 2009, the district is dissolved on that date except for purposes of resolving certain debt and asset matters. If the district is confirmed, the temporary directors become initial directors, and specified procedures for the election of permanent directors become applicable.

### House Bill 3995

Effective: 6-15-07

House Author: Chisum

Senate Sponsor: Duncan

House Bill 3995 changes annexation procedures for the Collingsworth County Underground Water Conservation District (CCUWCD) from those set out in general-law Water Code provisions for water districts generally to those set out in general-law Water Code provisions for groundwater conservation districts specifically. The bill gives the board of directors of the CCUWCD the discretion, if it annexes additional territory, to add additional single-member election districts, for purposes of choosing directors, up to a maximum of 11 single-member election districts. It also authorizes the board of directors, by resolution, to change the name of the CCUWCD, and repeals certain obsolete portions of the district's enabling law.



**House Bill 4009**  
**Effective:** 9-1-07

**House Author:** Hilderbran  
**Senate Sponsor:** Uresti

House Bill 4009 changes the name of the Emerald Underground Water Conservation District to the Crockett County Groundwater Conservation District. The bill moves the date for the election of district directors to the uniform election date in November of even-numbered years, and allows a district election to be held anywhere in Crockett County. Additional changes relating to district directors apply certain ethics provisions and specify that directors' staggered four-year terms expire on December 1 of even-numbered years.

**House Bill 4028**  
**Effective:** 6-15-07

**House Author:** Geren  
**Senate Sponsor:** Brimer

House Bill 4028 amends the Special District Local Laws Code to create the Northern Trinity Groundwater Conservation District, coextensive with the boundaries of Tarrant County. The bill prohibits the district from exercising the power of eminent domain. It requires the new district to cooperate with another preexisting local conservation and reclamation district. The bill prohibits the new district from regulating certain wells in the other district, but allows it to assess groundwater production fees on wells in the other district.

**House Bill 4029**  
**Effective:** 6-15-07

**House Author:** Morrison  
**Senate Sponsor:** Hegar

House Bill 4029 amends the Special District Local Laws Code to create the Lavaca County Groundwater Conservation District, coextensive with the boundaries of Lavaca County, contingent on voter approval at a confirmation election. The bill sets out provisions relating to well spacing requirements and exemptions and authorizes the district to establish registration and reporting requirements for certain wells that are exempt from permitting under the Water Code. The district, however, may not require meters on those exempt wells. The bill prohibits the district from imposing ad valorem taxes at a rate exceeding five cents per \$100 of assessed valuation of taxable property in the district.

**House Bill 4032**  
**Effective:** 6-15-07

**House Author:** Cook, Robby  
**Senate Sponsor:** Hegar

House Bill 4032 amends the Special District Local Laws Code to create the Colorado County Groundwater Conservation District, subject to voter approval at a confirmation election. The initial district boundaries are coextensive with those of Colorado County, excluding territory within the boundaries of the Coastal Bend Groundwater Conservation District as of the bill's effective date. The bill sets out provisions relating to well spacing requirements and exemptions, and authorizes the district to establish registration and reporting requirements for certain wells that are exempt from permitting under the Water Code. The district, however, may not require meters on those exempt wells. The bill prohibits the district from exercising the power of eminent domain, and establishes restrictions relating to the right of district directors, employees, or contractors to enter private property. The district is not permitted to: purchase, sell, transport, or distribute groundwater and surface water; build, acquire, or obtain certain properties; construct dams or drain lakes, depressions, draws, and creeks; acquire land for dam erection or drainage purposes; or install pumps or other equipment to recharge a groundwater reservoir or its subdivision.

**House Bill 4114**

**Effective:** 6-15-07

**House Author:** O'Day

**Senate Sponsor:** Jackson, Mike

House Bill 4114 amends the enabling statute of the Brazoria County Groundwater Conservation District to expand the law's prohibition against property taxes to prohibit a tax of any type. The bill makes more explicit provisions relating to fees and water well metering. As amended by the bill, a prohibition against assessing fees or requiring meters applies to any new or existing well on private property that serves only a single-family dwelling used only for domestic purposes, and to any new or existing well that is used only for agriculture as defined by general-law groundwater conservation district provisions of the Water Code. Unless a well is exempted by law, the district may impose production, export, and other fees, but the bill limits export fees to no more than 150 percent of the maximum wholesale water rate charged by the City of Houston.

**Senate Bill 404**

**Effective:** 5-23-07

**Senate Author:** Zaffirini

**House Sponsor:** Gonzalez Toureilles

The Bee Groundwater Conservation District, located in a portion of Bee County, was created by the legislature in 1997. Amendments to its enabling law were enacted by the legislature in 2001 and 2005. Senate Bill 404 repeals that preceding law and codifies similar provisions relating to the district in the Special District Local Laws Code.

**Senate Bill 585**

**Effective:** 6-16-07

**Senate Author:** Van de Putte

**House Sponsor:** Leibowitz

Senate Bill 585 requires the Edwards Aquifer Authority governing board, in order to protect the water quality of the aquifer, to adopt rules regarding the control of fires in the aquifer's recharge zone. The bill requires the board, in adopting such rules, to consult with fire departments and fire marshals with jurisdiction over the recharge zone.

**Senate Bill 714**

**Effective:** 9-1-07

**Senate Author:** Fraser et al.

**House Sponsor:** Puente

Previous law mandated that a groundwater conservation district (GCD) require records to be kept and reports to be made of the drilling, equipping, and completing of water wells and of the production and use of groundwater. Senate Bill 714 amends the Water Code to authorize, rather than mandate, a GCD to require such recordkeeping and reporting. The bill further provides, in the case of an owner or operator of a water well that has to be permitted by or registered with the district, that a district in exercising its authority to require records and reports may require by rule the reporting of groundwater withdrawals. The owner or operator of a well that is used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres, where the well is incapable of producing more than 25,000 gallons of groundwater a day, is exempt from any GCD requirement to report groundwater withdrawals.

**Senate Bill 747**

**Effective:** 9-1-07

**Senate Author:** Watson

**House Sponsor:** Bolton

Senate Bill 747 amends the Water Code and the Special District Local Laws Code to increase the maximum production fees that the Barton Springs-Edwards Aquifer Conservation District may charge certain nonagricultural permit holders for groundwater withdrawals. The new maximum applies generally to a permit that is issued or materially amended, or a conditional permit that is renewed, after September 1, 2007. The bill defines a material amendment to a permit as one that increases the amount of permitted water by more than 10 percent in one

year or more than 25 percent over three years, and district rules classify a permit issued after September 9, 2004, as conditional. The maximum is raised from 17 cents per thousand gallons to the greater of 38 cents per thousand gallons or the raw surface water cost of other wholesale suppliers serving customers in the district and, in the case of a material amendment, applies only to the additional amount authorized by that amendment. Other nonagricultural permit fees generally remain at a maximum 17 cents per thousand gallons. Special provisions apply to the City of Austin, for which the bill sets an annual fee of not more than 60 percent of the district's expected total funding from water use fees for the next fiscal year, computed by applying the rate of 17 cents per thousand gallons to the total amount that all district permittees are permitted for nonagricultural purposes.

The bill also authorizes restrictions on groundwater production during conditions of drought or extreme drought. The extent of restriction depends on the characteristics of a specific permit, whether drought or extreme drought conditions exist, and certain other factors.

**Senate Bill 1950**

**Effective:** 5-23-07

**Senate Author:** Duncan

**House Sponsor:** Hardcastle

Senate Bill 1950 changes the name of the Tri-County Groundwater Conservation District to the Gateway Groundwater Conservation District. The bill amends district boundaries, which were to have included Foard, Hardeman, and Wilbarger Counties, to include only Foard and Hardeman Counties. It provides for governance by a board of directors in the manner provided by Water Code general law applicable to groundwater conservation districts, with an equal number of members appointed by the county commissioners courts of each county in the district, and authorizes the district to add new territory in the manner provided by that general law. It amends and repeals other provisions of law to conform to the above changes and to re-specify whether, in the case of conflict or inconsistency, the Water Code prevails or the district's own enabling statute prevails.

**Senate Bill 1981**

**Effective:** 5-23-07

**Senate Author:** Hegar

**House Sponsor:** Cook, Robby

Senate Bill 1981 repeals a law, applicable to the Lost Pines Groundwater Conservation District, that specified that members of the board of directors could serve two consecutive terms.

**Senate Bill 1983**

**Effective:** 6-15-07

**Senate Author:** Estes

**House Sponsor:** King, Phil et al.

Senate Bill 1983 amends the Special District Local Laws Code to create the Upper Trinity Groundwater Conservation District, subject to voter approval at a confirmation election. The initial boundaries of the district are coextensive with those of Hood, Montague, Parker, and Wise Counties. The bill prohibits the district from imposing taxes or exercising the power of eminent domain. It authorizes the district to assess groundwater production fees, not to exceed specified amounts based on whether the groundwater is used for agricultural or other purposes. The bill sets out provisions relating to well spacing and the exemption from regulation of certain wells.

**Senate Bill 1985**

**Effective:** 6-15-07

**Senate Author:** Averitt

**House Sponsor:** Dunnam

Senate Bill 1985 amends the Special District Local Laws Code to create the McLennan County Groundwater Conservation District, coextensive with the boundaries of that county, subject to voter approval at a confirmation election. The bill prohibits the district from exercising

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the power of eminent domain. It authorizes fees for services or for water withdrawn from nonexempt wells, and authorizes user fees, provided that the fee for agricultural use may not exceed 20 percent of the fee rate for municipal use. The bill sets out provisions relating to well spacing rules and related exemptions and authorizes the district to establish registration and reporting requirements for certain wells that are exempt from permitting under the Water Code. It allows the district to adopt rules and issue permits before adopting a management plan.

### **Senate Bill 2029**

**Effective:** 6-16-07

**Senate Author:** Zaffirini

**House Sponsor:** Garcia

Senate Bill 2029 amends the Special District Local Laws Code to revise the method of electing the directors of the San Patricio County Groundwater Conservation District. It requires that one director be elected by the voters of the entire district, and that one director be elected from each justice of the peace precinct. The bill contains eligibility requirements and provides for completion of a term of office after precincts are redrawn following a decennial census. It also validates certain acts and proceedings of the district.

## Municipal Utility Districts

### **House Bill 1401**

**Effective:** 9-1-07

**House Author:** Dutton

**Senate Sponsor:** Gallegos

House Bill 1401 amends the Special District Local Laws Code to add a chapter relating to the Harris County Municipal Utility District No. 402, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but road project bonds secured by ad valorem taxes may not be issued unless approved by a two-thirds majority of the voters in the district or in defined areas to be benefited by a project, voting at an election called on the matter. The bonds and other obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district or the defined area.

### **House Bill 2442**

**Effective:** 6-15-07

**House Author:** Laubenberg

**Senate Sponsor:** Estes

House Bill 2442 amends the Special District Local Laws Code to add a chapter relating to the Collin County Municipal Utility District No. 1, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but any bonds for road projects secured by ad valorem taxes require approval by a two-thirds majority of those voting in a district election, and the bonds and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill allows the district to contract with a political subdivision to provide retail water or sewer service in the district. It prohibits the district from imposing impact fees or assessments on certain utility properties.

### **House Bill 2523**

**Effective:** 6-15-07

**House Author:** Parker

**Senate Sponsor:** Nelson

House Bill 2523 amends the Special District Local Laws Code to authorize the Denton County Municipal Utility District No. 6 to divide into two districts if the district has no outstanding bonded debt and is not imposing ad valorem taxes. Any new district created by the division may not contain any land outside the area of the original district. The bill requires that a division procedure set out in the Water Code be used and provides that any new district created by the division has the same powers and duties as the original district.

**House Bill 2734**  
**Effective:** 6-15-07

**House Author:** Gattis  
**Senate Sponsor:** Ogden

House Bill 2734 amends the Special District Local Laws Code to create the Williamson-Liberty Hill Municipal Utility District (MUD) in Williamson County, subject to voter approval at a confirmation election. In addition to general-law water district and MUD powers, the district has the powers and duties of a district under the Regional Waste Disposal Act. The district, however, must comply with a 2005 agreement among specified other local government entities regarding sewer service areas and customers. The district must obtain the approval of the Brazos River Authority for the design of any district wastewater treatment facility, and only that river authority or a provider the river authority approves may offer wastewater service in the district. The bill requires the district to repair and maintain streets inside its boundaries after July 1, 2017, in accordance with applicable construction standards and regulations of the City of Liberty Hill and Williamson County.

**House Bill 2782**  
**Effective:** 9-1-07

**House Author:** Otto  
**Senate Sponsor:** Williams

House Bill 2782 amends the Special District Local Laws Code to create the Liberty County Municipal Utility District No. 5, subject to voter approval at a confirmation election. The bill prohibits the district from imposing an impact fee or assessment on the property, equipment, rights-of-way, facilities, or improvements of an electric utility, gas utility, telecommunications provider, or cable operator.

**House Bill 3182**  
**Effective:** 9-1-07

**House Author:** Parker  
**Senate Sponsor:** Nelson

House Bill 3182 amends the Special District Local Laws Code to create the Tradition Municipal Utility District No. 2 of Denton County, subject to voter approval at a confirmation election. It grants the district the authority to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill includes customary provisions relating to the division of the district into successor districts. It authorizes a municipality that provides water or wastewater service to a new development located in the district or a successor district to impose impact fees to be paid by the district, the successor district, the landowner, or the developer under an agreement with the municipality. The bill provides that the district may exercise the power of eminent domain outside its boundaries only to acquire an easement necessary for pipeline, storm water, or drainage facilities that serve the district.

**House Bill 3770**  
**Effective:** 6-15-07

**House Author:** Puente  
**Senate Sponsor:** Hegar

House Bill 3770 amends the Water Code chapter relating to municipal utility districts (MUDs) to revise provisions on the acquisition by MUDs of road-related powers. Previous general-law provisions authorized a MUD with taxing authority to petition the Texas Commission on Environmental Quality (TCEQ) to acquire the powers of a road utility district. The bill deletes reference to road utility district powers, and instead allows a MUD to petition for the power generally to design, acquire, construct, issue bonds, and convey to the state, a county, or a municipality for operation and maintenance, a road that meets local government criteria for a thoroughfare, arterial, or collector road. Taxing authority is no longer a prerequisite for such a petition, and a petition may be offered not only by an existing MUD but by someone who is seeking to create a MUD through general-law processes. If the TCEQ approves the petition,

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the MUD may undertake a road project if the municipality or county that will operate and maintain the road has approved related plans and specifications, or, for a road to be operated and maintained by the state, if the Texas Transportation Commission has approved the plans and specifications.

### **House Bill 3979**

**Effective:** 9-1-07

**House Author:** Laubenberg

**Senate Sponsor:** Estes

House Bill 3979 amends the Special District Local Laws Code to create the McKinney Municipal Utility Districts Nos. 1 and 2 of Collin County, subject to voter approval in district confirmation elections. It grants each district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits each district from imposing an impact fee or assessment on certain types of utility properties.

### **House Bill 3980**

**Effective:** 6-15-07

**House Author:** Eiland

**Senate Sponsor:** Jackson, Mike

House Bill 3980 amends the Special District Local Laws Code to postpone for two years, until September 1, 2009, the deadline for voter confirmation of the Galveston County Municipal Utility District No. 67. The bill grants the district certain general-law powers of a navigation district under the Water Code. It provides that district bonds and obligations are payable wholly or partly from ad valorem taxes, impact fees, or other monetary sources.

### **House Bill 3982**

**Effective:** 9-1-07

**House Author:** Dutton

**Senate Sponsor:** Whitmire

House Bill 3982 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 494, subject to voter approval at a confirmation election. It grants the district powers to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from imposing an impact fee or assessment on certain types of utility properties.

### **House Bill 3988**

**Effective:** 6-15-07

**House Author:** Murphy

**Senate Sponsor:** Patrick, Dan

House Bill 3988 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 438, subject to confirmation by voters. The bill grants the district certain road project powers. Issuance of ad valorem tax bonds for road projects requires approval of two-thirds of district voters voting in an election, and combined bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

### **House Bill 3989**

**Effective:** 6-15-07

**House Author:** Murphy

**Senate Sponsor:** Patrick, Dan

House Bill 3989 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 437, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but any ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the principal amount of bonds, notes, and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 3998**  
**Effective:** 6-15-07

**House Author:** Creighton  
**Senate Sponsor:** Williams

House Bill 3998 amends the Special District Local Laws Code to create the Southeast Montgomery County Municipal Utility District No. 1, subject to voter confirmation. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Issuance of tax bonds for road projects requires approval of two-thirds of district voters voting in an election, and combined bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district, in developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

**House Bill 4006**  
**Effective:** 6-15-07

**House Author:** Olivo  
**Senate Sponsor:** Janek

House Bill 4006 amends the Special District Local Laws Code to create the Booth Ranch Municipal Utility District in Fort Bend County, subject to voter approval at a confirmation election.

**House Bill 4017**  
**Effective:** See below

**House Author:** Smith, Wayne  
**Senate Sponsor:** Whitmire

House Bill 4017 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 510, subject to voter approval at a confirmation election. The bill grants the district powers to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill takes effect September 1, 2007, if all of the district's territory is annexed by the City of Baytown on or before that date. If such annexation occurs after September 1, 2007, the bill takes effect on the date of annexation.

**House Bill 4018**  
**Effective:** 6-15-07

**House Author:** Van Arsdale  
**Senate Sponsor:** Patrick, Dan

House Bill 4018 amends the Special District Local Laws Code to add a chapter relating to the Harris County Municipal Utility District No. 416, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects. The issuance of ad valorem tax bonds for road projects requires approval by a two-thirds majority of those voting in a district election, and the principal amount of bonds, notes, and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4019**  
**Effective:** 6-15-07

**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 4019 amends the Special District Local Laws Code to add a chapter relating to the Cinco Southwest Municipal Utility District No. 4, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects. The issuance of ad valorem tax bonds for road projects requires approval by a two-thirds majority of those voting in a district election, and the amount of bonds and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4022**  
**Effective:** 6-15-07

**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 4022 amends the Special District Local Laws Code to add a chapter relating to the Fort Bend County Municipal Utility District No. 58, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects. The issuance of ad valorem tax bonds for road projects requires approval by a two-thirds majority of those voting in a district election, and the bonds and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4024**  
**Effective:** 6-15-07

**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 4024 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 190, subject to voter approval at a confirmation election. The bill grants the district certain road project powers. Issuance of ad valorem tax bonds for road projects requires the approval of two-thirds of district voters voting in an election. Bonds or obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4031**  
**Effective:** 9-1-07

**House Author:** Bonnen  
**Senate Sponsor:** Jackson, Mike

House Bill 4031 amends the Special District Local Laws Code to create the Brazoria County Municipal Utility District No. 62, subject to voter approval at a confirmation election. The bill grants the district certain road project powers, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4038**  
**Effective:** 6-15-07

**House Author:** Howard, Charlie  
**Senate Sponsor:** Whitmire

House Bill 4038 amends the Special District Local Laws Code to add a chapter relating to the Harris County Municipal Utility District No. 473, which was created nonlegislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but the issuance of ad valorem tax bonds for road projects requires approval by a two-thirds majority of those voting in a district election, and the principal amount of bonds, notes, and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4041**  
**Effective:** 6-15-07

**House Author:** Rose  
**Senate Sponsor:** Wentworth

House Bill 4041 amends the Special District Local Laws Code to add a chapter relating to the Sunfield Municipal Utility District No. 3, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but the issuance of ad valorem tax bonds for road projects requires approval by a two-thirds majority of those voting in a district election, and the bonds and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The district may purchase privately constructed roads or road facilities or may reimburse private expenditures on those that are transferred or dedicated to public use.



**House Bill 4042**  
**Effective:** 6-15-07

**House Author:** Rose  
**Senate Sponsor:** Wentworth

House Bill 4042 amends the Special District Local Laws Code to add a chapter relating to the Sunfield Municipal Utility District No. 4, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but the issuance of ad valorem tax bonds for road projects requires approval by a two-thirds majority of those voting in a district election, and the bonds and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The district may purchase privately constructed roads or road facilities or may reimburse private expenditures on those that are transferred or dedicated to public use.

**House Bill 4043**  
**Effective:** 6-15-07

**House Author:** Rose  
**Senate Sponsor:** Wentworth

House Bill 4043 amends the Special District Local Laws Code to add a chapter relating to the Sunfield Municipal Utility District No. 1, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but the issuance of ad valorem tax bonds for road projects requires approval by a two-thirds majority of those voting in a district election, and the bonds and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The district may purchase privately constructed roads or road facilities or may reimburse private expenditures on those that are transferred or dedicated to public use.

**House Bill 4046**  
**Effective:** 6-15-07

**House Author:** Eissler  
**Senate Sponsor:** Williams

House Bill 4046 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 104, subject to voter confirmation. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Issuance of tax bonds for road projects requires approval of two-thirds of district voters voting in an election, and combined bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district, in developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

**House Bill 4056**  
**Effective:** 6-15-07

**House Author:** Rose  
**Senate Sponsor:** Wentworth

House Bill 4056 amends the Special District Local Laws Code to create the Hays County Municipal Utility District No. 6, subject to a confirmation election that must take place before September 1, 2011. The bill allows the district to use the power of eminent domain outside its boundaries only to acquire an easement for a pipeline that serves the district.

**House Bill 4061**  
**Effective:** 6-15-07

**House Author:** Parker  
**Senate Sponsor:** Estes

House Bill 4061 amends the Special District Local Laws Code to create the Denton County Municipal Utility District No. 7, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects. Issuance of ad valorem tax bonds to support such projects must be approved by a two-thirds majority of district voters voting at an election on the issue. The bill exempts certain types of utility properties from district impact fees and assessments.

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### **House Bill 4070**

**Effective:** 6-15-07

**House Author:** Eiland

**Senate Sponsor:** Jackson, Mike

House Bill 4070 amends the Special District Local Laws Code to create the Galveston County Municipal Utility District No. 65, subject to voter approval at a confirmation election. It grants the district, in addition to the Water Code general-law powers of water districts and municipal utility districts, the general-law powers of navigation districts. The bill also grants the district certain road project powers. Ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election. The total principal amount of bonds, notes, or obligations may not exceed one-fourth of the assessed value of the real property in the district.

### **House Bill 4072**

**Effective:** 6-15-07

**House Author:** Gattis

**Senate Sponsor:** Ogden

House Bill 4072 amends the Special District Local Laws Code to create the 3 B&J Municipal Utility District (MUD) in Williamson County, subject to voter approval at a confirmation election. In addition to general-law water district and MUD powers, the district has the powers and duties of a district under the Regional Waste Disposal Act. The district, however, must comply with a 2005 agreement among specified other local government entities regarding sewer service areas and customers. The district must obtain the approval of the Brazos River Authority for the design of any district wastewater treatment facility, and only that river authority or a provider the river authority approves may offer wastewater service in the district. The bill requires the district to repair and maintain streets inside its boundaries after July 1, 2017.

### **House Bill 4074**

**Effective:** 6-15-07

**House Author:** Eissler

**Senate Sponsor:** Williams

House Bill 4074 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 102, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Issuance of tax bonds for road projects requires approval by a two-thirds majority of those voting in a district election, and bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district, in developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

### **House Bill 4079**

**Effective:** 6-15-07

**House Author:** Eissler

**Senate Sponsor:** Williams

House Bill 4079 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 119, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Issuance of tax bonds for road projects requires approval by two-thirds of the district voters voting in an election, and combined bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district, in developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

### **House Bill 4080**

**Effective:** 6-15-07

**House Author:** Talton

**Senate Sponsor:** Jackson, Mike

House Bill 4080 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 509, subject to voter approval at a confirmation election. The

bill grants the district the power to undertake certain road projects. With voter approval, the district may impose ad valorem taxes and issue bonds payable from such taxes. Combined bonds and obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4083**  
**Effective:** 6-15-07

**House Author:** Eissler  
**Senate Sponsor:** Williams

House Bill 4083 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 117, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Issuance of tax bonds for road projects requires approval by two-thirds of the district voters voting in an election, and combined bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district, in developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

**House Bill 4084**  
**Effective:** 6-15-07

**House Author:** Eissler  
**Senate Sponsor:** Williams

House Bill 4084 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 120, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Issuance of tax bonds for road projects requires approval by two-thirds of the district voters voting in an election, and combined bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district, in developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

**House Bill 4096**  
**Effective:** 6-15-07

**House Author:** Phillips  
**Senate Sponsor:** Estes

House Bill 4096 amends the Special District Local Laws Code to create the King's Crossing Municipal Utility District of Grayson County, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and requires that the district be responsible for roads in any of its territory outside of the corporate limits of municipalities. Issuance of ad valorem tax bonds or obligations for the authorized road projects requires approval by a two-thirds majority of those voting in a district election. Combined bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4097**  
**Effective:** 6-15-07

**House Author:** Phillips  
**Senate Sponsor:** Estes

House Bill 4097 amends the Special District Local Laws Code to create the Gunter Municipal Utility District No. 2, in Grayson County, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects. Ad valorem tax bonds to finance such projects require approval by a two-thirds majority in a district election. Combined bonds and obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4098**  
**Effective:** 6-15-07

**House Author:** Phillips  
**Senate Sponsor:** Estes

House Bill 4098 amends the Special District Local Laws Code to create the Gunter Municipal Utility District No. 1 in Grayson County, subject to voter approval at a confirmation election. The bill prohibits the district from acting as a retail provider of water or wastewater service and requires the district to make water and wastewater facilities available to an entity holding the applicable certificate of public convenience and necessity. It grants the district authority to undertake certain road projects, but bonds to finance road projects require approval by a two-thirds majority in a district election, and bonds or other obligations issued or incurred to finance such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4099**  
**Effective:** 9-1-07

**House Author:** Phillips  
**Senate Sponsor:** Estes

House Bill 4099 amends the Special District Local Laws Code to create the Preston Summit Municipal Utility District No. 1 of Grayson County, subject to voter approval at a confirmation election. The bill grants the district certain road project powers, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. If the City of Gunter excludes district territory from its city limits, the district has the responsibility to maintain, improve, operate, and repair any road located in that territory in accordance with applicable political subdivision rules and ordinances. The bill prohibits the district from annexing land that is located outside those city limits. It prohibits the district from providing retail water or wastewater services and requires the district to make any district water or wastewater facility available to each holder of a certificate of convenience and necessity for land in the district.

**House Bill 4104**  
**Effective:** 9-1-07

**House Author:** Eissler  
**Senate Sponsor:** Williams

House Bill 4104 amends the Special District Local Laws Code to add a chapter relating to the Montgomery County Municipal Utility District No. 112, which was created nonlegislatively under general-law provisions of the Water Code. It grants the district the general-law powers of water districts and municipal utility districts (MUDs) and, for purposes of bond issuance, those of water control and improvement districts. The bill provides that the district may define areas of the district or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit that area or property, notwithstanding the fact that the district's size does not otherwise qualify the district to exercise that power under general-law MUD provisions. The bill grants the district powers to undertake certain road projects, but bonds for a road project may not be issued unless approved by a two-thirds majority of the voters in the district or in the defined area to be benefited by the project voting at an election called on the matter. The bonds or other obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district or the defined area.

**House Bill 4111**  
**Effective:** 6-15-07

**House Author:** Smithee  
**Senate Sponsor:** Seliger

House Bill 4111 amends the Special District Local Laws Code to create the Randall County Municipal Utility District No. 1, subject to voter approval at a confirmation election. The bill authorizes the district to undertake certain road projects, but bonds and obligations to finance

such projects, if secured wholly or partly by ad valorem taxes, require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district, or any new district formed by the division of the district, from annexing the property of a landowner before obtaining the landowner's written consent. Annexation must occur within a year of such consent, and the landowner may revoke consent before annexation occurs. If the landowner petitions for annexation under general-law Water Code procedures, the petition is considered to satisfy the consent requirement.

**Senate Bill 323****Effective:** 6-16-07**Senate Author:** Deuell**House Sponsor:** Brown, Betty

Senate Bill 323 amends the Special District Local Laws Code to create the Fairfield Municipal Utility District of Kaufman County, contingent on voter approval at a confirmation election. The bill grants the district powers to undertake certain road projects. The issuance of bonds and obligations for such projects, when secured wholly or partly by ad valorem taxes, requires approval by a two-thirds majority of those voting in a district election, and the amount issued may not exceed one-fourth of the assessed value of the real property in the district. The bill exempts the property of certain utilities from district impact fees and assessments.

**Senate Bill 682****Effective:** 9-1-07**Senate Author:** Hegar**House Sponsor:** Zerwas

Senate Bill 682 amends the Special District Local Laws Code to create the Fulshear Municipal Utility District No. 1 of Fort Bend County, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 683****Effective:** 9-1-07**Senate Author:** Hegar**House Sponsor:** Zerwas

Senate Bill 683 amends the Special District Local Laws Code to add a chapter relating to the Fort Bend County Municipal Utility District No. 182, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but bonds for a road project may not be issued unless approved by a two-thirds majority of the voters in the district or in the defined areas to be benefited by the project, voting at an election called on the matter. The bonds or other obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district or the defined area, as applicable.

**Senate Bill 684****Effective:** 9-1-07**Senate Author:** Hegar**House Sponsor:** Zerwas

Senate Bill 684 amends the Special District Local Laws Code to create the Waller County Municipal Utility District No. 1, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1041**

**Effective:** 9-1-07

**Senate Author:** Lucio

**House Sponsor:** Lucio III

Senate Bill 1041 amends the Special District Local Laws Code to create the Los Fresnos Municipal Utility District No. 2, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1069**

**Effective:** 9-1-07

**Senate Author:** Janek

**House Sponsor:** Olivo

Senate Bill 1069 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 183, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1070**

**Effective:** 6-16-07

**Senate Author:** Janek

**House Sponsor:** Olivo

Senate Bill 1070 amends the Special District Local Laws Code to create the Booth Ranch Municipal Utility District of Fort Bend County, subject to voter approval at a confirmation election.

**Senate Bill 1091**

**Effective:** 6-15-07

**Senate Author:** Nichols

**House Sponsor:** McReynolds

Senate Bill 1091 amends the Special District Local Laws Code to create the Somerset Municipal Utility District No. 1 in San Jacinto County, subject to voter approval at a confirmation election. The bill grants the district powers to undertake certain road projects and to develop and maintain recreational facilities, but the district may not, for purposes of road projects, exercise the power of eminent domain outside its boundaries, and may not, for recreational facility purposes, acquire land, an easement, or other property inside or outside its boundaries by condemnation. Ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election, and bonds and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from imposing impact fees or assessments on certain utility properties.

**Senate Bill 1092**

**Effective:** 6-15-07

**Senate Author:** Nichols

**House Sponsor:** McReynolds

Senate Bill 1092 amends the Special District Local Laws Code to create the Somerset Municipal Utility District No. 2 in San Jacinto County, subject to voter approval at a confirmation election. The bill grants the district powers to undertake certain road projects and to develop and maintain recreational facilities, but the district may not, for purposes of road projects, exercise the power of eminent domain outside its boundaries, and may not, for recreational facility purposes, acquire land, an easement, or other property inside or outside its boundaries by condemnation. Ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election, and bonds and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from imposing impact fees or assessments on certain utility properties.

**Senate Bill 1205****Effective:** 9-1-07**Senate Author:** Deuell**House Sponsor:** Brown, Betty

Senate Bill 1205 amends the Special District Local Laws Code to add chapters relating to the Kaufman County Municipal Utility District Nos. 2, 3, 4, 5, 6, and 7, all of which were created nonlegislatively under general-law provisions of the Water Code. The bill grants each district the power to undertake certain road projects. The issuance of ad valorem tax bonds for road projects requires approval by a two-thirds majority of those voting in a district election, and the bonds and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1660****Effective:** 5-21-07**Senate Author:** Wentworth**House Sponsor:** Rodriguez

Senate Bill 1660 amends the Special District Local Laws Code to create the Travis-Creedmoor Municipal Utility District in Travis County, subject to voter approval at a confirmation election. District powers include the authority to undertake certain road projects. Issuance of tax bonds in support of such projects requires the approval of two-thirds of district voters voting at an election called for that purpose.

**Senate Bill 1946****Effective:** 9-1-07**Senate Author:** Nichols**House Sponsor:** Eissler

Senate Bill 1946 amends the Special District Local Laws Code to create the Hardin Store Road Municipal Utility District of Montgomery County, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Ad valorem tax bonds for either of those purposes require authorization in an election and in the case of road projects require approval by a two-thirds majority of participating voters. Bonds or obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district, for purposes of developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

**Senate Bill 1954****Effective:** 6-15-07**Senate Author:** Hegar**House Sponsor:** Zerwas

Senate Bill 1954 amends the Special District Local Laws Code to create the Waller County Municipal Utility District No. 2, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but the issuance of ad valorem tax bonds for road projects requires approval by a two-thirds majority of those voting in a district election, and the bonds and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1955****Effective:** 6-16-07**Senate Author:** Hegar**House Sponsor:** Zerwas

Senate Bill 1955 amends the Special District Local Laws Code to create the Waller County Municipal Utility District No. 3, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects. Ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total principal amount of bonds, notes, and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1960**

**Effective:** 5-23-07

**Senate Author:** Hegar

**House Sponsor:** Garcia

Senate Bill 1960 amends the Special District Local Laws Code to create the Lamar Improvement District as a municipal utility district in Aransas County, subject to voter approval at a confirmation election. District powers include those of a navigation district as well as the authority to undertake certain road projects. Issuance of ad valorem tax bonds by the district requires the approval of two-thirds of district voters voting at an election called for that purpose.

**Senate Bill 1961**

**Effective:** 6-16-07

**Senate Author:** Hegar

**House Sponsor:** Zerwas

Senate Bill 1961 amends the Special District Local Laws Code to create the Willow Creek Farms Municipal Utility District in Waller County, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects. Ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total principal amount of bonds, notes, and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1963**

**Effective:** 6-16-07

**Senate Author:** Nichols

**House Sponsor:** Creighton

Senate Bill 1963 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 113, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Ad valorem tax bonds for either of those purposes require voter approval in a district election, and in the case of road projects require approval by a two-thirds majority of participating voters. Bonds or obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district, for purposes of developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

**Senate Bill 1964**

**Effective:** 6-16-07

**Senate Author:** Nichols

**House Sponsor:** Creighton

Senate Bill 1964 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 114, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Ad valorem tax bonds for either of those purposes require voter approval in a district election, and in the case of road projects require approval by a two-thirds majority of participating voters. The bill prohibits the district, for purposes of developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

**Senate Bill 1965**

**Effective:** 6-15-07

**Senate Author:** Nichols

**House Sponsor:** Creighton

Senate Bill 1965 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 121, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Ad valorem tax bonds for either of those purposes require voter approval in a district election, and in the case of road projects require approval by a two-thirds



majority of participating voters. The bill prohibits the district, for purposes of developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

**Senate Bill 1966****Effective:** 6-15-07**Senate Author:** Nichols**House Sponsor:** Creighton

Senate Bill 1966 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 123, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Ad valorem tax bonds for either of those purposes require voter approval in a district election, and in the case of road projects require approval by a two-thirds majority of participating voters. The bill prohibits the district, for purposes of developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

**Senate Bill 1967****Effective:** 6-15-07**Senate Author:** Nichols**House Sponsor:** Creighton

Senate Bill 1967 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 124, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Ad valorem tax bonds for either of those purposes require voter approval in a district election, and in the case of road projects require approval by a two-thirds majority of participating voters. The bill prohibits the district, for purposes of developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

**Senate Bill 1974****Effective:** 6-15-07**Senate Author:** Whitmire**House Sponsor:** Howard, Charlie

Senate Bill 1974 amends the Special District Local Laws Code to add a chapter relating to the Harris County Municipal Utility District No. 473, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects. Ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the principal amount of bonds, notes, and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1977****Effective:** 5-22-07**Senate Author:** Janek**House Sponsor:** Olivo

Senate Bill 1977 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 189, subject to voter approval at a confirmation election.

**Senate Bill 1982****Effective:** 5-23-07**Senate Author:** Wentworth**House Sponsor:** Kuempel

Senate Bill 1982 amends the Special District Local Laws Code to create the York Valley Municipal Utility District in Guadalupe County, subject to voter approval at a confirmation election. The bill authorizes the district to establish, operate, and maintain, or contract with another political subdivision for the joint operation of, a fire department to perform firefighting and emergency medical services. It also grants the district the power to undertake certain road

projects. Tax bond issuance for road projects requires the approval of two-thirds of district voters in an election, and combined bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1986**

**Effective:** 6-15-07

**Senate Author:** Hegar

**House Sponsor:** Zerwas

Senate Bill 1986 amends the Special District Local Laws Code to add a chapter relating to the Cinco Southwest Municipal Utility District No. 1 in Fort Bend County, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects. Ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the principal amount of bonds, notes, and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1987**

**Effective:** 6-16-07

**Senate Author:** Hegar

**House Sponsor:** Zerwas

Senate Bill 1987 amends the Special District Local Laws Code to add a chapter relating to the Cinco Southwest Municipal Utility District No. 2 in Fort Bend County, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects. Ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the principal amount of bonds, notes, and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1988**

**Effective:** 6-16-07

**Senate Author:** Hegar

**House Sponsor:** Zerwas

Senate Bill 1988 amends the Special District Local Laws Code to add a chapter relating to the Cinco Southwest Municipal Utility District No. 3, located in Fort Bend County and created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but any ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the principal amount of bonds, notes, or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1989**

**Effective:** 6-16-07

**Senate Author:** Hegar

**House Sponsor:** Zerwas

Senate Bill 1989 amends the Special District Local Laws Code to add a chapter relating to the Cinco Southwest Municipal Utility District No. 4, located in Fort Bend County and created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but any ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the principal amount of bonds, notes, or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1990**

**Effective:** 6-16-07

**Senate Author:** Hegar

**House Sponsor:** Garcia

Senate Bill 1990 amends the Special District Local Laws Code to create the Calhoun County Municipal Utility District No. 1, subject to voter approval at a confirmation election.

**Senate Bill 1991****Effective:** 6-16-07**Senate Author:** Hegar**House Sponsor:** Zerwas

Senate Bill 1991 amends the Special District Local Laws Code to add a chapter relating to the Fort Bend County Municipal Utility District No. 58, which was created non-legislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but any ad valorem tax bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the principal amount of bonds, notes, and other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1997****Effective:** 6-15-07**Senate Author:** Jackson, Mike**House Sponsor:** Eiland

Senate Bill 1997 amends the Special District Local Laws Code to create the Galveston County Municipal Utility District No. 65, subject to voter approval at a confirmation election. The bill grants the district general-law navigation district powers, as well as the authority to undertake certain road projects. Bonds payable from ad valorem taxes for road projects require approval by a two-thirds majority of those voting in a district election, and the principal amount of bonds, notes, and other obligations for such projects may not exceed one-fourth of the assessed value of real property in the district.

**Senate Bill 2014****Effective:** 9-1-07**Senate Author:** Nichols**House Sponsor:** Eissler

Senate Bill 2014 amends the Special District Local Laws Code to create the Magnolia Woods Municipal Utility District of Montgomery, Waller, and Grimes Counties, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities. Tax bonds for either of those purposes require authorization in an election and in the case of road projects require approval by a two-thirds majority of participating voters. Bonds or obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district, for purposes of developing or maintaining a recreational facility, from acquiring land, an easement, or other property by condemnation.

**Senate Bill 2020****Effective:** 6-15-07**Senate Author:** Seliger**House Sponsor:** Smithee

Senate Bill 2020 amends the Special District Local Laws Code to create the Randall County Municipal Utility District No. 1, subject to voter approval at a confirmation election. The bill authorizes the district to undertake certain road projects, but bonds and obligations to finance such projects, if secured wholly or partly by ad valorem taxes, require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of real property in the district. The bill prohibits the district, or any new district formed by the division of the district, from annexing the property of a landowner before obtaining the landowner's written consent. Annexation must occur within a year of such consent, and the landowner may revoke consent before annexation occurs. If the landowner petitions for annexation under general-law Water Code procedures, the petition is considered to satisfy the consent requirement.

**Senate Bill 2042**

**Effective:** 6-16-07

**Senate Author:** Watson

**House Sponsor:** Strama

Senate Bill 2042 adds a chapter to the Special District Local Laws Code relating to the New Sweden Municipal Utility District No. 1, located in Travis County and created administratively by the Texas Commission on Environmental Quality under general-law provisions of the Water Code. The bill specifies the general powers of the district. It authorizes the district and a municipality that has made a strategic partnership agreement with the district and that has extraterritorial jurisdiction over the entire territory of the district to agree to the municipality's annexation, including limited purpose annexation, of all or a part of the district's territory, and to the allocation between the two entities, following annexation, of taxes imposed on real property in the district. The bill provides that the new chapter does not eliminate any general-law annexation rights of the municipality. It sets forth specific provisions that may be included in the tax allocation agreement.

**Senate Bill 2043**

**Effective:** 6-16-07

**Senate Author:** Watson

**House Sponsor:** Strama

Senate Bill 2043 adds a chapter to the Special District Local Laws Code relating to the New Sweden Municipal Utility District No. 2, located in Travis County and created administratively by the Texas Commission on Environmental Quality under general-law provisions of the Water Code. The bill specifies the general powers of the district. It authorizes the district and a municipality that has made a strategic partnership agreement with the district and that has extraterritorial jurisdiction over the entire territory of the district to agree to the municipality's annexation, including limited purpose annexation, of all or a part of the district's territory, and to the allocation between the two entities, following annexation, of taxes imposed on real property in the district. The bill provides that the new chapter does not eliminate any general-law annexation rights of the municipality. It sets forth specific provisions that may be included in the tax allocation agreement.

**Senate Bill 2054**

**Effective:** 6-15-07

**Senate Author:** Deuell

**House Sponsor:** Laubenberg

In 2005, the legislature confirmed creation of the Parker Creek Municipal Utility District of Rockwall County, and gave it certain road powers in a portion of the district annexed by a municipality in whose extraterritorial jurisdiction (ETJ) the district wholly or partly was located. Senate Bill 2054 amends the Special District Local Laws Code to make minor revisions relating to those powers and to remove the provision restricting their exercise to annexed territory, if any, and make their exercise contingent instead on meeting or exceeding all applicable construction standards mutually agreed upon by the district and any municipality within whose boundaries or ETJ the district is located. The undertaking of a road project remains contingent also on the consent of each such municipality, and if the district is located outside the ETJ of a municipality, is contingent on the consent of each county in which the district is located.

Previous law stated also that Water Code provisions giving the Texas Commission on Environmental Quality certain powers relating to special district road projects and improvements were inapplicable to the district. Senate Bill 2054 restores the applicability of those Water Code provisions.

## Special Utility Districts

### House Bill 1573

**Effective:** 6-15-07

**House Author:** Keffer, Jim

**Senate Sponsor:** Estes

House Bill 1573 amends the Special District Local Laws Code to create the Fort Griffin Special Utility District in portions of Shackelford, Stephens, and Throckmorton Counties, subject to voter approval at a confirmation election. The bill authorizes the district to charge a water service impact fee that is equal to the equity buy-in fee charged by the Shackelford Water Supply Corporation on December 31, 2006, under that corporation's tariff. The fee may be increased only as approved by the Texas Commission on Environmental Quality or as provided by certain provisions of the Local Government Code.

### House Bill 4044

**Effective:** 9-1-07

**House Author:** Parker

**Senate Sponsor:** Estes

House Bill 4044 adds a chapter to the Special District Local Laws Code relating to the Mustang Special Utility District, which was created nonlegislatively under general-law provisions of the Water Code and serves an area in northeast Denton County. The bill provides that the district is governed by a board of nine directors, each of whom must be a resident and retail water or sewer service customer of the district. It authorizes the board by rule to provide for the election of some or all of the directors from single-member districts and requires a director from a single-member district to be a resident of that district.

### Senate Bill 610

**Effective:** 6-16-07

**Senate Author:** Duncan

**House Sponsor:** Heflin

The legislature in 1999 created the Salt Fork Water Quality District, coextensive with the boundaries of Stonewall County, and granted it many of the powers of a special utility district (SUD). Senate Bill 610 enlarges the district to include all of Kent County and the parts of Scurry and Garza Counties that are in the watershed of the Brazos River or its tributaries. The bill changes the district's governing board to be composed of one director appointed by each of the commissioners courts of the four respective counties. Also, the bill amends the district's authority with respect to various infrastructure to align that authority more closely with general-law Water Code powers of an SUD and include the ability to build, reconstruct, and hold certain works, improvements, facilities, plants, equipment, and appliances. It provides, however, that such authority is limited to the watershed of the Brazos River or its tributaries and is subject to city consent.

### Senate Bill 853

**Effective:** 6-16-07

**Senate Author:** Nichols

**House Sponsor:** McReynolds

Senate Bill 853 amends the Special District Local Laws Code to create the San Jacinto Special Utility District in San Jacinto County, subject to voter approval at a confirmation election. If creation is confirmed, the bill requires the dissolution of the San Jacinto Water Supply Corporation, preceded by the transfer to the district of the corporation's assets, debts, and contractual rights and obligations. The district also inherits the corporation's certificate of convenience and necessity. The bill authorizes the district to charge a water service impact fee that is equal to the tap fee charged by the corporation on December 31, 2006, under that corporation's tariff. The bill provides that fee increases are allowable only as approved by the Texas Commission on Environmental Quality or as provided under certain provisions of the

## Special Districts

Local Government Code. The bill prohibits the district from exercising the power of eminent domain to condemn, for sanitary sewer purposes, any land, easements, or other property located outside its boundaries.

### **Senate Bill 1661**

**Effective:** 6-16-07

**Senate Author:** Wentworth

**House Sponsor:** Rose

Senate Bill 1661 amends the Special District Local Laws Code to create the Goforth Special Utility District in Caldwell, Hays, and Travis Counties, subject to voter approval at a confirmation election. If creation is confirmed, the bill requires the dissolution of the Goforth Water Supply Corporation, preceded by the transfer to the district of the corporation's assets, debts, and contractual rights and obligations. The district also inherits the corporation's certificate of convenience and necessity. The bill authorizes the district to charge a water service impact fee that is not greater than the sum of the capital improvement and connection fees charged by the corporation on December 31, 2006, under that corporation's tariff. The bill provides that fee increases are allowable only as approved by the Texas Commission on Environmental Quality or as provided under certain provisions of the Local Government Code.

### **Senate Bill 1942**

**Effective:** 6-15-07

**Senate Author:** Deuell

**House Sponsor:** Brown, Betty

Senate Bill 1942 amends the Special District Local Laws Code to create the Gastonia-Scurry Special Utility District in a portion of Kaufman County, subject to voter approval at a confirmation election. If creation is confirmed, the bill requires the dissolution of the Gastonia-Scurry Water Supply Corporation, preceded by the transfer to the district of the corporation's assets, debts, and contractual rights and obligations. The district also inherits the corporation's certificate of convenience and necessity. The bill authorizes the district to charge a water service impact fee that is not greater than the equity buy-in fee charged by the corporation on December 31, 2006, under that corporation's tariff. The bill provides that fee increases are allowable only as approved by the Texas Commission on Environmental Quality or as provided under certain provisions of the Local Government Code.

## Water Control and Improvement Districts

### **House Bill 3984**

**Effective:** 9-1-07

**House Author:** Phillips

**Senate Sponsor:** Estes

House Bill 3984 amends the Special District Local Laws Code to create the Double Platinum Ranch Water Control and Improvement District No. 1 of Grayson County, subject to voter approval at a confirmation election. It grants the district certain road project powers, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. If a portion of the district's territory is excluded from the corporate limits of the City of Gunter, the bill makes the district responsible for the improvement, maintenance, repair, and operation of roads in that portion. The bill prohibits the district from acting as a retail provider of water and wastewater services and requires that the district make its water and wastewater facilities available to an entity holding the applicable certificate of convenience and necessity.

**House Bill 3990**  
**Effective:** 9-1-07

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

House Bill 3990 amends the Special District Local Laws Code to create the Burnet County Water Control and Improvement District No. 1, subject to voter approval at a confirmation election. The bill grants the district the general-law powers and duties of a municipal utility district as well as those of a water control and improvement district and of water districts generally. It authorizes the district to enter into a contract to allow a political subdivision to provide retail water or sewer service in the district. The bill grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 3991**  
**Effective:** 9-1-07

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

House Bill 3991 amends the Special District Local Laws Code to create the Rolling V Ranch Water Control and Improvement District No. 1 of Wise County, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4010**  
**Effective:** 9-1-07

**House Author:** Eiland  
**Senate Sponsor:** Janek

House Bill 4010 amends the Special District Local Laws Code to create the Cade Ranch Water Control and Improvement District No. 1 of Galveston County, subject to voter approval at a confirmation election. The bill grants it navigation district powers, in addition to those of a general-law water control and improvement district, and grants it the authority also to undertake certain road projects. Bonds for road projects require approval by a two-thirds majority of those voting in a district election, and bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**House Bill 4101**  
**Effective:** 9-1-07

**House Author:** Parker  
**Senate Sponsor:** Estes

House Bill 4101 adds a chapter to the Special District Local Laws Code relating to the Talley Ranch Water Control and Improvement District No. 1 of Denton County, which was created nonlegislatively. The bill applies to the district the general-law Water Code provisions for water districts and water control and improvement districts. It grants the district the power to construct, acquire, improve, maintain, or operate certain roads, or improvements in aid of those roads, inside the district, provided that each municipality in whose city limits or extraterritorial jurisdiction (ETJ) the district is located consents to the undertaking of the road project. A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the relevant municipality, and must meet all other applicable municipal requirements for a project located in the city limits or ETJ, or must meet all applicable county requirements for a project located in an unincorporated area. Bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill authorizes the district to impose a tax to pay the principal and interest on road project bonds.

**House Bill 4112**  
**Effective:** 9-1-07

**House Author:** Eiland  
**Senate Sponsor:** Hegar

House Bill 4112 amends the Special District Local Laws Code to create the Bolivar Yacht Basin Water Control and Improvement District No. 1 of Galveston County, subject to voter approval at a confirmation election. The bill grants the district certain general-law navigation powers applicable to a navigation district, as well as general-law powers applicable to water districts and water control and improvement districts. It also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 401**  
**Effective:** 9-1-07

**Senate Author:** Deuell  
**House Sponsor:** Brown, Betty

Senate Bill 401 amends the Special District Local Laws Code to create the Moore Farm Water Control and Improvement District No. 1 of Kaufman County, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1071**  
**Effective:** 9-1-07

**Senate Author:** Janek  
**House Sponsor:** Eiland

Senate Bill 1071 amends the Special District Local Laws Code to create the Cade Ranch Water Control and Improvement District No. 1 of Galveston County, subject to voter approval at a confirmation election. The bill grants it navigation district powers, in addition to those of a general-law water control and improvement district, and grants it the authority also to undertake certain road projects. Bonds for road projects require approval by a two-thirds majority of those voting in a district election, and bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 1245**  
**Effective:** 9-1-07

**Senate Author:** Wentworth  
**House Sponsor:** Macias

Senate Bill 1245 amends the Special District Local Laws Code to create the Kendall County Water Control and Improvement District No. 2, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

**Senate Bill 2002**  
**Effective:** 9-1-07

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

Senate Bill 2002 amends the Special District Local Laws Code to create the Rolling V Ranch Water Control and Improvement District No. 1 of Wise County, subject to voter approval at a confirmation election. The bill grants the district powers to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.



## Miscellaneous Water Districts

### House Bill 891

**Effective:** 6-15-07

**House Author:** Hilderbran

**Senate Sponsor:** Fraser

House Bill 891 voids Special Condition No. 5E of water use Permit No. 5394A issued to the Upper Guadalupe River Authority. The special condition required the authority to request voluntary cancellation of any portion of its associated water right that was not included in a binding take-or-pay contract by December 31, 2010.

### House Bill 1127

**Effective:** 6-15-07

**House Author:** Creighton

**Senate Sponsor:** Nichols

House Bill 1127 amends the Water Code to authorize certain conservation and reclamation districts located either wholly or in part within Montgomery County to issue bonds supported by property taxes to pay for the development and maintenance of recreational facilities. The bill provides an exception for a district that includes land within a planned community of a specified minimum acreage, of which a majority is subject to restrictive covenants containing property taxes.

### House Bill 1565

**Effective:** 6-15-07

**House Author:** Puente

**Senate Sponsor:** Uresti

House Bill 1565 requires the Bexar Metropolitan Water District, over a period of a year from the bill's effective date, to produce reports on various aspects of its utility operations, including one addressing its provision of water that meets Texas Commission on Environmental Quality (TCEQ) standards. The district must maintain a rate structure that promotes and encourages water conservation and provides lower rates for customers who use less water, and within 18 months, it must adopt a uniform rate structure with rates equal to or lower than those of other large retail water providers in the region, unless higher rates are necessary to meet debt service obligations or debt coverage requirements. The bill requires the district to maintain a complaint file relating to its retail water service, to implement an employee grievance process, and to enable customers to pay bills at one or more retail locations. It prohibits, for a period of five years, the closure of any customer service branch without the compensating opening of a new branch. The bill deletes certain district powers relating to drainage systems and control of flood and storm waters.

House Bill 1565 establishes an oversight committee, consisting of legislators, gubernatorial appointees, and a member of the Bexar County Commissioners Court, to monitor the district. It requires the state auditor, subject to approval by the Legislative Audit Committee, to conduct a financial audit of the district and requires the TCEQ to undertake an on-site evaluation of the district. On completion, the TCEQ may issue orders compelling appropriate and necessary actions by the district and, if it finds that the district is incapable of satisfactory water utility operation, may recommend oversight committee consideration of the option of initiating a receivership.

### House Bill 2444

**Effective:** 6-15-07

**House Author:** Oliveira

**Senate Sponsor:** Lucio

House Bill 2444 authorizes the Southmost Regional Water Authority to pursue land and infrastructure to provide for the collection, transportation, processing, disposal, and control of domestic, industrial, or communal wastes. The bill grants the authority certain financing, construction, maintenance, operation, and other powers common to general-law water control and improvement districts under the Water Code.

**House Bill 4057**  
**Effective:** 6-15-07

**House Author:** Solomons  
**Senate Sponsor:** Harris

House Bill 4057 changes the name of the Denton County Levee Improvement District No. 1 to the Denton County Levee Improvement District No. 1 of Denton and Dallas Counties, Texas. The bill amends the 1985 statute validating its creation to apply general-law Water Code provisions for water districts to the district. In addition, the bill authorizes the district to undertake an improvement project or service benefiting all or part of the district. To pay associated costs, the board may impose special assessments on district property based on the benefit conferred, but may not finance projects or services unless a written petition requesting the service or improvement has been filed and signed by the owners of a majority of the surface area, or a majority of the assessed value, of real property subject to the assessment. Local Government Code provisions relating to municipal management district assessments apply to the financing of improvement projects or services, which may include a drainage facility, hike and bike trail, pedestrian way, landscaping, or other development. The district may not impose an impact fee or assessment on single-family residential property or on specified types of utility properties. District bond issuances require prior approval by the City of Lewisville.

**House Bill 4067**  
**Effective:** 6-15-07

**House Author:** King, Tracy  
**Senate Sponsor:** Zaffirini

House Bill 4067 extends the Zavala-Dimmit Counties Water Improvement District No. 1 to include all areas that, on the bill's effective date, are within the geographical boundaries of the Bermuda Reservoir located in Dimmit County, including the Live Oak Slough Dam and the Bermuda Dam.

**House Bill 4069**  
**Effective:** See below

**House Author:** Phillips  
**Senate Sponsor:** Estes

House Bill 4069 amends the Special District Local Laws Code to create eight water districts, each subject to voter approval at a confirmation election: the Double Platinum Ranch Water Control and Improvement District No. 1 of Grayson County; the Platinum Ranch Municipal Utility District No. 1 of Grayson County; the Kimberlin Ranch Municipal Utility Districts Nos. 1, 2, and 3 of Grayson County; the King's Crossing Municipal Utility District of Grayson County; the Sangani Ranch Municipal Utility District No. 1 of Grayson County; and the Four Seasons Ranch Municipal Utility District No. 1 of Denton County. The bill grants each district certain road project powers, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The districts also have certain road-related responsibilities in specified geographic areas. Except for the King's Crossing and Four Seasons Ranch districts, they are prohibited from providing certain water and wastewater services and must make their water and wastewater facilities available to holders of applicable certificates of convenience and necessity. The bill prohibits the Kimberlin Ranch and Sangani Ranch districts from annexing land outside the City of Gunter, and prohibits the Four Seasons Ranch district from annexing land in Grayson County without the prior consent of that county's commissioners court. The bill exempts certain utility properties in the King's Crossing district from impact fees and assessments. Provisions relating to that district take effect June 15, 2007. The remainder of the bill takes effect September 1, 2007.

**Senate Bill 162**  
**Effective:** 6-16-07

**Senate Author:** Shapiro  
**House Sponsor:** Harper-Brown

Under previous law, single-family residential property within the Dallas County Utility and Reclamation District was exempt from taxation. Senate Bill 162 amends the law to allow such property to be taxed, subject to an effective tax rate that is capped as provided by the terms of a voluntary tax abatement agreement between the district and single-family residential property owners.

**Senate Bill 707**  
**Effective:** 9-1-07

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

Senate Bill 707 changes the membership of the Rio Grande Regional Water Authority board of directors, adding three more gubernatorial appointees and revising how they are chosen and the interests they represent. The bill repeals a restriction against more than three gubernatorial appointees being from the same county. It revises the qualifications for directors appointed by commissioners courts of the counties in the authority and changes their terms of office from two to four years, the length of the terms of directors appointed by the governor. The bill provides for the removal of directors from office and provides that the board member elected president may vote only to break ties.

The bill creates an irrigation district conference representing each county, municipality, municipal utility district (MUD), special utility district (SUD), water supply corporation (WSC), irrigation district, and other water district in the authority, and authorizes the board to appoint an advisory committee from among conference members. Irrigation districts that are members of the conference serve as a committee to submit nominees for the nine directors representing those districts to be appointed by the governor.

The bill provides that the watermaster for the segment of the Rio Grande basin in the authority serves as a nonvoting advisor to the board and requires the watermaster each year to list for the board all water rights within the authority and the authorized uses of such rights. The board biennially must provide the list, along with a summary of authorized uses, to the governor and each legislator whose legislative district overlays any part of the authority. The bill empowers the authority to impose a fee or assessment on a conference member or other water user, in an amount based on that entity's inventoried water rights, to pay expenses of the authority.

Senate Bill 707 also repeals a provision that prohibited the authority from condemning water rights.

**Senate Bill 748**  
**Effective:** 6-15-07

**Senate Author:** Hegar  
**House Sponsor:** Garcia

Senate Bill 748 dissolves the Aransas County Conservation and Reclamation District on July 1, 2007, and repeals its chapter in the Special District Local Laws Code.

**Senate Bill 1526**  
**Effective:** 9-1-07

**Senate Author:** Hegar  
**House Sponsor:** Guillen

Legislation enacted in 2001, applicable to the Brookshire-Katy Drainage District in Waller County, prohibited the construction of drainage facilities or improvements on or to serve a land tract in the district unless plans and specifications were approved by the district or, in some cases, an affected municipality. The legislation included regulatory exemptions for (1) an agricultural activity and (2) any other activity that did not create an aggregate impervious area of more than one acre. Senate Bill 1526 eliminates the automatic statutory exemption for a nonagricultural activity meeting the specifications of (2) above and instead gives the district authority to grant such an exemption.

**Senate Bill 1833**

**Effective:** 9-1-07

**Senate Author:** Duncan et al.

**House Sponsor:** Swinford

Senate Bill 1833 amends the enabling law for the Canadian River Municipal Water Authority to eliminate contracting requirements specific to the authority and to provide instead that it contract in accordance with general law applicable to a municipality or to a conservation and reclamation district. The bill requires surplus property disposal by the district to follow the same law and modifies provisions relating to director per diem and board attendance fees to be governed by general law. It allows the authority's board of directors to hold meetings by telephone conference call, videoconference call, or through Internet communications, in accordance with procedures of the open meetings law, if determined to be necessary or convenient by the board president or by any three members. The bill provides that if the authority prevails in a suit against a person or governmental entity that is entitled to recover attorney's fees, expert witness costs, or any other related costs, the authority is entitled to recover such fees and costs according to the same terms that would have governed recovery for the opposing party if the authority had not prevailed.

**Senate Bill 1978**

**Effective:** 5-23-07

**Senate Author:** Janek

**House Sponsor:** Olivo

Senate Bill 1978 amends the Special District Local Laws Code to create the Fort Bend County Levee Improvement District No. 19. The bill grants the district powers to undertake certain road projects. Issuance of ad valorem tax bonds by the district requires the approval of two-thirds of district voters voting at an election called for that purpose.

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

House Bill 3 - Water

House Bill 147 - Water

House Bill 556 - Elections

House Bill 576 - Government Purchasing

House Bill 2091 - Local Government

Senate Bill 3 - Water

Senate Bill 657 - Government Purchasing

Senate Bill 1383 - Water

Senate Bill 1535 - Local Government

## State Government

This chapter covers legislation on state agencies, assets, commemorations, and fiscal management, as well as legislation on public lands and the development, use, and public availability of electronic information in state government. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

**House Bill 385****Effective:** 5-8-07**House Author:** Callegari et al.**Senate Sponsor:** Hegar

House Bill 385 repeals Chapter 433, Acts of the 44th Legislature, 2nd Called Session, 1935 (Article 3264c, Vernon's Texas Civil Statutes), relating to condemnation of historical sites at the direction of the Commission of Control for Texas Centennial Celebrations, which ceased operations after the state centennial celebration ended in 1937.

**House Bill 387****Effective:** 6-15-07**House Author:** Callegari et al.**Senate Sponsor:** Patrick, Dan

House Bill 387 deletes statutory provisions relating to the Texas National Research Laboratory Commission, whose functions were transferred to the General Land Office in 1997.

**House Bill 1034****Effective:** 6-15-07**House Author:** Riddle et al.**Senate Sponsor:** Patrick, Dan

House Bill 1034 amends the Government Code to include the phrase "one state under God" in the pledge of allegiance to the state flag.

**House Bill 1045****Effective:** 6-15-07**House Author:** Truitt**Senate Sponsor:** Zaffirini

House Bill 1045 amends the Government Code to designate April as Child Safety Month to promote the protection and care of children through increased public awareness of ways to reduce accidental injury and death through the use of bicycle helmets, seat belts, safety and booster seats, and smoke alarms, and of the dangers posed to children by unattended and unlocked vehicles and by being left in closed vehicles during hot or sunny weather.

**House Bill 1138****Effective:** 6-16-07**House Author:** Leibowitz**Senate Sponsor:** Watson

House Bill 1138 amends the Natural Resources Code to authorize the commissioner of the General Land Office to accept grants of money or real or personal property on the state's behalf.

**House Bill 3167****Effective:** 9-1-07**House Author:** Swinford**Senate Sponsor:** West, Royce

House Bill 3167, a continuation of the legislature's ongoing statutory revision program, makes nonsubstantive additions and corrections to various codes, conforms codifications enacted by the 79th Legislature to other laws enacted by that legislature, and makes other technical and conforming changes. The bill stipulates that if another law enacted by the 80th

Legislature affects a provision repealed or redesignated by this bill, the repealed provision or previous designation remains in effect and that in cases of conflict, the law enacted by the 80th Legislature controls.

**House Bill 3430**

**Effective:** See below

**House Author:** Strama et al.

**Senate Sponsor:** Hegar et al.

House Bill 3430 amends the Government Code to direct the comptroller, not later than October 1, 2007, to establish and post on the Internet a database of state expenditures and to require each state agency with a public Internet site to include a link to this database. The bill also requires the Legislative Budget Board to post on the Internet certain major state contract documents.

The bill amends provisions relating to state agency actions that affect small businesses to include an officer authorized by law to determine contested cases in the definition of "state agency." It eliminates the requirement for a statement of the effect of a rule on small businesses, adds a requirement for an economic impact statement that estimates the number of small businesses subject to the proposed rule, projects the economic impact of the rule on such businesses, and describes alternative methods of achieving the purpose of the proposed rule, and adds a requirement for a regulatory flexibility analysis that considers methods of reducing the adverse impact of a proposed rule. These requirements apply only to rules adopted on or after January 1, 2008.

The bill amends the Tax Code to require the comptroller to submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature at the beginning of each regular session a report assessing the progress of each agreement entered into under the Texas Economic Development Act relating to limiting the appraised value of property for school district ad valorem tax purposes.

House Bill 3430 also amends the Education Code to provide that revenues received by an institution of higher education from a health benefit plan issuer as a result of a claim filed by the institution's student health center may be used solely for the construction, maintenance, operation, and improvement of the student health center.

Except as noted above, the provisions of House Bill 3430 take effect October 1, 2007.

**House Bill 3552**

**Effective:** 9-1-07

**House Author:** Orr

**Senate Sponsor:** Lucio

House Bill 3552 amends provisions of the Government Code relating to the issuance of private activity bonds by the Bond Review Board to state and local housing finance corporations. Among other provisions, the bill expands the bond program to include certain rehabilitation or new construction projects and to allow the use of additional types of bonds for financing eligible facilities. The bill changes the portion of the state ceiling dedicated annually to various home loan programs from a dollar amount to a percentage basis, changes the deadlines for those apportionments, and requires the board to give second priority to projects in which at least 80 percent, rather than 100 percent, of residential units meet specified criteria for low-income housing. In addition, the bill makes changes to home loan programs for certain educators, fire fighters, and law enforcement or security officers available through the Texas State Affordable Housing Corporation.

**House Bill 3647**  
**Effective:** Vetoed

**House Author:** Kolkhorst  
**Senate Sponsor:** Lucio

House Bill 3647 requires the attorney general to conduct a study to determine whether state law or legislative authority is directly affected by certain compacts, international organizations, or international bodies acting in connection with a compact and to investigate and report whether any of the entities have attempted to directly affect the law or policy of this state or the authority of any state or local governmental body in this state. The bill requires the attorney general to include certain entities and agreements in the study and to prepare a report of the findings not later than December 1, 2008.

Reason Given for Veto: "House Bill No. 3647 would require the Office of the Attorney General (OAG) to study whether international laws or agreements can impact or preempt Texas law or the authority of the Texas Legislature. This legislation is objectionable for several reasons. The international laws and agreements under scrutiny are federal law. As the State of Texas, we live under the umbrella of federal law and intend for our state laws to comply with it. If we believe federal law impacts Texas in an undesirable way, we should work with Congress and the president to remedy those concerns. There is no need for the OAG to spend state resources and time deciphering whether federal law preempts state law when it is the objective of the State of Texas to act in accordance with these laws."

**House Joint Resolution 19**  
**For Election:** 11-6-07

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

House Joint Resolution 19 proposes an amendment to the state constitution to require each house of the legislature to take a record vote on final passage of a bill, a resolution proposing or ratifying a constitutional amendment, or any other nonceremonial resolution, and to publish the record vote on the Internet. Either house is authorized by rule to make an exception for a bill that applies only to one district or political subdivision of the state.

**Senate Bill 1310**  
**Effective:** 6-16-07

**Senate Author:** Wentworth  
**House Sponsor:** Rose

Senate Bill 1310 amends the Government Code to require a state agency to reimburse an employee for travel expenses not later than the 45th day after the request for reimbursement is submitted, unless the expenses are in dispute, in which case the agency must reimburse the employee not later than the 30th day after the date the dispute is resolved.

**Senate Bill 1761**  
**Effective:** 9-1-07

**Senate Author:** Uresti  
**House Sponsor:** Deshotel

Senate Bill 1761 amends the Government Code to allow a licensed physician assistant to provide on-site health services to state employees in state office complexes. Under previous law, the pilot program for on-site health services was authorized to utilize only a licensed advanced practice nurse.

## Agencies

**House Bill 66**  
**Effective:** 9-1-07

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

House Bill 66 amends the Government Code to require the Department of Information Resources to research and select, by competitive bid, power management software to be used by state agencies to reduce the amount of energy required to operate state computer networks and networked personal computers. The bill requires certain state agencies to acquire and use the software. An institution of higher education is required to acquire and use the software

only if the department, in consultation with the Information Technology Council for Higher Education, determines after performing a specified analysis that such use would provide cost savings to the state.

**House Bill 374**

**Effective:** 9-1-07

**House Author:** Pickett et al.

**Senate Sponsor:** Zaffirini

House Bill 374 amends the Government Code to require the Music, Film, Television, and Multimedia Office to review each proposal by a television or film production company to use a state building or grounds. The office is authorized to approve a proposal, and a state agency or other state governmental entity is required to allow a production company to use property under its control, when certain conditions are met. The office is required to supervise each use of state property by a production company, subject to the final authority of the agency that occupies the property, and provision is made for reimbursement by the company for any costs or damages incurred. The bill requires the office to determine the fee to be charged for using state property, and it authorizes the office to allow a company to use state property without charge for seven days each fiscal year.

**House Bill 674**

**Effective:** 4-23-07

**House Author:** Swinford

**Senate Sponsor:** Seliger

House Bill 674 amends the Government Code to authorize the Department of Information Resources to accept or refuse a gift or grant of money, services, or property on behalf of the state for any public purpose related to the duties of the department.

**House Bill 675**

**Effective:** 4-23-07

**House Author:** Swinford

**Senate Sponsor:** Seliger

House Bill 675 amends the Government Code to require the commissioner of insurance, rather than the commissioner of workers' compensation, to serve as an ex officio member of the governing board of the Department of Information Resources. In addition, the bill allows an ex officio board member to designate any manager or senior staff employee of the member's agency to serve in the member's place on the board, rather than limiting such designation to the agency's information resources manager as provided under previous law.

**House Bill 1023**

**Effective:** Vetoed

**House Author:** Berman

**Senate Sponsor:** Watson

House Bill 1023 amends the Government Code to authorize the Texas Commission on the Arts to make grants for any purpose consistent with the purposes of the law governing the commission and to apply to grants of \$500 or more the provision requiring the commission to submit grant applications to a panel of commission consultants for its recommendations. The bill also authorizes the commission by rule to delegate the authority to approve a grant of less than \$500 to the executive director and requires the commission to review a grant approved by the executive director at the commission's next regular meeting after the approval.

Reason Given for Veto: "House Bill No. 1023 would add the Texas Commission on the Arts' (TCA) mini-grant process to the agency's enabling legislation to reflect the current rules and practices of the commission.

"Current state law reflects only the commission's annual grant process. In the mini-grant process, the commission delegates the authority to approve grant awards of \$500 or less to the executive director. The awards are reviewed quarterly by the full commission.



“Awarding grants is one of three primary functions of the TCA and should, therefore, be a process that the commissioners actively engage in. Current statute requires the commission to “develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the executive director.” The mini-grant process circumvents the commissioners’ role in grant approval by allowing the executive director to approve grant awards. Commissioners need to do their job.”

**House Bill 2460****Effective:** 9-1-07**House Author:** Flynn et al.**Senate Sponsor:** Deuell

House Bill 2460 amends the Government Code to continue the Texas Commission on the Arts until September 1, 2013. In addition to across-the-board sunset provisions, the bill requires the commission to adopt rules not later than March 1, 2008, to govern special initiative grants and the commission’s acceptance of private gifts, grants, and donations, and it specifies certain requirements for these rules. The bill also repeals a conflict-of-interest provision relating to a spouse’s ties to a Texas trade association in the field of art.

**House Bill 2462****Effective:** 6-15-07**House Author:** Van Arsdale**Senate Sponsor:** Brimer

House Bill 2462 amends the Government Code to require the Texas Building and Procurement Commission (TBPC) to establish a program for the sale of gambling equipment received from a county commissioners court after seizure by a local law enforcement agency. The bill allows TBPC to sell such equipment only to a bona fide holder of a license or other authorization to operate, sell, lease, or otherwise provide gambling equipment. The bill requires that the proceeds from the sale, minus certain costs, be divided according to an agreement between TBPC and the commissioners court, remitting at least 50 percent of the net proceeds to the court with the remainder retained by TBPC for deposit in the general revenue fund. The bill amends the Local Government Code to authorize a county commissioners court to transfer forfeited gambling equipment to TBPC for sale and requires such a court to remit any money received from the sale, minus certain administrative expenses, to the local law enforcement agency that originally seized the equipment.

**House Bill 2484****Effective:** 6-15-07**House Author:** Menendez**Senate Sponsor:** Deuell

House Bill 2484 amends the Government Code to revise the composition of the funds allocation advisory committee of the Texas Commission on Fire Protection. The bill decreases from three to two the number of members appointed by the State Firemen’s and Fire Marshals’ Association of Texas and from three to two the number of members appointed by the Texas State Association of Fire Fighters, and provides for two members to be appointed by the Texas Fire Chiefs Association.

**House Bill 2621****Effective:** 9-1-07**House Author:** Isett, Carl**Senate Sponsor:** Eltife

House Bill 2621 amends the Government Code to transfer responsibility for preserving, maintaining, and restoring certain historical properties located in the Capitol Complex from the Texas Building and Procurement Commission to the Texas Historical Commission. The bill transfers similar responsibility for the Governor’s Mansion from the Texas Building and Procurement Commission to the State Preservation Board.

**House Bill 3249**

**Effective:** 6-15-07

**House Author:** Truitt et al.

**Senate Sponsor:** Brimer

House Bill 3249 amends the Texas Sunset Act, in the Government Code, and revises the review process for more than 30 state agencies, boards, committees, and other entities. The bill provides that an individual is not eligible for appointment as a public member of the Sunset Advisory Commission if the individual or the individual's spouse is a paid lobbyist on behalf of a party related to an agency under review. It establishes that a legislative member who serves a full term, rather than more than half of a term, is ineligible for an immediately succeeding term, and it modifies the vote requirements to approve actions by the commission. The bill changes the following deadlines: it requires an agency to report to the commission on September 1, rather than October 30, of its reporting year; it requires the commission to complete its review and report on an agency before January 1, rather than September 1, of the year in which an agency is abolished; it requires the commission to conduct public hearings before February 1, rather than between September 1 and December 1, of the year an agency is abolished; and it requires the commission to report to the state auditor after the legislature acts on the report, rather than on the date the report is presented to the legislature. Among other provisions, the bill revises the criteria that the commission uses in its review of an agency, changes the required content of its report on an agency, and requires it to forward certain of its recommendations to the Legislative Budget Board. The bill repeals a provision that prohibited the legislature from considering more than one agency sunset review in a single bill, except if the agencies were to be consolidated, and required it to mention the affected agencies in the title of the bill. The bill changes the sunset date for the following entities to 2009: the Department of Agriculture, Texas-Israel Exchange Fund Board, the Board of Directors of the Official Cotton Growers' Boll Weevil Eradication Foundation, Prescribed Burning Board, Parks and Wildlife Department, Office of State-Federal Relations, and Board of Tax Professional Examiners, with a limited review of the Texas Historical Commission and Office of Rural Community Affairs. The bill changes the sunset date of the following entities from 2009 to 2011: Health and Human Services Commission, Texas Cancer Council, Department of State Health Services, Department of Family and Protective Services, Texas Council for Developmental Disabilities, Governor's Committee on People with Disabilities, Department of Assistive and Rehabilitative Services, Department of Aging and Disability Services, Division of Workers' Compensation in the Texas Department of Insurance, Office of Injured Employee Counsel, Department of Information Resources, Electronic Government Program Management Office, and Texas Public Finance Authority. The bill changes the sunset date for the following entities to 2013: State Preservation Board, Texas Workforce Commission, State Board of Examiners for Speech-Language Pathology and Audiology, State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, Executive Council of Physical Therapy and Occupational Therapy Examiners, Texas Board of Physical Therapy Examiners, Texas Board of Occupational Therapy Examiners, Texas Board of Orthotics and Prosthetics, and Self-Directed Semi-Independent Agency Project. The bill removes the Texas Military Facilities Commission from specific sunset review, and it requires a special purpose review of the Texas Medical Board.

**Senate Bill 99**

**Effective:** 6-15-07

**Senate Author:** Zaffirini et al.

**House Sponsor:** Guillen

Senate Bill 99 amends provisions of the Education Code, Government Code, Health and Safety Code, Local Government Code, Transportation Code, and Water Code relating to state-funded projects serving colonias. The bill affects state agencies that are required to report to the secretary of state on such projects, including the Office of Rural Community Affairs, Texas

Department of Housing and Community Affairs, Texas Water Development Board, Department of State Health Services, and Texas Department of Transportation. The bill revises the definition of “colonias” to include 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood and requires the agencies to require an applicant for funds to submit a colonia classification number from the secretary of state’s office for each colonia that may be served by the project proposed in the application. The bill adds reporting requirements for additional entities, including the Health and Human Services Commission, Texas Commission on Environmental Quality, institutions of higher education that receive funding from the state for colonias projects, and regional planning commissions. In compiling the report on the progress of state-funded projects serving colonias, the secretary of state is to receive assistance from the office of the attorney general and to submit the report each even-numbered year or in 2010 and every four years following that date, depending on whether funds are appropriated for preparing and submitting the report. The bill requires, rather than authorizes, the colonia initiatives coordinator in the secretary of state’s office to appoint a colonia ombudsperson in certain counties.

**Senate Bill 908**

**Effective:** 9-1-07

**Senate Author:** Brimer

**House Sponsor:** McClendon

Senate Bill 908 amends the Labor Code to continue the State Office of Risk Management to September 1, 2019, to incorporate various new and revised across-the-board sunset provisions relating to the office, and to provide for the confidentiality of state employees’ workers’ compensation claim files. The bill requires the office to provide state agencies with return-to-work coordination services to facilitate injured employees’ resumption of duties. The office must collect data on lost time and return-to-work outcomes, by state agency, and must include that information in its biennial report to the legislature. The bill requires the office and each agency to work together to develop a business continuity plan outlining procedures to keep the agency operational in case of disruptions to production, finance, administration, or other essential operation. Related information likewise must be included in the report to the legislature. The bill requires the office to study options to prepare state agencies for catastrophic claims and to report its findings to the legislature not later than September 1, 2008. Other Labor Code provisions require the office and the Texas Building and Procurement Commission (TBPC) to adopt a memorandum of understanding relating to the sharing of safety-related information. The bill amends the Government Code to require the TBPC and state fire marshal to include the office in all communications concerning fire hazards.

**Senate Bill 913**

**Effective:** 9-1-07

**Senate Author:** Brimer

**House Sponsor:** McClendon

Senate Bill 913 amends the Government Code to continue the Texas State Library and Archives Commission until September 1, 2019. The bill updates the commission’s existing grant programs and requires the commission to design and implement a competitive grant program to assist public libraries, certain nonpublic libraries, major resource systems, and regional library systems. The bill requires the commission to continue to provide system operation grants to major resource systems and regional library systems and by rule to adopt, not later than March 1, 2008, a formula for distributing system operation grants that includes funding for basic system support services. The bill authorizes the commission to permit a major resource system or regional library system to receive money in addition to a system operation grant and to use the money for activities approved by the commission that meet commission and federal goals. Additionally, the bill requires the commission to design and implement a program of grants to

aid local public libraries and authorizes the commission to provide leadership in collaborative efforts among libraries, museums, and other institutions to develop ways to provide Internet access to digitized cultural resources. The bill requires the commission and the Texas Education Agency to conduct a joint study to identify the needs of public school libraries and determine which needs each agency is best suited to address and to submit a joint written report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate oversight committees of each house of the legislature not later than December 31, 2008. The bill repeals provisions relating to commission certification of county librarians.

**Senate Bill 1128**

**Effective:** 9-1-07

**Senate Author:** Hegar

**House Sponsor:** Cook, Robby

Senate Bill 1128 changes the name of the Rural Foundation to the Texas Rural Foundation, transfers the provisions governing the foundation from the Health and Safety Code to the Government Code, and changes the composition of the foundation's board of directors.

**Senate Bill 1732**

**Effective:** 6-15-07

**Senate Author:** Brimer

**House Sponsor:** Goolsby

Senate Bill 1732 amends the Government Code to authorize the State Preservation Board to set and collect a fee for providing a copy, for personal or educational use, of state archival records and other historical resources protected by copyright and owned by the board.

## **Electronic Information**

**House Bill 921**

**Effective:** 6-15-07

**House Author:** Delisi

**Senate Sponsor:** Ellis

House Bill 921 amends the Health and Safety Code and the Government Code to require the Texas Health Care Policy Council, in consultation with the Department of Information Resources, to establish an information sharing pilot program and develop standards for the secure electronic sharing of information among state agencies that provide social services, mental health services, substance abuse services, or health services.

**House Bill 1254**

**Effective:** 9-1-07

**House Author:** Bonnen

**Senate Sponsor:** Averitt

House Bill 1254 amends the Water Code to allow the Texas Commission on Environmental Quality to adjust permitting fees as necessary to encourage electronic reporting and the use of the commission's electronic document receiving system.

**House Bill 1788**

**Effective:** 9-1-07

**House Author:** Pitts

**Senate Sponsor:** Hegar

House Bill 1788 amends Government Code provisions relating to state agency planning, reporting, and review of information resources. The bill requires the Department of Information Resources (DIR) to prepare instructions for use by state agencies in preparing the operational strategic plan required by law and specifies certain elements to be included in those instructions. It changes the deadline for, and content of, a DIR report on the use of information resources technologies by state government. It also requires DIR, in coordination with the Legislative Budget Board, the Texas Building and Procurement Commission, and the comptroller, to prepare a report assessing the current automated information systems of state agencies and specifies

certain information to be included in the report. The bill requires DIR to submit the report to the governor, lieutenant governor, speaker of the house of representatives, and state auditor not later than December 31 of each odd-numbered year.

House Bill 1788 requires each state agency to complete a review, not later than December 1 of each odd-numbered year, of the operational aspects of the agency's information resources deployment and specifies elements that must be included in the review. The review must be submitted to the quality assurance team for analysis, and DIR must require an agency whose deployment decision is not in compliance with the state strategic plan, a state statute, or DIR rules to develop a corrective action plan. The bill changes previous law to authorize any member of the quality assurance team, rather than only DIR, to report to the governor and legislative leadership that an agency's deployment decision is not in compliance.

The bill also specifies that the coordinated strategic plan for information resources management that the Health and Human Services Commission develops for all health and human services agencies as a group must be consistent with the state strategic plan for information resources.

**House Bill 1789**

**Effective:** 9-1-07

**House Author:** Pitts

**Senate Sponsor:** Hegar

House Bill 1789 amends Government Code provisions relating to management and oversight of information resources projects. The bill eliminates the Electronic Government Program Management Office in the Department of Information Resources (DIR). It requires a state agency, after a major information resource project is completed, to report to the quality assurance team on whether the project met the agency's objectives or expectations. The bill defines and requires the use of information technology project management practices and requires the DIR, in consultation with state agencies, to develop guidelines for such practices that take into account varying levels of project size and complexity.

**House Bill 2518**

**Effective:** 9-1-07

**House Author:** Davis, Yvonne

**Senate Sponsor:** Ellis

House Bill 2518 amends the Natural Resources Code to require the General Land Office to post information related to the process for purchasing certain commercial real estate on the agency's Internet website.

**Senate Bill 622**

**Effective:** 5-11-07

**Senate Author:** Carona

**House Sponsor:** Callegari

Senate Bill 622 amends Water Code provisions relating to the Texas Geographic Information Council (TGIC) and to the Texas Natural Resources Information System (TNRIS) at the Texas Water Development Board. The bill changes the deadline for TGIC's biennial submission from September 1 to November 1 of each even-numbered year and changes the nature of that submission from a plan that inventories state agency geographic information systems (GIS) projects to a report that describes the progress made by each TGIC member toward achieving GIS goals and implementing GIS initiatives. The bill preserves the requirement that the submission include recommendations on new initiatives. It expands the purposes of TNRIS to include being a centralized clearinghouse and referral center for data related to emergency management.

**Senate Bill 687**  
**Effective:** 6-15-07

**Senate Author:** Shapleigh  
**House Sponsor:** Solomons

Senate Bill 687 amends the Government Code to expand the list of point-of-sale transactions for which a state agency or a local government that uses TexasOnline may use electronic payment methods. The bill authorizes the Department of Information Resources (DIR) to include in TexasOnline a method by which a state agency or local government may track payments. The bill also requires DIR to adopt standards for state agency Internet websites to ensure compatibility with TexasOnline and requires each state agency to make its Internet website conform to those standards.

**Senate Bill 711**  
**Effective:** Vetoed

**Senate Author:** Shapleigh  
**House Sponsor:** Solomons

Senate Bill 711 amends the Government Code to require that TexasOnline, the state's official portal for e-government, include, to the extent that resources are available, a consolidated business application portal through which businesses may apply and submit payment for original and renewal permits required of them by Texas state agencies. The bill requires the Department of Information Resources, in consultation with the Texas Economic Development and Tourism Office and any affected state agency, to determine which permits may be handled through the portal.

Reason Given for Veto: "Senate Bill No. 711 requires the electronic infrastructure established by the Department of Information Resources (DIR) to include a consolidated business application portal through which a business may apply and submit payment for original or renewal permits online.

"Senate Bill No. 711 is unnecessary because the State of Texas has already accomplished the provisions set forth in the bill."

## **Fiscal Management and Auditing**

**House Bill 3106**  
**Effective:** 9-1-07

**House Author:** Isett, Carl  
**Senate Sponsor:** Hegar

House Bill 3106 amends the Government Code to require the comptroller to ensure that the uniform statewide accounting project includes enterprise resource planning and to extend the comptroller's authority over state agencies' internal accounting systems to include their enterprise resource planning systems. The comptroller is authorized to require a state agency to replace or modify its internal enterprise resource management planning systems to provide uniformity. The bill also requires the comptroller to establish and coordinate the enterprise resource planning advisory council, composed of representatives of certain state agencies, to develop a plan that contains key requirements, constraints, and alternatives for the comptroller's implementation of enterprise resource planning standards. The comptroller must report to the legislature before each legislative session concerning the status of the implementation of the council's plan.

**House Bill 3290**  
**Effective:** 9-1-07

**House Author:** Otto  
**Senate Sponsor:** Nichols

House Bill 3290 amends the Government Code to require the state auditor, after consulting with the head of a state agency that is the subject of an audit in which evidence of gross mismanagement or grossly improper management oversight practices has been found, to expand the scope of the audit.

**Senate Bill 470**  
**Effective:** 5-18-07

**Senate Author:** Brimer  
**House Sponsor:** Keffer, Jim

Senate Bill 470 amends the Government Code to authorize the comptroller to include in the uniform accounting and financial reporting procedures required of state agencies procedures that prescribe a uniform format and method for reporting the financial information included in an agency's annual report.

**Senate Bill 968**  
**Effective:** 6-15-07

**Senate Author:** West, Royce  
**House Sponsor:** Chisum

Senate Bill 968 amends provisions of the Government Code relating to financing tools that may be used by a state or local governmental entity in connection with certain obligations for public improvements. The bill provides requirements and procedures for using specific types of financing instruments, including a credit agreement and an interest rate management agreement, for that purpose. The bill amends the Education Code to authorize The University of Texas System to enter into a bond enhancement agreement and sets out the terms and conditions for such a transaction.

**Senate Bill 1332**  
**Effective:** See below

**Senate Author:** West, Royce  
**House Sponsor:** Chavez

Senate Bill 1332 amends the Government Code to require the Bond Review Board, in consultation with the Legislative Budget Board, to complete an annual study of the state's current debt burden to assist in determining the state's debt affordability. The bill establishes procedures for an issuer of a state security to submit a request for proposal to the board for contracted services to aid with that issuance, sets out qualifications and requirements for certain financial or investment advisers retained by an issuer, and requires an authority contracting with a private entity to issue bonds to give preference to historically underutilized Texas businesses. In addition, the bill requires the board to adopt policies for evaluating the risks and effects of an interest rate management agreement on a state security and to give priority for bond reservations to the Texas Economic Development Bank for certain projects. The bill takes effect September 1, 2007, except provisions relating to the qualifications and requirements of financial and investment advisers, which take effect January 1, 2008.

**Senate Bill 1615**  
**Effective:** 9-1-07

**Senate Author:** Averitt et al.  
**House Sponsor:** Isett, Carl

Senate Bill 1615 amends the Government Code to modify the procedures by which a delinquent obligation owed to a state agency is collected. The bill requires a state agency, other than the comptroller of public accounts, to report uncollected and delinquent obligations to the attorney general's office for collection on or before the 90th day after the obligation becomes past due. The bill authorizes the attorney general to provide legal services to a state agency for the collection of an obligation, to permit a state agency to contract with a third party to collect the obligation, or, if the attorney general determines it to be economical and in the best interest of the state, to contract on behalf of the state agency with a third party to collect the obligation. The bill limits the compensation of a third-party collection agent to 30 percent of the sum collected and prohibits a third-party contractor from filing suit on behalf of the contracting state agency to collect the debt.

The bill clarifies the comptroller's authority to pursue debts owed to the state and expands the delinquent obligations collectible by the comptroller to include a delinquent obligation that has been referred to the attorney general and that the attorney general has returned after

exhausting all collection efforts. The bill sets out provisions relating to the availability of confidential information to third-party contractors, the application to such contractors of statutory prohibitions against the wrongful disclosure of confidential information, and requirements to maintain adequate insurance required for the contract.

**Senate Bill 2031**

**Effective:** 6-15-07

**Senate Author:** Ogden

**House Sponsor:** Chisum

Senate Bill 2031 amends the Civil Practice and Remedies Code to prohibit the attorney general or another attorney representing the state from entering into a settlement of a claim or action against the state without the consent or approval of the legislature if the settlement involves either a state expenditure that exceeds \$25 million in a state fiscal biennium or a continuing increased expenditure over subsequent bienniums. The bill requires consent to be granted by adoption of a resolution by both houses of the legislature. Not later than September 1 of each year, the attorney general is required to send a report to the legislative leadership describing each claim or action pending that may be settled in a manner that will require legislative consent.

**Public Lands**

**House Bill 534**

**Effective:** 6-15-07

**House Author:** Smithee

**Senate Sponsor:** Seliger

House Bill 534 amends the Education Code to allow Amarillo College to lease or convey certain real property. If the property is leased or conveyed for consideration other than cash, the bill requires the property to be used in a manner that serves a state public purpose and provides that possession or ownership of the property automatically reverts to the college if the party uses the property in a manner that does not serve a public purpose. If the property is leased or conveyed for cash consideration, the bill requires the college to use those proceeds only to accomplish a state public purpose, including furthering the college's educational mission.

**House Bill 1382**

**Effective:** 6-15-07

**House Author:** McCall

**Senate Sponsor:** Shapiro

House Bill 1382 directs the asset management division of the General Land Office to sell a tract of land located in Frisco, Texas, on behalf of the Department of Public Safety.

**House Bill 1679**

**Effective:** 9-1-07

**House Author:** Hughes

**Senate Sponsor:** Eltife

House Bill 1679 amends the Natural Resources Code to specify the items to be included in a survey report that is filed with an application to initiate a vacancy proceeding relating to public school land. The bill also authorizes an attorney ad litem to represent all necessary parties identified as having a right or claim relating to public school land claimed to be vacant, rather than only those parties identified by the applicant.

**House Bill 1759**

**Effective:** 6-15-07

**House Author:** Deshotel

**Senate Sponsor:** Williams

House Bill 1759 authorizes the Health and Human Services Commission, the Department of State Health Services, and the Department of Aging and Disability Services, as appropriate, to transfer certain state property, including the former site of the Beaumont State Center and tracts of land in Jefferson County, to Spindletop MHMR Services.



**House Bill 1853**  
**Effective:** 5-25-07

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

House Bill 1853 amends the Natural Resources Code to exempt the General Land Office, the Veterans' Land Board, and the School Land Board from statutes relating to executory contracts for conveyance of real property and statutes that require provision of a notice or disclosure to a buyer of real property, unless such a statute specifically states that it applies to one of those agencies.

**House Bill 3169**  
**Effective:** 5-23-07

**House Author:** Swinford  
**Senate Sponsor:** Seliger

House Bill 3169 authorizes the Health and Human Services Commission, on behalf of the Department of State Health Services or the Department of Aging and Disability Services, as appropriate, and not later than May 31, 2008, to transfer to Texas Panhandle Mental Health Mental Retardation (TPMHMR) three contiguous parcels of real property that comprise the former site of the Amarillo State Center in Potter County, including the improvements affixed to the property and excluding the mineral interest in and under the property. The bill requires that the consideration for the transfer be in the form of an agreement between the parties that requires TPMHMR to use the property to provide community-based mental health and mental retardation services and specifies that if TPMHMR fails to use the property in that manner for more than 180 continuous days, ownership of the property will automatically revert to the previous owner.

**House Bill 3688**  
**Effective:** 6-15-07

**House Author:** Hughes  
**Senate Sponsor:** Eltife

House Bill 3688 amends the law to require the Texas Department of Criminal Justice to transfer certain real property to the City of Winnsboro and to require the city to use the property for a purpose that benefits the state's public interest. The bill provides that ownership of the property automatically reverts to the department if the city no longer uses the property for such a purpose.

**House Bill 3699**  
**Effective:** 6-15-07

**House Author:** McCall  
**Senate Sponsor:** Williams

House Bill 3699 amends the Natural Resources Code and the Education Code to broaden the School Land Board's (SLB) authority to manage and control land, mineral and royalty interests, real estate investments, and other interests that are dedicated to the permanent school fund. The bill authorizes the SLB to designate funds received from the lands, interests, investments, and mineral estate for deposit in the real estate special fund account (RESF), rather than a special fund account as provided in previous law. The bill expands the permissible uses of the RESF account and authorizes the SLB to confer with employees or third parties regarding investments and potential investments in real estate. The bill provides the SLB with the option to appoint investment consultants or advisors to assist the board in investing, rather than appointing investment managers to invest, money in the special fund, and deletes certain qualification requirements for managers. The bill also authorizes the SLB and the State Board of Education to make certain transfers to and from the RESF account.

**Senate Bill 214**  
**Effective:** 6-16-07

**Senate Author:** Fraser  
**House Sponsor:** Hilderbran

Senate Bill 214 amends the Natural Resources Code to authorize the General Land Office to sell, for fair market value, certain fractional mineral interests held by the state in certain real property to the owner of that property.

**Senate Bill 246**

**Effective:** 6-15-07

**Senate Author:** Brimer

**House Sponsor:** Goolsby

Senate Bill 246 amends the Government Code to require the State Preservation Board to manage and maintain certain land located south of the Sam Houston Building in Austin and transfers the charge and control of this land from the Texas Building and Procurement Commission to the State Preservation Board.

**Senate Bill 654**

**Effective:** 6-15-07

**Senate Author:** Seliger

**House Sponsor:** Pickett

Senate Bill 654 amends the Natural Resources Code to broaden the authority of the commissioner of the General Land Office and the board of regents of The University of Texas System to determine the terms and conditions of leases and easements of state-owned real property and real property interests dedicated to the permanent school fund and permanent university fund. The bill also revises procedures for recording a memorandum of a lease and changes the rate of interest on past-due payments to equal the rate imposed by the comptroller unless the commissioner or the board enters into an agreement with the grantee of an easement or lease specifying a lower rate. The bill also limits grants of easements on university land to a term of 10 years, specifies that an easement may be renewed by the board of regents, and provides penalties for the construction, maintenance, ownership, or possession of a facility or structure on university land without a proper easement or lease.

**Senate Bill 1509**

**Effective:** 5-21-07

**Senate Author:** Lucio

**House Sponsor:** Kolkhorst

Senate Bill 1509 amends the Natural Resources Code to authorize the General Land Office to sell real property that the legislature has authorized or the governor has approved for sale directly to a development corporation organized under the Development Corporation Act of 1979 if the commissioner of the General Land Office determines that the sale is in the best interest of the state.

**Senate Bill 1533**

**Effective:** 6-16-07

**Senate Author:** Fraser

**House Sponsor:** Aycock

Senate Bill 1533 requires the Texas Department of Criminal Justice to transfer certain real property to Burnet County and to require the county to use the property for a purpose that benefits the state's public interest. The bill stipulates that ownership of the property automatically reverts back to the department if Burnet County no longer uses the property for such a purpose.

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

- House Bill 1495 - Property Interests and Housing
- House Bill 2006 - Property Interests and Housing
- House Bill 2235 - Economic Development
- House Bill 2819 - Environment
- House Bill 3385 - Energy Resources
- House Bill 3492 - Taxes and Tax Administration
- Senate Bill 1719 - Appropriations and State Finance

## Taxes and Tax Administration

This chapter covers legislation on issues relating to taxation, including the franchise, property, sales and use, and hotel occupancy taxes. It also contains legislation relating to requirements and procedures for appraisal of real property and appraisal appeal. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### House Bill 11

**Effective:** 9-1-07

**House Author:** Cook, Byron et al.

**Senate Sponsor:** Eltife

House Bill 11 amends the Tax Code to authorize the comptroller of public accounts, when considered necessary for the administration of a tax, to require wholesalers and distributors of beer, wine, malt liquor, cigarettes, cigars, or tobacco products to file an electronic report each month of sales of such products to retailers in this state. The bill specifies the filing date and contents of the reports and allows the comptroller to establish procedures for an alternative method of filing the reports. The bill establishes administrative, civil, and criminal sanctions for wholesalers and distributors of beer, wine, and malt liquor who fail to file the required reports. The sanctions do not apply to wholesalers and distributors of cigarettes, cigars, or tobacco products.

#### House Bill 1207

**Effective:** 6-15-07

**House Author:** Keffer, Jim

**Senate Sponsor:** Ogden

House Bill 1207 amends provisions of state law relating to the franchise tax as added in House Bill 3, Chapter 1, Acts of the 79th Legislature, 3rd Called Session, 2006, to specify the entities that must file a final franchise tax report and the period over which the taxable margin must be calculated for the report. The bill amends the transition provision related to reporting for entities newly subject to the tax to provide that all entities now subject to the franchise tax under Chapter 171, Tax Code, must file a report in fiscal year 2008.

#### House Bill 1332

**Effective:** 9-1-07

**House Author:** Chisum et al.

**Senate Sponsor:** Janek

House Bill 1332 amends the Tax Code to authorize a credit or refund for state diesel fuel taxes paid on fuel used in Texas if the fuel is used as a feedstock in the manufacturing of tangible personal property for resale not as a motor fuel, or in a medium for the removal of drill cuttings from a well bore in the production of oil or gas.

#### House Bill 1899

**Effective:** 9-1-07

**House Author:** England

**Senate Sponsor:** Harris

House Bill 1899 amends the Tax Code to authorize a taxing unit to petition a court for the foreclosure and sale, in solido or bulk, of multiple parcels of property for which there are five or more years of delinquent taxes owed to the taxing unit. The bill applies to a parcel that is located in a municipality having a population of more than 100,000 that is situated in two or more counties, at least two of which have a population of more than one million, and in a subdivision having an average lot size of one-fifth of an acre or less. House Bill 1899 includes procedures for calculating the value of the land to be sold and for redeeming individual parcels of property from the sale. These provisions expire September 1, 2017.

**House Bill 2982**

**Effective:** See below

**House Author:** Hardcastle et al.

**Senate Sponsor:** Seliger

House Bill 2982 amends the Tax Code to alter the oil and gas price averaging method in an income appraisal method from the daily average for the preceding year to the monthly average for the preceding calendar year multiplied by a market condition factor. The bill sets out the formula by which the comptroller is to calculate the market condition factor and requires the comptroller to publish the actual statewide average price for oil and gas and the market condition factors concurrently with the current calendar year statewide average prices for oil and gas forecasted for revenue estimating purposes. Appraisal districts are required to appraise oil and gas interests using the same percentage rate of increase or decrease in oil or gas prices as projected by the comptroller for revenue estimating purposes.

House Bill 2982 authorizes a diesel fuel license holder to take a credit on, and a person who does not hold a license to apply for, a refund for state diesel taxes paid if the fuel is used in Texas by movable specialized equipment used in oil field well servicing and the person who purchased the diesel fuel is eligible to receive certain federal diesel fuel tax refunds.

House Bill 2982 modifies provisions relating to the taxable situs of a portable drilling rig. The bill provides that a drilling rig that was not located in the appraisal district where it is located on January 1 for the preceding 365 days is taxable by each taxing unit in which the owner's principal place of business in this state is located on January 1, unless the owner renders the rig to the appraisal district in which the rig is located on January 1, in which event the rig is taxable by each taxing unit in which the rig is located on January 1. If an owner elects to render any portable drilling rig to the appraisal district in which the rig is located on January 1, when the rig otherwise would be taxable at the owner's principal place of business in this state, all the owner's portable drilling rigs are taxable by the taxing units in which each rig is located on January 1. If the owner of a portable drilling rig does not have a place of business in this state, the rig is taxable by each taxing unit in which the rig is located on January 1.

House Bill 2982 repeals provisions of the Tax Code that provided for the expiration of the credit for qualifying low-producing oil leases and for qualifying low-producing wells. The provisions of the bill relating to the diesel fuel credit and refund take effect September 1, 2007; all other provisions take effect January 1, 2008.

**House Bill 3314**

**Effective:** See below

**House Author:** Keffer, Jim

**Senate Sponsor:** Duncan

House Bill 3314 amends provisions of the Tax Code relating to the implementation, administration, collection, and enforcement of state taxes. The bill stipulates that the venue for a suit challenging a collection action is exclusively conferred on the district courts of Travis County. The bill sets out a rebuttable presumption that a taxpayer has actually collected taxes when the taxpayer files a return showing taxes due and adds circumstances under which the statute of limitations is stayed until a certain date for personal liability actions. The bill makes it a Class A misdemeanor to obstruct, hinder, impede, or interfere with the comptroller's seizure of the property of a delinquent taxpayer. The bill provides that a taxpayer who has received notice of a freeze or levy on assets due to a delinquency in tax payment may not file an interpleader action and deposit certain funds or assets into the court's registry to avoid a freeze or levy on the funds or assets. A person who fails or refuses to comply with the freeze or levy is subject to an additional penalty in an amount equal to 50 percent of the amount sought to be frozen or levied. The bill makes an individual officer, manager, and director of a business entity personally liable for fraudulent tax evasion. The bill sets a deadline for bringing a suit to determine the validity of a state tax lien and creates a rebuttable presumption regarding the receipt of proper notice of tax liability.

House Bill 3314 moves the beginning of the sales tax holiday on clothing and footwear from the first Friday in August to the third Friday in August and adds certain school backpacks to the items included in the sales tax holiday.

Relating to seller-financed motor vehicles, House Bill 3314 states that a seller is not considered to have factored, assigned, or transferred a loan when the loan is pledged as collateral for the sale of bonds and nonpayment risk remains with the seller.

House Bill 3314 amends provisions of the Tax Code relating to motor fuel taxes to allow an exemption from, credit for, or refund of the tax paid on gasoline, diesel fuel, and liquefied gas used by certain metropolitan rapid transit authorities (MRTA) providing specified public school transportation services to a school district. The bill expands the oil production tax credit for enhanced efficiency equipment to include equipment installed not later than September 1, 2013, rather than September 1, 2009.

The provisions of House Bill 3314 relating to tax exemptions and credits for an MRTA take effect July 1, 2007; the provision relating to the oil production tax credit for enhanced efficiency equipment takes effect September 1, 2007; all other provisions take effect June 15, 2007.

### **House Bill 3928**

**Effective:** See below

**House Author:** Keffer, Jim et al.

**Senate Sponsor:** Ogden

House Bill 3928 amends provisions of the Tax Code relating to the franchise tax. The bill expands the definition of “taxable entity” to include a limited liability partnership. Under previous law, a taxable entity with total revenue of \$300,000 or less accrued no tax liability while an entity with a total revenue of more than \$300,000 accrued 100 percent tax liability. The bill maintains no tax liability for a taxable entity with total revenue of \$300,000 or less but creates a discount schedule for the tax imposed on a taxable entity with total revenue of more than \$300,000 but less than \$900,000 and applies a sliding discount scale on tax liability that consists of:

- 80 percent discount for a taxable entity with total revenue greater than \$300,000 but less than \$400,000
- 60 percent discount for an entity with total revenue equal to or greater than \$400,000 but less than \$500,000
- 40 percent discount for an entity with total revenue equal to or greater than \$500,000 but less than \$700,000
- 20 percent discount for a taxable entity with total revenue equal to or greater than \$700,000 but less than \$900,000

House Bill 3928 provides an optional alternative method for calculating the franchise tax for a business with total revenue of \$10 million or less. A qualified taxable entity that elects to pay under this alternative method calculates tax liability by multiplying apportioned total revenue by 0.575 percent. Such an entity is eligible for the discounts for taxable entities with total revenue less than \$900,000 but is not eligible for tax credits or other adjustments.

House Bill 3928 provides an additional compensation deduction for certain small employers that initiate health care coverage for employees. The additional discount is 50 percent of the employer’s cost for the first 12-month period of coverage, and 25 percent for the second.

House Bill 3928 amends the temporary credit on taxable margin provision to base the credit on business loss carryforwards that existed before January 1, 2008. The bill modifies the calculations to be used to determine the maximum amount of the credit and limits the credit to the amount of the tax liability of the entity claiming the credit.

House Bill 3928:

- shifts forward from 2009 to 2010 the initial date to begin inflation-indexing the receipt levels for discount amounts and the compensation limit amount
- requires a taxable partnership to include gross rental income, rather than net rental income, in determining total revenue
- stipulates that gross proceeds from the sale of a loan or security treated as seller inventory for federal income tax purposes are considered gross receipts for apportionment
- requires a taxable entity that is a combined group to report Texas receipts for entities in the group that do not have nexus with Texas and the amount of those receipts subject to taxation in another state due to the throwback provisions
- reduces the amount of control required for inclusion of a related entity in a combined group from “80 percent or more” to “more than 50 percent”
- expands the definition of “client company” to include a client of a temporary employment service
- provides that capital gains from the sale of real property are included in the income that is subject to the 90 percent test for a passive entity
- allows a pharmacy cooperative to exclude certain flow-through funds from its total revenue
- modifies reporting requirements for certain partnerships in a tiered partnership arrangement
- sets out provisions relating to the forfeiture and revival of a certificate or registration of a taxable entity

House Bill 3928 creates the Business Tax Advisory Committee appointed by the lieutenant governor, speaker of the house of representatives, and comptroller, who serves as presiding officer. The committee must conduct a biennial study of the impact of the franchise tax and issue a report to the governor, the lieutenant governor, and the speaker of the house by the beginning of each regular session of the legislature. The provisions regarding the advisory committee expire January 31, 2013.

House Bill 3928 amends provisions of the law relating to the franchise tax as added in House Bill 3, Chapter 1, Acts of the 79th Legislature, 3rd Called Session, 2006, to specify the entities that must file a final franchise tax report and the period over which the taxable margin must be calculated for the report. The bill amends the transition provision related to reporting for entities newly subject to the tax to provide that all entities now subject to the franchise tax under provisions of the Tax Code must file a report in fiscal year 2008.

The provisions of House Bill 3928 amending House Bill 3, Chapter 1, Acts of the 79th Legislature, 3rd Called Session, 2006, take effect June 15, 2007; all other provisions take effect January 1, 2008.

**Senate Bill 242**

**Effective:** 6-15-07

**Senate Author:** Shapiro

**House Sponsor:** Chisum

Previous law authorized the comptroller to employ administrative law judges to render decisions in contested tax cases. Senate Bill 242 amends the Government Code and Tax Code to relocate this function from the office of the comptroller to a newly established tax division in the State Office of Administrative Hearings. The bill requires the division to hear any contested cases arising in relation to any tax or fee that the comptroller is required to collect, receive, administer, or enforce. The comptroller also is authorized to refer procedural or other preliminary disputes to the tax division, but certain cases are determined not to be contested

cases and will not be transferred to the division. The comptroller is required to provide input to the office regarding the comptroller's priorities and public policy needs. Senate Bill 242 makes the tax division subject to provisions of the Texas Sunset Act.

**Senate Bill 377****Effective:** See below**Senate Author:** Janek**House Sponsor:** Chisum

Senate Bill 377 amends the Tax Code to direct the comptroller to require a taxpayer who paid \$10,000 or more during the preceding fiscal year in specified tax categories to transfer payments by electronic funds transfer (EFT) if the comptroller anticipates that the taxpayer would pay at least that amount during the current fiscal year. The bill authorizes the comptroller to change the tax categories to which the provision applies, requires the comptroller to provide for a waiver from these requirements for certain taxpayers, and authorizes the comptroller to specify the types of EFT a taxpayer would have to use. In addition, the bill provides that the comptroller may require a taxpayer who paid \$50,000 or more during the preceding fiscal year also to file the taxpayer's reports electronically, and makes provision for the type of software to be used for electronic filing. The provision relating to electronic filing of reports takes effect September 1, 2008; otherwise the bill takes effect on June 15, 2007.

**Senate Bill 1264****Effective:** 5-23-07**Senate Author:** Brimer**House Sponsor:** Truitt

Senate Bill 1264 amends the Tax Code to authorize a taxing unit that levies real property taxes in a reinvestment zone to make a loan to the board of directors of the zone for deposit in the zone's tax increment fund if the governing body of the taxing unit determines that the loan is beneficial to and serves a public purpose of the taxing unit. This bill also sets out provisions relating to repayment of the loan.

**Senate Bill 1520****Effective:** 9-1-07**Senate Author:** Wentworth**House Sponsor:** Paxton

Senate Bill 1520 amends provisions of the Tax Code relating to the transfer of a tax lien on real property to modify the circumstances under which such a lien may be transferred, the requirements for recording the transfer, notice requirements in connection with delinquent payments for such a lien, and the process by which a foreclosed property may be redeemed. The bill specifies that federal regulations relating to a consumer's right of rescission apply to a tax lien transfer.

**Hotel Occupancy Taxes****House Bill 1009****Effective:** 6-15-07**House Author:** Escobar**Senate Sponsor:** Lucio

House Bill 1009 amends the Tax Code to authorize an eligible barrier island coastal municipality, rather than a general-law coastal municipality, to use state hotel occupancy tax revenue to clean and maintain public beaches and for an erosion response project in that municipality.

**House Bill 1669****Effective:** 6-15-07**House Author:** Cook, Robby**Senate Sponsor:** Ogden

House Bill 1669 amends the Tax Code to authorize the commissioners courts of the following counties to impose a hotel occupancy tax not to exceed two percent of the price paid for a room

in a hotel: a county that has a population of 16,000 or more and borders the entire north shore of Lake Somerville; a county that has a population of 20,000 or less and that is bordered by the Brazos and Navasota Rivers; a county that has a population of more than 15,000 and less than 25,000 and is located on the Trinity and Navasota Rivers; and a county that has a population of less than 15,000 and that is bordered by the Trinity and Navasota Rivers.

**House Bill 1820**

**Effective:** 6-15-07

**House Author:** Hamilton

**Senate Sponsor:** Williams

House Bill 1820 amends the Tax Code to authorize a county that borders or contains a portion of the Neches River, the Sabine River, and Sabine Lake to impose a county hotel occupancy tax. The bill caps the tax rate at two percent of the price paid for a hotel room. House Bill 1820 also authorizes a county that borders Whitney Lake to impose a county hotel occupancy tax, excepts hotels located in certain municipalities within the county from the tax, and restricts the county's use and allocation of revenue raised from the tax to programs and activities in the general promotion of tourism in the county.

**House Bill 2322**

**Effective:** 6-15-07

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 2322 amends the Tax Code to exempt a county that does not have a municipality but has a population of 10,000 or more and borders the United Mexican States from the four percent hotel occupancy tax rate cap applicable to other counties that do not have a municipality.

**House Bill 2438**

**Effective:** 6-15-07

**House Author:** Truitt

**Senate Sponsor:** Nelson

House Bill 2438 amends the Tax Code to authorize a municipality to use the revenue derived from a municipal hotel occupancy tax to finance a transportation system to transport tourists between hotels and certain tourist destinations in or near the municipality. The bill specifies that the authority does not permit the revenue to be used for a transportation system that serves the general public.

**House Bill 3132**

**Effective:** 6-15-07

**House Author:** Cook, Robby

**Senate Sponsor:** Ogden

House Bill 3132 amends the Tax Code to authorize the commissioners court of a county that has a population of 150,000 or more and that is bordered by the Brazos and Navasota Rivers to impose a county hotel occupancy tax. The rate of the tax is capped at two percent of the price paid for a room in a hotel. The bill requires the county to spend at least 45 percent of the revenue from the tax on marketing projects that directly promote tourism, hotel, and convention activity. The tax and related provisions expire September 1, 2015.

**Senate Bill 213**

**Effective:** 5-4-07

**Senate Author:** Fraser

**House Sponsor:** Hilderbran

Senate Bill 213 amends the Tax Code to authorize a county that has a population of more than 15,000 but less than 20,000 and borders Lake Buchanan and a county with a population of less than 10,000 that is bordered by the Sulphur River to impose a hotel occupancy tax. The bill excepts hotels located in certain municipalities from a such a tax imposed by one of these counties. Senate Bill 213 also removes a two percent cap on the hotel occupancy tax rate in a county that has a population of 34,000 or more and borders Lake Buchanan and applies a two percent rate cap to a county that has a population of more than 45,000 and less than 75,000, that borders the United Mexican States, and that borders or contains a portion of Falcon Lake.



**Senate Bill 462****Effective:** 4-25-07**Senate Author:** Harris**House Sponsor:** Harper-Brown

Senate Bill 462 amends the Tax Code to authorize a municipality that has a population of more than 190,000, is located in a county in which another municipality that has a population of more than one million is predominantly located, and issued tax revenue bonds before January 1, 2007, for the construction of a municipal arts center to use specified amounts of the municipality's hotel occupancy tax revenue to promote the arts. The bill restricts reductions in spending on advertising and promotional programs in such a municipality and requires promotional materials to include a website address with a link to area hotels and lodging options. These provisions expire September 1, 2022.

**Senate Bill 765****Effective:** 6-15-07**Senate Author:** Eltife**House Sponsor:** Frost

Senate Bill 765 amends the Tax Code to allow a municipality to use its hotel occupancy tax revenue to promote tourism by the enhancement and upgrading of existing municipality-owned sports facilities or fields if the municipality has a population of at least 34,000 but not more than 36,000 and is located in a county with a population of 90,000 or less.

**Senate Bill 1463****Effective:** 5-22-07**Senate Author:** Seliger**House Sponsor:** Swinford

Senate Bill 1463 amends the Tax Code to authorize a county with a population of less than 125,000 and within which is located a commercial-service international airport within Class C airspace that is owned by a municipality that also has a population of less than 125,000 to impose a county hotel occupancy tax. The bill places a cap on the tax rate and requires an annual report on tourism, hotel, and convention activity attributable to events at facilities receiving tax funding during the reporting period.

**Property Tax Appraisals and Protests****House Bill 35****Effective:** 5-25-07**House Author:** Solomons et al.**Senate Sponsor:** Seliger

House Bill 35 amends the Tax Code to prohibit linking the compensation of a chief appraiser of an appraisal district to an increase in the total market, appraised, or taxable value of property in the district.

**House Bill 402****Effective:** 9-1-07**House Author:** Hill**Senate Sponsor:** Hegar

House Bill 402 amends the Tax Code to prohibit a member of the board of directors of an appraisal district and the chief appraiser of the appraisal district from communicating on any nonadministrative matter relating to the appraisal of property except in an open board meeting or other public forum or in a closed board meeting regarding pending litigation. The bill makes failure to comply a Class C misdemeanor.

**House Bill 438****Effective:** See below**House Author:** Hochberg et al.**Senate Sponsor:** Hegar et al.

Previous law prohibited the appraised value of a residence homestead for a tax year from exceeding the lesser of its market value or the sum of 10 percent of the appraised value of the property for the last year in which the property was appraised multiplied by the number of years

since the property was last appraised plus the market value of any improvements. House Bill 438 amends the Tax Code to authorize an appraisal office to increase the appraised value of a residence homestead regardless of whether the office has appraised the property and determined its market value for the tax year but prohibits the increase from exceeding the lesser of the property's market value for the most recent year that its value was determined by the appraisal office or 10 percent of the appraised value of the property for the preceding tax year. The bill also clarifies the meaning of the term "new improvement" with regard to when it occurred and for which tax year the improvement's value is reflected in the property's appraised value. The bill takes effect on January 1, 2008, contingent on voter approval of the constitutional amendment proposed by House Joint Resolution 40.

**House Bill 538**

**Effective:** 1-1-08

**House Author:** Callegari

**Senate Sponsor:** Nichols

House Bill 538 amends the Tax Code to authorize the board of directors of an appraisal district established for a county with a population of at least one million to either postpone the July 20 deadline to hear and determine all timely filed property tax appraisal protests and challenges and approve the appraisal records or else approve the appraisal records as determined by the chief appraiser if the sum of the appraised values of all properties in question does not exceed 10 percent of the total appraised value of all other taxable property. The bill entitles a property owner who has not designated an agent to represent the owner at a hearing to one postponement without the need to show cause and an unlimited number of subsequent postponements on a showing of reasonable cause, and it includes provisions relating to the date by which a protest hearing may be postponed and sets out the process for submission, approval, or denial of a request for postponement. The bill also requires the appraisal review board to include information relating to an owner's entitlement to postponement in the notice of a scheduled protest hearing.

**House Bill 604**

**Effective:** 1-1-08

**House Author:** Howard, Donna

**Senate Sponsor:** Wentworth

House Bill 604 amends the Tax Code to provide that land devoted principally to wildlife management for the protection of federally listed endangered species or for a conservation or restoration project pursuant to certain federal or state law qualifies for appraisal as qualified open-space land for ad valorem tax purposes.

**House Bill 967**

**Effective:** 6-15-07

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 967 amends the Tax Code to entitle the owner of agricultural or open-space land on which the Texas Animal Health Commission has established a temporary quarantine for ticks to a reappraisal of the land for the tax year in which the quarantine occurs. The bill places a cap on the value of the reappraised land and includes guidelines for prorating taxes for the tax year in which the property is reappraised. House Bill 967 requires the owner to notify the chief appraiser if the land is no longer subject to quarantine and imposes a penalty if the owner fails to comply with the notification requirement. The amount of the penalty is based on the difference between the tax imposed under a presumption of a continuing quarantine and the taxes that would have been imposed otherwise.

**House Bill 1010****Effective:** See below**House Author:** Howard, Donna et al.**Senate Sponsor:** Janek

Previous law allowed a taxing unit with boundaries extending into two or more counties to elect to participate in only one county appraisal district, in which case the appraisal district chosen by the taxing unit would extend beyond its own county to the extent of the taxing unit's boundaries in the other county. House Bill 1010 amends the Tax Code to eliminate that taxing unit option as an exception to the statutory provision establishing that an appraisal district's boundaries are the same as the boundaries of the county for which the appraisal district was created. The bill clarifies, however, that the board of directors of adjoining appraisal districts are not precluded from operating as a consolidated appraisal district. If property is located within more than one appraisal district, the bill requires the responsible chief appraisers to coordinate the appraisals of their respective portions of that property to ensure to the greatest extent possible that the property as a whole is appraised at its market value. The bill repeals certain provisions relating to the eliminated taxing unit option, to adjoining and overlapping appraisal districts, and to school district annexation of territory in another appraisal district. The bill takes effect January 1, 2008, except for transition provisions relating to an affected taxing unit's participation in the 2007 election for appraisal district directors, the expiration of those directors' terms and the filling of vacancies, and the apportionment of the 2008 budget for affected appraisal districts that take effect September 1, 2007.

**House Bill 1470****Effective:** See below**House Author:** Eissler et al.**Senate Sponsor:** Seliger

House Bill 1470 amends the Texas Economic Development Act, in the Tax Code, to continue until December 31, 2011, the provisions of the Act that are due to expire December 31, 2007. The bill modifies the evaluation procedure for an application by a property owner to a school district for a limitation on appraised value for purposes of ad valorem taxation. The duty to provide an economic impact evaluation on an application is transferred from the governing body of a school district to the comptroller of public accounts, who is required to conduct the evaluation or contract with a third party to conduct the evaluation. The bill provides that a methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The comptroller is authorized to collect a fee sufficient to cover the costs of providing the evaluation. As part of the evaluation, the Texas Education Agency must determine the effect that the applicant's proposal will have on the number or size of the school district's instructional facilities and submit the determination to the comptroller. The bill specifies the criteria on which the comptroller's recommendation relating to an application must be based. The bill allows the governing board of the school district to exceed the timeframe for approval or disapproval of an application if the economic impact evaluation has not been timely received. The governing board may waive certain job creation requirements if particular conditions are met.

House Bill 1470 changes the time period over which certain previously uncredited tax credits given by the governing body of a school district to qualifying persons may be prorated to three years, rather than one year, from the date eligibility for an appraisal limitation expires. All provisions of House Bill 1470 relating to the procedure for approving or disapproving an application for a limitation on appraised value, except the provision relating to the waiver of job creation requirements, take effect December 31, 2007; all other provisions take effect June 15, 2007.

**House Bill 1680**  
**Effective:** 6-15-07

**House Author:** Swinford  
**Senate Sponsor:** Seliger

House Bill 1680 amends the Tax Code to prohibit a chief appraiser from appealing an order of the appraisal review board determining a taxpayer protest involving certain property valued at less than \$1 million unless the chief appraiser alleges that the taxpayer, or a person acting on the taxpayer's behalf, committed fraud, made a material misrepresentation, or presented fraudulent evidence in the hearing before the board. The bill also requires a property owner who protests a ruling of the appraisal review board and who elects to pay the taxes due on the portion of the value of property that is not in dispute as a prerequisite to proceeding to a final determination of the appeal to include as part of the appeal a written statement disclosing the amount of taxes the owner proposes to pay.

**House Bill 2188**  
**Effective:** 6-16-07

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

House Bill 2188 amends the Government Code to except certain property tax appraisal information received by the comptroller or an appraisal district from a private entity, including real property sales prices, descriptions, and characteristics, from disclosure under the state's public information law. The bill clarifies that the exception from disclosure does not apply to a request by a property owner or the owner's agent in relation to a protest hearing or to a request by a property owner, the owner's agent, or a school district in relation to a protest of a comptroller's determination of property values for school district taxes.

**House Bill 3024**  
**Effective:** 9-1-07

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

House Bill 3024 amends the Tax Code to provide that an appraisal district has the burden of establishing the value of a property by clear and convincing evidence in certain property tax protest cases for which the property owner has filed an independent appraisal supporting the value of the property as asserted by the owner. The bill prescribes conditions that must be satisfied for the independent appraisal to be valid. House Bill 3024 also makes it a Class B misdemeanor offense for a person who has a contingency interest in the outcome of an appraisal review board hearing to file a fraudulent appraisal.

**House Bill 3038**  
**Effective:** 9-1-07

**House Author:** Rose  
**Senate Sponsor:** Watson

House Bill 3038 amends the Tax Code to provide that a chief appraiser or any other person who performs appraisal services for an appraisal district for compensation is not eligible to be the taxpayer liaison officer for the district.

**House Bill 3492**  
**Effective:** 6-15-07

**House Author:** Otto et al.  
**Senate Sponsor:** Janek

House Bill 3492 amends the Government Code to direct the comptroller of public accounts to ensure that different levels of appraisal resulting from certain taxpayer protests be appropriately adjusted in the comptroller's annual study to determine the total taxable value of property in a school district.

**House Bill 3496**  
**Effective:** 1-1-08

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

House Bill 3496 amends Tax Code provisions relating to certain property tax notices. The bill changes the delivery deadlines for notices of appraised property value to various property owners. Notices for a single-family residence that qualifies for a residence homestead exemption that were due by May 15 are required to be delivered by April 1 or as soon thereafter as practicable and notices in connection with any other property that also were due by May 15 are required to be delivered by May 1. The bill requires a school district tax bill for 2007 to include, either separately in the bill or in a separate statement, comparisons relating to the amount of tax imposed under the district's maintenance and operations rate for the 2005 tax year and the amount imposed under the 2007 tax rate and indicating any property tax savings attributable to the tax rate compression mandated by the 79th Legislature, 3rd Called Session. House Bill 3496 includes provisions relating to postponing and determining the delinquency date for property taxes owed on property subject to a protest. The bill also includes provisions relating to the date by which a protest is required to be filed and the property owner's right to a hearing and determination of the protest to reflect the changes noted above regarding the dates for delivery of notices of appraised value.

**House Bill 3514**  
**Effective:** 6-15-07

**House Author:** Rodriguez  
**Senate Sponsor:** West, Royce

House Bill 3514 amends the Transportation Code to require the Texas Department of Public Safety to provide driver's license records, personal identification certificate records, or certain identifying information contained in those records, other than a social security number or accident or conviction information, to each appraisal district to assist chief appraisers in determining a person's eligibility for residence homestead exemptions from property taxes.

**House Bill 3630**  
**Effective:** 1-1-08

**House Author:** Van Arsdale  
**Senate Sponsor:** Hegar

House Bill 3630 amends provisions of the Tax Code relating to the appraisal of agricultural or open-space land for property taxes. The bill establishes certain mandatory computations to be used in the appraisal of land used for a single-family residence that is contiguous to agricultural or open-space land with common ownership, clarifies the definition of agricultural use, and prohibits the agricultural-use designation on or after January 1, 2008, for land used to secure a home equity loan. The bill replaces language relating to information required to be contained in notices of certain public hearings and proceedings. House Bill 3630 requires the notice of appraised value for residential real property to include information relating to the property's qualification for a residence homestead exemption. House Bill 3630 requires a taxing unit to conduct two, rather than one, public hearings relating to a proposed property tax increase. The bill requires the notice of the hearings to reflect that change and to include certain information comparing the average taxable value for a residence homestead in both the preceding and current tax years and the amount of taxes imposed on the average home in the preceding year and the amount that would be imposed on the average home in the current year at both the effective and proposed tax rates. The bill also requires public notice relating to a taxing unit's vote to increase taxes to include comparisons between the amount of revenue raised under the previous tax rate and the amount to be raised under the proposed rate increase, both when new property added to the tax base is excluded and when it is included. The bill repeals provisions relating to notice, hearings, and votes on tax increases.

**House Joint Resolution 40**  
**For Election:** 11-6-07

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

House Joint Resolution 40 proposes an amendment to the state constitution to authorize the legislature to limit the maximum appraised value of a residence homestead for property taxes to the lesser of the most recent market value of the homestead as determined by the appraisal entity or 110 percent, or a greater percentage, of the appraised value of the homestead for the preceding tax year.

**Senate Bill 57**  
**Effective:** 9-1-07

**Senate Author:** Zaffirini  
**House Sponsor:** Gonzales

Senate Bill 57 amends the Government Code to include appeals of appraisal review board orders in counties with a population of less than 175,000 on the list establishing priority for setting hearings and trials by trial courts.

**Senate Bill 948**  
**Effective:** 5-14-07

**Senate Author:** Hegar  
**House Sponsor:** Van Arsdale

Senate Bill 948 amends the Tax Code to authorize the board of directors of an appraisal district, for good cause, to waive the penalty and interest that accrues against a taxing unit's delinquent payment for its share of the district's operating budget.

**Senate Bill 1405**  
**Effective:** 1-1-08

**Senate Author:** Wentworth  
**House Sponsor:** Keffer, Jim

Senate Bill 1405 amends the Tax Code to require the chief appraiser of an appraisal district to provide an estimate of the taxable value of property for each county and municipality participating in the appraisal district and to assist each of those jurisdictions in determining property values for use in determining the taxing unit's budget unless a county or municipality notifies the chief appraiser that it elects not to receive the estimate or assistance.

**Property Taxes**

**House Bill 5**  
**Effective:** 5-28-07

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

House Bill 5 amends the Tax Code, Education Code, and the Government Code to set out the formulas by which the reduction in the limitation on the total amount of property taxes imposed by a school district on the homestead of an elderly or disabled person is to be calculated beginning with the tax year that begins January 1, 2007.

**House Bill 264**  
**Effective:** See below

**House Author:** Phillips  
**Senate Sponsor:** Eltife

House Bill 264 amends the Tax Code to establish procedures that allow a person required to file a rendition statement for certain income-producing property for ad valorem taxation to satisfy that requirement by filing a form indicating that the information provided for a prior tax year remains accurate. The bill requires each rendition and report prescribed or form approved by the comptroller to include a box that a property owner may check to affirm that the most recent rendition information for a prior tax year continues to be accurate. Provisions authorizing a person to file a statement indicating the accuracy of a rendition statement filed for a prior tax year take effect January 1, 2008. All other provisions of the bill take effect September 1, 2007.

**House Bill 316**  
**Effective:** 1-1-08

**House Author:** Miller  
**Senate Sponsor:** Fraser

Under current law, with certain exceptions, a leasehold in real property that is exempt from taxation to the owner of the property must be listed on the records of an appraisal district if the duration of the leasehold is at least one year. House Bill 316 amends the Tax Code to add a leasehold or other possessory interest in exempt property that is part of a rail facility owned by certain rural rail transportation districts to the list of properties exempt from being listed on the records of an appraisal district. The bill also expands the exemption for property that is part of a public transportation facility to include a facility owned by a county.

**House Bill 621**  
**Effective:** 1-1-08

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

House Bill 621 amends the Tax Code and the Government Code to add an exemption from ad valorem taxation for “goods-in-transit.” The exemption applies to tangible personal property that is acquired in or imported into Texas, detained at a location in Texas in which the property owner does not have a direct or indirect ownership interest, used for assembling, storing, manufacturing, processing, or fabricating purposes, and transported to another location in Texas or out of state not later than 175 days after the property was acquired in or imported into Texas. “Goods-in-transit” does not include oil, natural gas, petroleum products, aircraft, dealer’s motor vehicle inventory, dealer’s vessel and outboard motor inventory, dealer’s heavy equipment inventory, or retail manufactured housing inventory. House Bill 621 sets out provisions relating to the calculation of the exemption by the chief appraiser. The bill provides that the exemption applies to all taxing units unless the governing body of a taxing unit takes specified action to tax the exempt property, and the property remains subject to ad valorem taxation by such a taxing unit until the taxing unit rescinds or repeals the action to tax the property. House Bill 621 provides that a property owner who receives the exemption for “goods-in-transit” is not eligible to receive certain other exemptions for tangible personal property.

**House Bill 923**  
**Effective:** 9-1-07

**House Author:** Truitt  
**Senate Sponsor:** Carona

House Bill 923 amends the Tax Code to provide that an assessor for a taxing unit who mails a property tax bill as required to a mortgagee of a property is not required to mail a copy of the bill to a mortgagor under the mortgage or to the mortgagor’s authorized agent.

**House Bill 1022**  
**Effective:** See below

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

House Bill 1022 amends the Tax Code to create for an individual an exemption from property taxation for one personally-owned passenger car or light truck that is used for both business and personal activities. The bill provides that the exemption does not apply to a vehicle used to transport passengers for hire. House Bill 1022 takes effect contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 54.

**House Bill 1210**  
**Effective:** 6-16-07

**House Author:** Jackson, Jim  
**Senate Sponsor:** Harris

House Bill 1210 amends the Tax Code to authorize the governing body of a taxing unit to extend the deadline for a taxpayer to apply for a refund of certain overpayments or erroneous payments of property taxes. The bill allows an extension for a single period of up to two years on a showing of good cause by the taxpayer.

**House Bill 1910**  
**Effective:** 9-1-07

**House Author:** Elkins  
**Senate Sponsor:** Watson

House Bill 1910 amends the Tax Code to allow the seizure of a person's personal property for the payment of property taxes before they become delinquent if the tax collector discovers the property is about to be sold in a liquidation sale in connection with the closing of a business.

**House Bill 1928**  
**Effective:** 1-1-09

**House Author:** Flores  
**Senate Sponsor:** Lucio

House Bill 1928 amends the Tax Code to provide that certain trailer-type units designed primarily for use as temporary living quarters in connection with recreational, camping, travel, or seasonal use are not included in the definition of "structure" and are exempt from ad valorem taxation.

**House Bill 2087**  
**Effective:** Vetoed

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

House Bill 2087 amends the Tax Code to limit the frequency of petition-initiated elections that may be held by a county, municipality, or junior college district on whether to establish a limitation on increases in the amount of property taxes imposed on the residence homesteads of the elderly or disabled. The bill describes circumstances under which the limitation on petition-initiated elections applies and clarifies the scope of the limitation with respect to the authority of a governing body of a county, municipality, or district to otherwise limit tax increases or call an election for that purpose.

Reason Given for Veto: "House Bill No. 2087 violates Article VIII, Section 1, of the Texas Constitution, which requires a county, city or town, or junior college district, to hold an election to determine whether to limit property taxes on the homesteads of elderly or disabled persons if 5 percent of registered voters petition for such an election.

"House Bill No. 2087 would allow a governmental entity to refuse a petition by the voters for such an election if the same issue has been put to a vote twice in any 36-month period, thereby limiting voters' ability to petition their government on an important taxation issue. Taxpayers should not have their right to vote to lower taxes limited for the convenience of election officials."

**House Bill 3191**  
**Effective:** 1-1-08

**House Author:** Hill  
**Senate Sponsor:** West, Royce et al.

House Bill 3191 amends the Tax Code to exempt from property taxation single-family dwellings that are owned by a charitable organization and constructed or rehabilitated to be sold to individuals or families whose income does not exceed certain federal median family income thresholds.

**House Bill 3495**  
**Effective:** 1-1-08

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

House Bill 3495 amends the Tax Code to require the public notice of a meeting at which the governing body of a taxing unit will vote on a proposed property tax rate that will result in a tax revenue increase to include certain information relating to the tax rate and revenue raised in the previous year and the revenue proposed to be raised at the proposed rate.



**House Joint Resolution 54**  
**For Election:** 11-6-07

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

House Joint Resolution 54 proposes an amendment to the state constitution to create an exemption from property taxation for one motor vehicle owned by an individual that is used for both business and personal activities and sets out a temporary provision relating to the application of the exemption to the entire 2007 tax year.

**Senate Bill 426**  
**Effective:** 6-16-07

**Senate Author:** West, Royce  
**House Sponsor:** Hill

Senate Bill 426 amends the Tax Code to preserve the property tax exemption for property used to provide low-income or moderate-income housing in the event of a change in ownership as a result of foreclosure if the new owner meets the same criteria that qualified the property for the exemption and submits timely evidence of that fact to the chief appraiser.

**Senate Bill 456**  
**Effective:** 9-1-07

**Senate Author:** Watson  
**House Sponsor:** Rodriguez

Senate Bill 456 amends the Tax Code to clarify that the requirement that a written communication to a property owner threatening a lawsuit for the collection of delinquent property taxes include a notice of possible deferral or abatement of property taxes on the homestead of an elderly or disabled property owner applies only to a written communication in regard to property that may qualify as a residence homestead.

**Senate Bill 796**  
**Effective:** 6-15-07

**Senate Author:** Janek  
**House Sponsor:** Taylor

Under current law, the governing body of a taxing unit that collects its own property taxes is authorized to adopt a split payment option under which a person who pays one-half of the unit's taxes before December 1 can pay the remaining one-half of the taxes without penalty or interest before July 1 of the following year. Senate Bill 796 amends the Tax Code to authorize a taxing unit located in a county with a population of 250,000 or more that borders a county with a population of 3.3 million or more and the Gulf of Mexico that has its property taxes collected by another collecting unit to opt out of this split payment option, even if the collecting unit adopts the option.

**Senate Bill 812**  
**Effective:** 1-1-08

**Senate Author:** Janek  
**House Sponsor:** Woolley

Previous law exempted nonprofit corporations engaged exclusively in providing chilled water and steam to certain health-related facilities from property taxes. Senate Bill 812 amends the Tax Code to extend the exemption to nonprofit corporations engaged primarily in providing such services.

**Senate Bill 1063**  
**Effective:** 6-15-07

**Senate Author:** Williams  
**House Sponsor:** Eissler

Senate Bill 1063 amends the Tax Code to authorize a taxing unit to waive penalties and provide for the waiver of interest on delinquent property taxes if the taxpayer shows that he or she attempted to pay by mail before the delinquency date but mailed the payment to an incorrect address that in a prior tax year was the correct payment address, the mailing to the incorrect address occurred within one year of when the payment address changed, and the taxes ultimately were paid not later than the 21st day after the day the taxpayer knew or should have known of the delinquency.

**Senate Joint Resolution 13**

**Effective:** 5-28-07

**Senate Author:** Averitt et al.

**House Sponsor:** Berman et al.

Senate Joint Resolution 13 proposes an amendment to the state constitution to authorize the legislature by general law to provide for a reduction of the limitation on the total amount of ad valorem taxes for general elementary and secondary public school purposes that may be imposed on the residence homestead of a person who is elderly or disabled for the 2007 tax year so that the reduction reflects any reduction from the 2006 tax year in the tax rate of school property taxes applicable to the homestead. The proposed amendment allows the legislature to take into account, under certain circumstances, any reduction in the school property tax rate from the 2005 tax year to the 2006 tax year, and for the 2006 and 2007 tax years. The proposed amendment authorizes the legislature to provide for a continuation of a limitation on the total amount of school property taxes imposed on the homestead of an elderly or disabled person in subsequent tax years until the limitation expires. The proposed amendment stipulates that a general law enacted as authorized by this constitutional amendment and made applicable to the entire 2007 tax year is not considered a retroactive law.

**Senate Joint Resolution 29**

**For Election:** 11-6-07

**Senate Author:** Carona et al.

**House Sponsor:** Flores

Senate Joint Resolution 29 proposes an amendment to the state constitution to authorize the legislature by general law to provide a property tax exemption for all or part of the market value of the residence homestead of a disabled veteran who is certified as having a service-connected disability with a disability rating of 100 percent or totally disabled and to provide additional eligibility requirements for the exemption. The resolution also proposes adding a temporary provision to govern implementation of the exemption during a transition period.

**Senate Joint Resolution 44**

**For Election:** 11-6-07

**Senate Author:** Estes

**House Sponsor:** Hardcastle

Senate Joint Resolution 44 proposes an amendment to the state constitution to authorize the legislature to permit the voters of a city having a population of less than 10,000 to authorize the governing body of the city to enter into an agreement with the owner of property in or adjacent to an area of the city that has been approved for funding under revitalization or redevelopment programs to prohibit property tax increases on the owner's property for a limited period.

**Sales and Use Taxes**

**House Bill 142**

**Effective:** 9-1-07

**House Author:** Jackson, Jim

**Senate Sponsor:** Carona

House Bill 142 amends the Tax Code to eliminate the exemption from the sales and use tax imposed by a transit authority when taxable items are shipped outside the authority's boundaries.

**House Bill 261**

**Effective:** 9-1-07

**House Author:** Pickett et al.

**Senate Sponsor:** Janek

House Bill 261 amends the Tax Code to make the standard presumptive value of a motor vehicle used by a tax assessor-collector inapplicable to a motor vehicle sold by a federal, state, or local governmental entity at a public auction.

**House Bill 373**  
**Effective:** 7-1-07

**House Author:** Hochberg  
**Senate Sponsor:** Averitt

House Bill 373 amends the Tax Code to add to the definition of “occasional sale” the sale of tangible personal property if the sale is made by an individual who originally bought the item for personal or family use, if the individual is not required to have a sales tax permit and does not employ another, other than through an online auction, to sell the property, and if the total receipts from such sales do not exceed \$3,000 in a calendar year. Occasional sales are exempted from the imposition of sales and use tax.

**House Bill 1459**  
**Effective:** 9-1-07

**House Author:** Guillen  
**Senate Sponsor:** Janek

House Bill 1459 amends the Tax Code to create a sales and use tax exemption for certain pay telephone calls by excluding a pay telephone coin sent-paid telephone call from the definition of “telecommunications services.” The bill specifies that the exemption applies only to the part of the price of the call that is paid by coin.

**House Bill 3084**  
**Effective:** Vetoed

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

House Bill 3084 amends the Tax Code to exempt a municipal street maintenance sales tax adopted after September 1, 2007, from certain automatic expiration provisions. The bill establishes procedures to abolish the tax by election.

Reason Given for Veto: “Currently, the Street Maintenance Sales Tax adopted by a municipality must be reauthorized every four years by voters. House Bill No. 3084 would overturn this important taxpayer protection by allowing the tax to remain in effect until the municipality requests a public vote, or five percent of registered voters petition for an election.

“By making the Street Maintenance Sales Tax permanent, House Bill No. 3084 shifts the balance of power away from those being taxed to the government. The burden of justifying whether a tax should exist should fall on government, not the governed.

“Additionally, the percentage of registered voters required to initiate an election is too high. The five percent threshold would merely serve as an additional roadblock to taxpayer participation in their government.”

**House Bill 3319**  
**Effective:** See below

**House Author:** Keffer, Jim  
**Senate Sponsor:** Duncan

House Bill 3319 amends provisions of the Tax Code relating to the sales and use tax. The bill, for purposes of taxation, excludes from the definition of “real property service” a service performed by a landman if the service is necessary to negotiate or secure land or mineral rights for acquisition or trade. The bill specifies that the definition of “sale for resale” applies to a transfer of a wireless voice communication device as an integral part of a taxable service, regardless of whether there is a separate charge for the device or whether the purchaser is the provider of a taxable service, if payment for the service is a condition for receiving the device. The bill requires a ready mix concrete contractor, except in a public works project, to separate and individually invoice the customer for each yard of concrete produced and consumed for the improvement of real property and to collect and remit the sales, excise, and use tax. House Bill 3319 removes limitations from the sales tax exemptions for pharmaceutical biotechnology cleanrooms and equipment relating to value and time period of construction. The beginning of the sales tax holiday on clothing and footwear is moved from the first Friday in August to the

third Friday in August and school backpacks are added to the items included in the sales tax holiday. The bill exempts from the motor vehicle sales and use tax certain hydrogen-powered motor vehicles.

House Bill 3319 standardizes the origin-based and destination-based sourcing provisions for taxable items as they relate to the collection of local sales and use taxes and repeals the provision of the Tax Code authorizing the comptroller to establish a certified public accountant audit program.

The provisions of House Bill 3319 relating to the sales tax holiday take effect June 15, 2007; the provision relating to the exemption for pharmaceutical biotechnology cleanrooms and equipment takes effect July 1, 2007; all other provisions take effect September 1, 2007.

**Senate Bill 190**

**Effective:** 4-5-07

**Senate Author:** Brimer

**House Sponsor:** Patrick

Senate Bill 190 amends the Tax Code to remove a population bracket so that the comptroller, on request, must provide to any municipality that has adopted a local sales and use tax information relating to the amount of tax paid to the municipality by each business taxpayer in the municipality who annually remits such tax payments of more than \$25,000 to the comptroller as well as certain other sales tax-related information. The bill also requires the comptroller, on request, to provide to a municipality that has adopted a sales and use tax and that does not impose a property tax information relating to the amount of local sales and use tax paid to the municipality by each business taxpayer in the municipality who annually remits such tax payments of more than \$500 to the comptroller. The bill requires a separate request for information to be made each year.

**Senate Bill 1617**

**Effective:** 7-1-07

**Senate Author:** Harris

**House Sponsor:** Paxton

The law requires a motor vehicle dealer who transfers the right to receive payments on a motor vehicle to another person to pay all unpaid tax on the total price of such a vehicle. Senate Bill 1617 amends the Tax Code to exempt from this "due-on-sale" tax provision a transaction in which the dealer sells a purchaser's account to a person registered as a related finance company or grants a security interest in a purchaser's account, but retains custody and control of the account and the right to receive payments in the absence of a default under the security agreement. The bill defines a "related finance company" and requires the comptroller to establish a registration system for such companies.

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

House Bill 1460 - Occupational Regulation

House Bill 2994 - Economic Development

House Bill 3195 - Local Government

# Transportation

This chapter covers legislation on issues relating to transportation, including the finance, planning, and administration of transportation systems, driver's licenses, motor vehicles, rules of the road, and the state highway system. Bills about transportation districts and authorities or the transportation-related powers of other special districts are in the **Special Districts** chapter; bills about school buses are in the **Public Education** chapter; and bills relating to vehicle storage and towing are in the **Occupational Regulation** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 2092

**Effective:** 6-15-07

**House Author:** Hill

**Senate Sponsor:** Shapiro

House Bill 2092 amends the Tax Code to authorize the governing body of a municipality to designate an area as a reinvestment zone if the proposed plan for the zone includes an existing or proposed regional commuter or mass transit rail system or a structure or facility that is necessary, useful, or beneficial to such a system.

### House Bill 3011

**Effective:** 6-15-07

**House Author:** Smith, Wayne et al.

**Senate Sponsor:** Jackson, Mike et al.

House Bill 3011 amends the Water Code to provide for the creation, administration, powers, duties, operation, financing, and dissolution of a ship channel security district in a county with a population of 3.3 million or more that has a ship channel within the county.

## Drivers' Licenses

### House Bill 84

**Effective:** 9-1-07

**House Author:** Branch et al.

**Senate Sponsor:** Carona

House Bill 84 amends the Transportation Code to enact "Katie's Law" relating to the issuance and renewal of driver's licenses for certain elderly persons. The bill provides that an original driver's license or commercial driver's license issued to a person 85 years of age or older expires on the license holder's second birthday after the license application date and that a driver's license or commercial driver's license renewal granted to a person 85 years of age or older expires on the second anniversary of the expiration date before the license was renewed. The bill sets the fee for issuance or renewal of a driver's license to a person 85 years of age or older at \$8 and the fee for issuance or renewal of a commercial driver's license to such a person at \$25. Additionally, the Department of Public Safety may not permit the renewal by mail or electronic means of a driver's license of a person who is 79 years of age or older.

### House Bill 1049

**Effective:** 9-1-07

**House Author:** Phillips

**Senate Sponsor:** Wentworth

House Bill 1049 amends the Transportation Code to add the offense of manslaughter, if a person used a motor vehicle in the commission of the offense, to the list of offenses that, with certain exceptions, result in the automatic suspension of the driver's license of a person convicted of the offense.

**House Bill 1060**

**Effective:** 9-1-07

**House Author:** Parker et al.

**Senate Sponsor:** Harris

House Bill 1060 amends the Transportation Code to provide that the prohibition against using electronically readable information derived from a driver's license or compiling or maintaining a database of the information does not apply to a hospital that accesses, uses, compiles, or maintains a database of the information to provide health care services to a license holder. The bill prohibits a hospital from selling, transferring, or otherwise disseminating the information to a third party, except that a hospital is authorized to transfer the information only in accordance with rules to implement certain federal law. The bill provides that if an individual objects to the hospital collecting the information, the hospital must use an alternative method for collecting the individual's information.

**Senate Bill 153**

**Effective:** 9-1-07

**Senate Author:** Wentworth

**House Sponsor:** Phillips

Senate Bill 153 amends the Transportation Code to provide that a person who is supervising a person driving with an instruction permit commits an offense if, while the permittee is driving, the person sleeps, is intoxicated as defined by law, or is engaged in activity that prevents the person from observing and responding to the actions of the driver. The bill establishes a defense to prosecution if another person in addition to the defendant occupied the seat by the driver, complied with the law governing instruction permits, and did not commit the offense.

**Senate Bill 328**

**Effective:** 9-1-07

**Senate Author:** Carona

**House Sponsor:** Harper-Brown

Senate Bill 328 amends the Transportation Code to provide that, in instances in which an employer is required to conduct an alcohol and drug test of an employee who holds a commercial driver's license and to report the results to the Department of Public Safety, the employer must indicate whether a valid positive result was produced from a dilute specimen as defined in federal law.

**Senate Bill 955**

**Effective:** 6-16-07

**Senate Author:** Whitmire

**House Sponsor:** Turner

Senate Bill 955 amends the Transportation Code to establish that a person does not commit an offense relating to misuse of electronically readable information on a driver's license if the person is an employee of a public school district or a nonprofit organization who is screening an individual who will work with or have access to children.

**Senate Bill 1083**

**Effective:** 9-1-07

**Senate Author:** Carona

**House Sponsor:** Frost

Previous law authorized a judge, as one means of obtaining a defendant's driving record in certain traffic offense cases, to require a defendant to pay a \$10 fee for a copy of the defendant's driving record to be provided to the judge by the Texas Department of Public Safety (DPS). Senate Bill 1083 amends the Code of Criminal Procedure to change the applicable fees and to authorize a judge to request, and require DPS to provide, the copy using TexasOnline.

**Senate Bill 1084**

**Effective:** 5-21-07

**Senate Author:** Carona

**House Sponsor:** Allen, Alma

Under previous law, the Department of Public Safety was allowed to sell advertising, other than advertising for an alcoholic beverage or a product promoting alcoholic beverages, for

inclusion in the driver's handbook. Senate Bill 1084 amends the Transportation Code to allow the department to sell advertising for inclusion in any mailing the department makes in connection with a driver's license and, in accordance with this change, redesignates the account where advertising proceeds are deposited as the driver's license administration advertising account.

**Senate Bill 1260****Effective:** 9-1-07**Senate Author:** Seliger**House Sponsor:** Jones, Delwin

Senate Bill 1260 amends the Transportation Code to require an applicant for a nonresident commercial driver's license who is a resident of a foreign jurisdiction that does not meet the testing and licensing standards established by federal law to present a social security card and certain other documents. The bill authorizes the Department of Public Safety to issue a temporary nonresident commercial driver's license if the applicant does not present a social security card but otherwise meets the requirements for the license. The bill establishes the fee and expiration date for a nonresident and temporary nonresident commercial driver's license and requires "nonresident" to appear on the face of the license.

**Senate Bill 1372****Effective:** 1-1-08**Senate Author:** Carona**House Sponsor:** Allen, Alma

Senate Bill 1372 amends the Transportation Code to require the Department of Public Safety to cancel or deny the issuance of a hazardous materials endorsement of a person's commercial driver's license within 15 days of the date the department receives notification from a federal agency authorized to make a final determination of threat assessment and to report the cancellation or denial to the commercial driver's license information system before the 16th day after the date of cancellation or denial. The bill also authorizes the department to deny renewal of a commercial driver's license based on a license holder's previous failure to appear in court or pay a fine in another state in connection with a motor vehicle violation and provides for renewal of the license upon receipt of notice from the other state that the grounds for denial of the license have ceased to exist. The bill requires the department to respond to a request for a driving record check received from another state within 30 days of the date of the request, and it provides that a commercial driver's license disqualification takes effect on the 40th day after the date the person is considered to have received notice of the disqualification and runs consecutively with any other disqualification currently in effect. The bill clarifies that the offense of driving a commercial motor vehicle on a highway during an out-of-service period applies to the period in which a person, a person's employer, or the vehicle being operated is subject to an out-of-service order. Additionally, the bill prohibits a motor vehicle operator from driving on or crossing a railroad grade crossing unless the vehicle has sufficient undercarriage clearance and provides that an offense is a misdemeanor punishable by a fine of not less than \$50 or more than \$200.

## **Finance, Planning, and Administration of Transportation Systems**

**House Bill 570****Effective:** 5-17-07**House Author:** Leibowitz**Senate Sponsor:** Carona

House Bill 570 amends the Transportation Code to prohibit an entity authorized by law to acquire, design, construct, finance, operate, and maintain a toll project from using motor vehicle registration or license plate information, including information obtained by the use of automated enforcement technology, for purposes other than toll collection, collection enforcement, and certain law enforcement purposes. The bill provides that if the entity enters into an agreement

## Transportation

with an entity in another state that involves the exchange of this information, the agreement must provide that the information may not be used for purposes other than those described in the provisions of this bill.

### **House Bill 1447**

**Effective:** 5-4-07

**House Author:** Bohac

**Senate Sponsor:** Eltife

House Bill 1447 repeals the laws that required a railroad corporation to submit articles of incorporation or an amendment to articles of incorporation to the attorney general.

### **House Bill 1857**

**Effective:** 9-1-07

**House Author:** Murphy

**Senate Sponsor:** Carona

House Bill 1857 amends the Transportation Code to authorize the Texas Department of Transportation and a county to enter into an agreement to identify future transportation corridors within the county. The bill requires the corridors identified in the agreement to be derived from certain existing transportation plans and requires the department to publish notice of an agreement in accordance with certain requirements. The bill amends the Local Government Code to authorize the commissioners court of a county to take certain actions in connection with a plat required under the law if all or part of a subdivision for which a plat is required is located within a future transportation corridor identified in an agreement. The bill provides that a purchase contract or lease between the subdivider and a purchaser or lessee of land in the subdivision must contain a conspicuous statement relating to the land's location within the alignment of a future transportation corridor project.

### **House Bill 1892**

**Effective:** Vetoed

**House Author:** Smith, Wayne et al.

**Senate Sponsor:** Williams

House Bill 1892 amends the Transportation Code to authorize a private entity to submit alternative proposals for state highway projects based on comprehensive development agreements with different terms up to 40 years and exempts agreements in connection with certain projects. A comprehensive development agreement with a private participant that includes the collection of tolls or fees may not be for a term longer than 40 years, rather than 50 years. The bill authorizes an agreement in connection with certain projects to be for a term no longer than 50 years. The bill authorizes, rather than requires, the Texas Department of Transportation (TxDOT) to pay an unsuccessful private entity that submits a proposal in response to a request for detailed proposals a stipulated amount in exchange for the work contained in the proposal.

The bill prohibits a comprehensive development agreement between a private participant and a toll project entity from containing a provision to permit a private participant to operate or collect revenue from a toll project; however, it exempts agreements in connection with certain projects and conditions. On or after the bill's effective date, a toll project entity is prohibited from selling or entering into a contract to sell a toll project of the entity to a private entity. These provisions expire on September 1, 2009. The bill creates a legislative study committee to study these prohibited terms in comprehensive development agreements and toll project sales and to prepare a report of its findings and recommendations by December 1, 2008.

The bill provides that, with certain exceptions, the authority to enter into comprehensive development agreements in connection with state highway projects and transportation projects of regional mobility authorities expires on August 31, 2009. Provisions related to public access to information require TxDOT to make public in a timely manner all documents relating to the Trans-Texas Corridor, including financial plans. The bill requires contract payments received by the Texas Transportation Commission (TTC) or TxDOT under a comprehensive development agreement to be used to finance transportation or air quality projects in the region where a state



highway toll project is located. The bill requires the TTC or TxDOT to distribute the payments among the department districts in which the project is located based on the percentage of toll revenue from users in that district.

The bill establishes provisions that apply to toll projects in counties authorized by law to construct and operate certain transportation projects, to toll projects within the boundaries of regional mobility authorities, and to toll projects in the territory of a regional tollway authority. All of the provisions allow the entities to use state highway right-of-way owned by TxDOT and to access the state highway system. Provisions relating to the counties and to regional mobility authorities require the TTC or TxDOT to provide the entities the first option to finance, construct, or operate the portion of a toll project located within the entities' boundaries and establish timelines for exercising that option. If an authority does not initiate work within 18 months of exercising its option to develop a project, the local metropolitan planning organization may allow TxDOT to finance, construct, or operate the project. A county also has an 18-month period to enter into a contract before TTC or TxDOT may enter into a contract with a different entity for the project. A county authorized by law to construct and operate certain transportation projects is also authorized to exercise the powers of a regional mobility authority, enter into certain comprehensive development agreements with a private entity, and authorize the use and terms of surplus revenue for other road, street, or highway projects.

The bill authorizes a regional tollway authority to use a comprehensive development agreement with a private entity in connection with a turnpike project and establishes a process for entering into such an agreement that includes requirements relating to confidentiality of information and performance and payment bonds. The bill specifies that a turnpike project that is the subject of a comprehensive development agreement with a private entity is public property and is owned by the authority. The bill sets forth provisions relating to private participation in a turnpike project and to the use of contract payments under a comprehensive development agreement. The bill authorizes the board of an authority by resolution to use the surplus revenue of a turnpike project or system for a highway or similar facility that is not a turnpike project if the highway or facility meets certain criteria. The bill provides that for each toll project located within the boundaries of a regional tollway authority, after completion of the market valuation, the policy board of the metropolitan planning organization must notify the authority that the authority has the first option to develop, finance, construct, and operate the project. If the authority does not exercise the option, the metropolitan planning organization must allow TxDOT to execute the project. The bill specifies that a contract made by an authority that requires the expenditure of public funds for a turnpike project may, rather than must, be decided by competitive bidding in which the contract is awarded to the lowest bidder. The authority is authorized to procure a combination of designs for a turnpike project, provided that any contract awarded results in the best value. The bill sets forth provisions relating to the selection of a construction manager-at-risk by the authority. It makes an offense related to accepting gifts and contributions from a contractor or offering gifts to an authority director a Class A misdemeanor.

The bill provides for oversight of comprehensive development agreements by the attorney general, Legislative Budget Board, and state auditor. The bill establishes guidelines for the termination of a comprehensive development agreement and prohibits an agreement from containing a provision that limits or prohibits the construction, expansion, or repair of certain highway or other transportation projects. The bill specifies the circumstances under which an agreement may contain a provision authorizing the toll project entity to compensate a private participant for the loss of toll revenue. The bill requires a toll project entity, prior to entering into a contract for the construction of a toll project, to publish certain financial information related to the project and to hold a public hearing on the information.

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Reason Given for Veto: "House Bill No. 1892 jeopardizes billions of dollars of infrastructure investment and invites a potentially significant reduction in federal transportation funding. Projects important to fast-growth communities would be placed on hold without alternative financing mechanisms to get them constructed. Even more egregiously, the bill serves to break up the state highway system by permitting local control over state assets.

"While I support greater local decision-making authority over transportation planning, I do not support turning over state assets to local entities. By allowing local entities to seize state right-of-way at any moment, H.B. No. 1892 prohibits the Texas Department of Transportation's ability to issue any road-based debt instrument, such as toll revenue bonds, comprehensive development agreements, and pass through financing deals. As a state that grows by 1,200 people each and every day, we must consider every viable option that will allow Texas to build a strong transportation infrastructure to support present and future growth.

"I am grateful that legislators are working with me in subsequent legislation to address these concerns I have expressed about H.B. No. 1892 and look forward to receiving Senate Bill No. 792 without delay."

### **House Bill 2075**

**Effective:** 6-15-07

**House Author:** Krusee

**Senate Sponsor:** Nichols

House Bill 2075 amends the Transportation Code to authorize, rather than require, the Texas Department of Transportation to retain up to five percent of the contract price in partial payments to contractors in connection with highway improvement projects. The bill authorizes the department to release the retained amount at any time before the improvement is accepted and repeals certain exceptions to this provision.

### **House Bill 2660**

**Effective:** 6-15-07

**House Author:** King, Tracy

**Senate Sponsor:** Eltife

House Bill 2660 amends the Government Code to authorize the Texas economic development bank fund to provide grants or other financing to the Texas Department of Transportation to implement the department's powers and duties relating to rural rail development. The bill amends the Transportation Code to provide an exception for that financing to the prohibition against spending from the general revenue fund to implement the law governing rail facilities except pursuant to a line-item appropriation.

### **House Bill 3275**

**Effective:** 6-15-07

**House Author:** Miller et al.

**Senate Sponsor:** Hegar

House Bill 3275 requires the Texas Transportation Commission to conduct a study relating to the distribution of funds to highway projects that enhance federally designated emergency evacuation routes and to submit a written report to the legislature not later than January 15, 2009. The bill also requires the Texas Department of Transportation and the governor's economic development and tourism division to conduct a study of the Texas Airport Directory and how it can be improved to contribute to tourism and economic development in Texas.

### **House Bill 3711**

**Effective:** 9-1-07

**House Author:** Krusee

**Senate Sponsor:** Shapleigh

House Bill 3711 repeals obsolete statutes regulating railroads. The bill also defines a reference to a railroad corporation or railroad company for purposes of incorporation of a railroad and clarifies the right of a railroad corporation to acquire property by condemnation. The bill clarifies that the Texas Department of Transportation's power and authority over railroads is to the extent not preempted by federal law and does not include certain business operations of railroads.

**Senate Bill 255**  
**Effective:** 9-1-07

**Senate Author:** Carona  
**House Sponsor:** Phillips

Senate Bill 255 amends the Transportation Code to require the Texas Department of Transportation to annually publish in appropriate media and on the department's Internet website in a form that allows the information to be read into a commercially available electronic database certain statistical comparisons and information in connection with department districts, financing, and contracts.

**Senate Bill 718**  
**Effective:** Vetoed

**Senate Author:** Ogden  
**House Sponsor:** Gattis

Senate Bill 718 amends the Transportation Code to require, to the extent possible, the Texas Transportation Commission to select a route for a segment of the Trans-Texas Corridor that lies on the Texas Highway Trunk System. The bill requires the commission, before the 11th day after making a determination that it is not possible to select a route for a segment of the Trans-Texas Corridor that lies on the Texas Highway Trunk System, to file a written report of that determination, and the reasons supporting the determination, with each member of the legislature.

Reason Given for Veto: "Senate Bill No. 718 requires the Texas Department of Transportation, to the extent possible, to select a route for a segment of the Trans Texas Corridor that lies on the Texas Trunk System. This will likely compromise the environmental process required by the National Environmental Policy Act which requires the state to "rigorously explore and objectively evaluate all reasonable alternatives so that reviewers may evaluate their comparative merits." This bill undermines the integrity of the environmental study process and could cause the Federal Highway Administration to conclude the state did not complete a valid alternatives analysis because the legislature dictated a preferred route by state statute."

**Senate Bill 766**  
**Effective:** 9-1-07

**Senate Author:** Ogden  
**House Sponsor:** Gattis

Senate Bill 766 amends the Transportation Code and the Government Code to transfer the powers and duties relating to statistical analysis of and reporting on accident reports from the Department of Public Safety (DPS) to the Texas Department of Transportation (TxDOT). The bill also requires TxDOT to provide electronic access to the accident reporting system so that DPS can perform its duties, including the duty to make timely entries on driver records, and provides that the form of all written accident reports must be approved by TxDOT and DPS. The bill requires DPS and TxDOT to enter into a memorandum of understanding regarding implementation not later than September 21, 2007, and makes the transfer effective on October 1, 2007.

**Senate Bill 792**  
**Effective:** 6-11-07

**Senate Author:** Williams et al.  
**House Sponsor:** Smith, Wayne

Senate Bill 792 amends provisions of the Transportation Code to address comprehensive development agreements between public and private entities with regard to toll projects and the authority of certain counties and other entities with respect to those projects.

Article 1 of the bill amends provisions relating to state highway projects, facilities on the Trans-Texas Corridor, and transportation projects of regional mobility authorities to provide that a comprehensive development agreement or other contract with a private entity that includes the collection of tolls by the private entity may be for a term not longer than 50 years from the later of the date of final acceptance of the project or the start of revenue operations by the private entity, not to exceed a total term of 52 years.

Article 2 authorizes, rather than requires, the Texas Department of Transportation (TxDOT) or a regional mobility authority to pay an unsuccessful private entity that submits, in response to a request, a responsive proposal for costs incurred in preparing that proposal.

Article 3 prohibits an agreement for a state highway project entered into on or after May 1, 2007, by a private participant and a toll project entity from containing a provision permitting the private participant to operate or collect revenue from a toll project and exempts agreements in connection with certain projects and conditions. It also prohibits a toll project entity from selling a toll project to a private entity. The bill creates a legislative study committee to study these prohibitions in comprehensive development agreements and toll project sales and to prepare a report by December 1, 2008. The bill abolishes the committee on December 31, 2008, and provides that the provisions of Article 3 expire on September 1, 2009.

Article 4 provides that, with the exception of the authority to enter into agreements in connection with certain exempted projects, which expires on August 31, 2011, the authority to enter into comprehensive development agreements expires on August 31, 2009.

Article 5 requires TxDOT to timely post on its website contracts and other information relating to the Trans-Texas Corridor and to send electronic versions of all master plan updates to certain executive and legislative entities.

Article 6 requires, rather than authorizes, contract payments and any other revenue received by the Texas Transportation Commission or TxDOT under a comprehensive development agreement to be used for transportation or air quality projects in the region where a state highway toll project is located. It also requires TxDOT to distribute funds under an agreement based on the percentage of toll revenue from users from each department district within the boundaries of the metropolitan planning organization in which a toll project is located.

Article 7 establishes provisions that apply only to certain toll projects of counties authorized by law to construct and operate certain transportation projects, and temporary provisions that apply, with certain exceptions, to toll projects of those counties and of regional toll project entities. Both sets of provisions provide that the entities have primary responsibility for toll projects within their boundaries, require the entities to reimburse TxDOT for certain costs related to the use of state highway right-of-way, establish timelines and conditions for the entities to exercise the first option to finance, construct, or operate the portion of a toll project located within their boundaries, and authorize TxDOT or the Texas Transportation Commission, notwithstanding an action by the entities, to take any reasonable action to ensure that federal funds requirements are met. Among the provisions that expire on August 31, 2011, are requirements for a local or regional toll project entity and TxDOT to agree on the initial toll rate, toll rate escalation methodology, and other terms and conditions and on the development of a market valuation of a toll project, or the project may not be developed as a toll project. A provision that expires on August 31, 2009, requires the terms and conditions for State Highway 99 to be approved by the local metropolitan planning organization. Additionally, a provision of the article requires TxDOT to create a separate account in the state highway fund for payments related to toll projects and to create subaccounts for the benefit of the regions in which toll projects or systems are located.

Article 8 authorizes, with certain exceptions, counties that are authorized by law to construct and operate certain transportation projects to also exercise the powers of a regional mobility authority, enter into comprehensive development agreements, and authorize the use and terms of surplus revenue for other road, street, or highway projects. The bill provides for exceptions that require TxDOT to approve and supervise any work on the state highway system and for TxDOT and the Texas Transportation Commission to approve any use of state or federal highway funds. The bill specifies that a county may use and access state highway right-of-way in accordance with the provisions of this act.

Article 9 authorizes a regional tollway authority to use a comprehensive development agreement with regard to a turnpike project and establishes a process for entering into such an agreement with a private entity, including requirements relating to confidentiality of information, performance and payment bonds, use of contract payments, and collection of tolls. It invalidates the TxDOT/North Texas Tollway Authority Regional Protocol and makes it a Class A misdemeanor to accept gifts and contributions from a contractor or to offer gifts to an authority director.

Article 10 establishes certain eligibility requirements for serving as a director of a regional mobility authority, requires an action of an authority to comply with federal law, and prohibits an authority's design-build procedures from conflicting with other state law.

Article 11 provides for oversight of comprehensive development agreements by the attorney general, Legislative Budget Board, and state auditor. It also requires toll project entities to develop a formula for making termination payments to a private participant under an agreement that gives the private participant the right to operate and collect revenue from a toll project and provides certain options for an entity that elects to terminate an agreement. It prohibits an agreement from containing a provision that limits construction of a highway or other transportation project or that requires a toll project entity to provide compensation for the construction of certain projects. It requires a toll project entity, before entering into a contract for the construction of a toll project, to publish certain financial information related to the project and to hold a public hearing on the information.

Article 12 requires the policy board of a metropolitan planning organization to establish an ethics policy regarding conflicts of interest.

Article 13 makes each failure to pay a toll or administrative fee imposed by an entity contracted to operate a toll lane a separate offense and a misdemeanor punishable by a fine not to exceed \$250 and provides that such an entity has the same powers and duties as TxDOT with regard to toll collection and enforcement for that toll lane.

Article 14 increases the amount of bonds and other public securities secured by the state highway fund that the Texas Transportation Commission may issue from \$3 billion to \$6 billion in total and from \$1 billion to \$1.5 billion each year. It also increases from \$600 million to \$1.2 billion the amount of those bonds and other securities that must be used to fund projects that reduce accidents or correct or improve hazardous locations on the state highway system.

**Senate Bill 1089**

**Effective:** 5-17-07

**Senate Author:** Shapiro

**House Sponsor:** Hill

Senate Bill 1089 amends the Development Corporation Act of 1979 to allow a Section 4A or 4B corporation to use tax revenue received under the act for the development, improvement, expansion, or maintenance of facilities relating to the operation of commuter rail, light rail, or motor buses.

**Senate Bill 1209**

**Effective:** 5-17-07

**Senate Author:** Carona

**House Sponsor:** Krusee

Senate Bill 1209 amends the Transportation Code to extend until September 1, 2013, provisions requiring the Texas Department of Transportation and a utility to share equally the cost of a utility facilities relocation required by an improvement of a state highway related to a turnpike or toll project. The bill also authorizes prepayment funding agreements between the department and a utility to reimburse a utility for facility relocation costs that are not otherwise eligible for reimbursement. The bill establishes the annual amounts that a utility must prepay

to the department under such an agreement, and it requires all prepayments to be deposited to the credit of the state highway fund. Provisions relating to prepayment funding agreements for relocation of utility facilities expire on September 1, 2013.

**Senate Bill 1266**

**Effective:** 9-1-07

**Senate Author:** Brimer et al.

**House Sponsor:** Krusee

Senate Bill 1266 amends Transportation Code provisions relating to an agreement between the Texas Department of Transportation and a public or private entity that provides for the payment of pass-through tolls to the entity as reimbursement for the construction, maintenance, or operation of a toll or nontoll facility on the state highway system. The bill provides that until September 1, 2009, the amount the department agrees to pay under these agreements in any state fiscal year that begins on or after September 1, 2007, may not be less than the yearly average of such amounts from the date of the creation of the pass-through toll program unless there is an insufficient number of approved proposals for projects to be developed under a pass-through toll agreement. The bill authorizes the department to use any available funds to make a pass-through toll payment except funds derived from the issuance of bonds secured by the Texas mobility fund. It authorizes the governing body of a municipality or county that intends to enter into a pass-through toll agreement with the department to designate an area as a transportation reinvestment zone to finance a pass-through toll project that cultivates development or redevelopment of the area. The bill requires a municipality to deposit a certain amount of revenue from taxes collected on property in the zone into a tax increment account to finance or to repay amounts owed on a project. The bill authorizes a county to abate a certain amount of taxes imposed on property in the zone and to form a road utility district with the same boundaries as the zone, if authorized to do so by the Texas Transportation Commission, to impose taxes on the property in an amount equal to the amount of the abated property taxes. Both sets of provisions establish certain procedural requirements for designation of an area as a transportation reinvestment zone and provide that a zone or tax abatement agreement terminates on December 31 of the year in which the municipality or county completes the contractual requirements in connection with a pass-through toll agreement. A transportation reinvestment zone created by either entity terminates on December 31 of the 10th year after the year the zone was designated if before that date it is not used for its designated purpose.

**Senate Bill 1536**

**Effective:** 6-15-07

**Senate Author:** Fraser

**House Sponsor:** Delisi

Senate Bill 1536 amends the Government Code to authorize a municipality to issue bonds for certain improvements of a nontoll project or facility on the state highway system located in the municipality or, as a continuation of the project or facility, in an adjacent jurisdiction and to pledge revenue, impose a tax, or both to provide for repayment of the bonds.

**Senate Bill 1836**

**Effective:** 9-1-07

**Senate Author:** Jackson, Mike

**House Sponsor:** Eiland

Senate Bill 1836 amends provisions of the Transportation Code relating to a harbor or port facility in a municipality that is located on the Gulf of Mexico, or a channel, canal, bay, or inlet connected to that gulf, and has a population of more than 5,000. The bill authorizes the board of such a facility to construct, lease, improve, enlarge, extend, repair, maintain, replace, develop, or operate a port improvement or facility and to exercise all powers of a municipality relating to the creation of an economic development program for making grants and loans of public money to stimulate business and commercial activity. The bill grants to the board the

power to construct a port improvement or facility on land it acquires and authorizes the board to convey the land, interest in the land, or the port improvement or facility. The bill also creates a presumption of validity, with certain exceptions, of an act or proceeding of the board after three years if the act or proceeding is not the subject of a legal challenge.

**Senate Joint Resolution 64**  
**For Election:** 11-6-07

**Senate Author:** Carona  
**House Sponsor:** Krusee

Senate Joint Resolution 64 proposes an amendment to the state constitution to authorize the legislature by general law to allow the Texas Transportation Commission or its successor to issue general obligation bonds in an aggregate amount not to exceed \$5 billion to provide funding for highway improvement projects. The proposed amendment specifies that the bonds are general obligations of the state and provides for an appropriation to pay the principal of and interest on the bonds while any of the bonds or interest on the bonds is outstanding and unpaid. It authorizes a portion of bond proceeds and earned interest to be used to pay the costs of administering projects, issuing the bonds, and making payments under a related credit agreement.

## **Motor Vehicles-Commercial**

**House Bill 313**  
**Effective:** 9-1-07

**House Author:** Pickett  
**Senate Sponsor:** Carona

House Bill 313 amends the Transportation Code to provide that, notwithstanding any reciprocity agreement between this state and another state, a foreign commercial motor vehicle that engages primarily in transportation of cargo across the border into or from a border commercial zone must be registered in this state or operated under an exemption provided by law.

**House Bill 505**  
**Effective:** 6-15-07

**House Author:** Berman  
**Senate Sponsor:** Eltife

House Bill 505 amends the Transportation Code to update provisions relating to specialty license plates for certain vehicles transporting agricultural products, drilling equipment, or construction equipment to reflect current law.

**House Bill 1522**  
**Effective:** 9-1-07

**House Author:** Harless  
**Senate Sponsor:** Williams

House Bill 1522 amends the Transportation Code to expand the prohibition relating to overnight parking of commercial motor vehicles in a residential subdivision to include streets that are located adjacent to a residential subdivision and within 1,000 feet of the property line of a residence, school, place of worship, or park. The bill specifies certain vehicles to which the bill's provisions do not apply.

**House Bill 1638**  
**Effective:** 9-1-07

**House Author:** Taylor  
**Senate Sponsor:** Jackson, Mike

House Bill 1638 amends the Transportation Code to add a municipality with a population of less than 5,000 located adjacent to a bay of the Gulf of Mexico in a county adjacent to a county with a population greater than 3.3 million to the list of municipalities where a police officer is eligible to apply for certification to enforce commercial motor vehicle safety standards.

## Transportation

### **House Bill 2077**

**Effective:** 6-15-07

**House Author:** Krusee

**Senate Sponsor:** Ogden

House Bill 2077 amends the Transportation Code to expand the list of municipalities whose police officers are eligible to apply for certification to enforce commercial motor vehicle safety standards.

### **House Bill 2093**

**Effective:** 9-1-07

**House Author:** Hill

**Senate Sponsor:** Carona

House Bill 2093 amends the Transportation Code to revise the amount or disposition of certain fees collected by the Texas Department of Transportation in connection with a permit for an overweight or oversize vehicle. The bill also authorizes the Texas Department of Transportation to impose an administrative penalty, with certain exceptions, and revoke a permit for a violation of the law governing permits for oversize or overweight vehicles and provides for injunctive relief to prevent or abate a violation. The bill's administrative penalty authorization also applies to other violations relating to vehicle size and weight and to false information on a shipper's certificate of weight. The bill provides for an administrative hearing process and injunctive relief in connection with enforcement of motor carrier registration law and repeals certain provisions of this law relating to an administrative penalty and the suspension and revocation of registration.

### **House Bill 2992**

**Effective:** 9-1-07

**House Author:** Murphy

**Senate Sponsor:** Carona

House Bill 2992 amends the Transportation Code to delete the requirement that a person must own 50 or more semitrailers at the time of application in order to register a semitrailer for a registration period of five consecutive years.

### **House Bill 3594**

**Effective:** 6-15-07

**House Author:** Raymond

**Senate Sponsor:** Zaffirini

House Bill 3594 amends provisions of the Transportation Code relating to motor vehicle inspection facilities near the border of Texas and Mexico. The bill provides that if a facility that serves a bridge that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002, is to be located in a municipality or a municipality's extraterritorial jurisdiction, the municipality, rather than the Texas Department of Transportation (TxDOT), may choose the location of the facility. The bill requires the municipality to choose the location within a certain time frame and to take certain actions in determining the location. The bill requires TxDOT to provide for implementation of technology and information systems at such facilities in accordance with certain conditions and goals and to spend money appropriated by the legislature and received from the federal government to establish the motor vehicle inspection facilities.

### **Senate Bill 329**

**Effective:** 6-15-07

**Senate Author:** Carona

**House Sponsor:** Harper-Brown

Senate Bill 329 amends the Transportation Code to exempt commercial motor vehicles from the law relating to restrictions on motor vehicle windows.



**Senate Bill 330**  
**Effective:** 4-23-07

**Senate Author:** Carona  
**House Sponsor:** Driver

Senate Bill 330 amends the Transportation Code to expand the sites at which noncommissioned commercial motor vehicle inspection staff of the Department of Public Safety may regulate the weighing of a vehicle or stop, enter, or detain a vehicle to include any commercial vehicle inspection site, rather than only a fixed-site facility or a port of entry.

**Senate Bill 331**  
**Effective:** 5-14-07

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

Senate Bill 331 amends the Transportation Code to increase from 75 feet to 97 feet the maximum overall length a drive-away saddlemount or drive-away saddlemount with fullmount vehicle transporter combination may have without being subject to the law governing vehicle length limitations.

**Senate Bill 332**  
**Effective:** 9-1-07

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

Senate Bill 332 amends the Transportation Code to add the period during which the employer is subject to an out-of-service order that affects the driver or vehicle to the list of time periods during which an employer may not knowingly permit a person to drive a commercial motor vehicle. The bill makes it a Class B misdemeanor to knowingly permit a commercial vehicle driver to drive during certain periods in which such activity is prohibited or to knowingly require such a driver to drive in violation of state, federal, or local law that regulates the operation of a motor vehicle.

**Senate Bill 333**  
**Effective:** 9-1-07

**Senate Author:** Carona  
**House Sponsor:** Driver

Senate Bill 333 amends the Transportation Code to define "commercial motor vehicle" for the purposes of the offense of driving a commercial motor vehicle on a highway in violation of an out-of-service order to include drivers of certain smaller commercial vehicles.

**Senate Bill 545**  
**Effective:** 9-1-07

**Senate Author:** Carona  
**House Sponsor:** Jackson, Jim et al.

Senate Bill 545 amends the Code of Criminal Procedure and Transportation Code to expand the list of municipalities whose police officers are eligible to apply for certification to enforce commercial motor vehicle safety standards.

## **Motor Vehicles-General**

**House Bill 71**  
**Effective:** 6-15-07

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

House Bill 71 amends the Transportation Code to make certain offenses relating to counterfeit motor vehicle airbags a Class A misdemeanor, except that if the defendant has a previous conviction under this law, the offense is a third degree felony, and if an offense results in bodily injury to an individual, the offense is a second degree felony.

**House Bill 310**

**Effective:** 1-1-08

**House Author:** Goolsby et al.

**Senate Sponsor:** Carona

House Bill 310 amends the Transportation Code to require or authorize the removal of each license plate and the registration insignia upon the sale or transfer of a used motor vehicle, depending on whether the vehicle is sold or transferred to a regulated motor vehicle dealer or another person. The bill authorizes a person to use removed license plates on another vehicle that is titled in the person's name or on a new vehicle if the person takes certain actions, including paying a specified transfer fee. To continue the remainder of the vehicle registration period, a purchaser or transferee must file the required documents with the county assessor-collector. The bill authorizes a purchaser or transferee to obtain from the Texas Department of Transportation a temporary permit to operate a motor vehicle that does not have the required license plates and registration insignia and limits the permit's validation to one trip and a five-day period. The bill provides that these provisions apply only to passenger cars and light trucks until August 31, 2011. The bill repeals a provision requiring current registration of a used vehicle that is sold or otherwise transferred.

**House Bill 481**

**Effective:** 1-1-08

**House Author:** Jackson, Jim

**Senate Sponsor:** Carona

House Bill 481 amends the Transportation Code to require the Texas Department of Transportation to establish procedures that permit the transferor of a used motor vehicle to electronically submit a notice of transfer to the department through the department's Internet website. The bill specifies that provisions establishing a rebuttable presumption relating to the transferee of a vehicle apply only if the department receives notice of the transfer within 30 days after the date the transferor delivered possession of the vehicle to the transferee. The bill provides that, notwithstanding the law requiring certain transfer documents to be filed with the county assessor-collector within 20 working days of their receipt, if the transferee is a member of the U.S. armed forces, the documents must be filed within 60 working days of their receipt. The bill makes the amount of the late fee for documents that are not filed during the 20-day application period dependent on whether the transferee does or does not hold a general distinguishing number issued under the law governing motor vehicle dealers and provides for an additional penalty to be imposed. The bill makes an exception to these provisions for certain classic and antique vehicles and provides that of each late fee collected from a person who does not hold a general distinguishing number, \$10 may be used only to fund a statewide public awareness campaign to inform the public about these provisions.

**House Bill 733**

**Effective:** 9-1-08

**House Author:** Krusee

**Senate Sponsor:** Carona

House Bill 733 amends provisions of the Occupations Code relating to the regulation of a manufacturer or distributor's ownership, operation, or control of a dealership. The bill provides that the law prohibiting, with certain exceptions, a manufacturer or distributor of motor vehicles from owning an interest in a motor vehicle dealer or dealership does not prohibit a manufacturer or distributor that owned, on or before January 1, 2007, an interest in a motor vehicle dealer engaged in the sale of used motor vehicles and that has not agreed to or been ordered by a court order or ruling to comply with certain prohibitions relating to the ownership or operation, from continuing to directly or indirectly own an interest in the motor vehicle dealer if the ownership and control does not increase after January 1, 2007. The bill specifies certain qualifications for this provision, including that it applies if the dealer is engaged in the business of selling or offering for sale only certain used trucks. The bill also specifies the circumstances under

which a motor vehicle dealer, manufacturer, or distributor violates the provision and provides that a person who commits a violation is subject to certain civil actions. The bill's provisions expire September 1, 2023.

**House Bill 864****Effective:** 9-1-07**House Author:** Callegari**Senate Sponsor:** Williams

House Bill 864 amends the Transportation Code to delete a provision giving a garagekeeper the option of reporting the abandonment of a motor vehicle to the Department of Public Safety rather than to the local law enforcement agency in order to fulfill the garagekeeper's duty to report the abandonment. The bill also deletes a provision requiring a fee paid to the department to be used to administer the law governing abandoned motor vehicles.

**House Bill 1623****Effective:** 9-1-07**House Author:** Phillips**Senate Sponsor:** Carona

House Bill 1623 amends provisions of the Transportation Code, Parks and Wildlife Code, Local Government Code, and Health and Safety Code relating to offenses, fees, and penalties imposed for operating a motor vehicle or vessel in violation of the law. The bill specifies circumstances under which a court may dismiss a charge for a violation of certain laws governing registration of vehicles, driver's licenses and certificates, vehicle equipment, compulsory inspection of vehicles, and water safety. It provides that if it is shown on the trial of an offense relating to driving with an invalid license that the license of a person has previously been suspended as the result of an offense involving the operation of a motor vehicle while intoxicated, then the offense is a Class B misdemeanor. The bill limits the amount of a civil, administrative, or late payment penalty imposed to enforce compliance with the instructions of a traffic-control signal and prescribes how this revenue is to be shared with the state if the penalty is issued in connection with a photographic traffic signal enforcement system. The bill creates the regional trauma account in the general revenue fund composed of money deposited to the credit of the account under the photographic traffic signal enforcement system law and requires the executive commissioner of the Health and Human Services Commission to use the money to fund uncompensated care of certain designated trauma facilities and county and regional emergency medical services in accordance with prescribed distributions from the account. The bill requires the commissioner to adopt rules to implement the regional emergency medical services provisions not later than December 1, 2007.

**House Bill 2045****Effective:** 9-1-07**House Author:** Phillips**Senate Sponsor:** Deuell et al.

Previous law directed revenue from Texas State Rifle Association specialty plates to The Texas A&M University System for two specified purposes. House Bill 2045 amends the Transportation Code to specify that the revenue is to be appropriated to the Texas Cooperative Extension of that system and split evenly between the two purposes.

**House Bill 2127****Effective:** 9-1-07**House Author:** Murphy**Senate Sponsor:** Williams

House Bill 2127 amends the Transportation Code to add transportation in connection with utility work performed by a utility to the listed conditions under which the operator of an all-terrain vehicle may drive the vehicle on a public street, road, or highway that is not an interstate or limited-access highway.

## Transportation

### **House Bill 2163**

**Effective:** 9-1-07

**House Author:** Harless

**Senate Sponsor:** Carona

House Bill 2163 amends the Transportation Code to define an automotive wrecking and salvage yard as an outdoor place where a person stores three or more vehicles, rather than three or more wrecked vehicles, for purposes of the chapter on regulating junk yards and automotive wrecking and salvage yards.

### **House Bill 2559**

**Effective:** 6-15-07

**House Author:** Otto

**Senate Sponsor:** Wentworth

House Bill 2559 amends the Occupations Code to authorize a motor vehicle dealer to sell or offer to sell a motor vehicle online through an advertisement on the Internet to a buyer who never personally appears at the dealer's established and permanent place of business. The bill clarifies that online and certain other sales are exceptions to the provision establishing that a dealer may only sell or offer to sell a motor vehicle from an approved dealership.

### **House Bill 2565**

**Effective:** 9-1-07

**House Author:** Madden

**Senate Sponsor:** Carona

House Bill 2565 amends the Transportation Code to increase the membership of the motor vehicle inspection advisory committee from six to nine members and to modify its composition and manner of appointment. The bill requires the members of the Public Safety Commission, acting as a body rather than individually, to appoint seven of the nine members, and it requires the presiding officers of the Public Safety Commission and the Texas Commission on Environmental Quality (TCEQ) each to appoint one member of the committee who will alternate serving as the presiding officer. The bill modifies the committee's composition specifically to require that four of the commission's appointees represent inspection station owners and operators, with two of those appointees being from counties conducting vehicle emissions testing and two being from counties conducting safety only inspections. The bill also requires one appointee to represent independent vehicle equipment repair technicians. The bill expands the committee's advisory function to include advising and making recommendations relating to the vehicle inspection program to TCEQ as well as to the Department of Public Safety.

### **House Bill 2627**

**Effective:** 9-1-07

**House Author:** Murphy

**Senate Sponsor:** Deuell

House Bill 2627 amends provisions of the Transportation Code authorizing the Texas Department of Transportation to continue to issue license plates for a particular institution of higher education or professional sports team only if before September 1, 2004, a certain number of sets of license plates for the institution or sports team were issued or presold. The bill decreases from 1,500 to 800 the number of license plate sets required to be issued or presold for the continued issuance of a collegiate license plate and provides that the required number of sets for the continued issuance of a professional sports team license plate is 1,900, rather than 3,500. The bill also decreases the amount of money from the issuance of these license plates that must be received or deposited with the department before that date. Additionally, the bill lowers requirements in connection with the provision mandating a certain number of applications for license plate sets or a specified deposit amount to accompany a request to the department for manufacture of specialty license plates authorized by law after January 1, 1999.

**House Bill 2651**  
**Effective:** 9-1-07

**House Author:** Harless  
**Senate Sponsor:** Ellis

House Bill 2651 amends provisions of the Occupations Code and the Transportation Code relating to licenses necessary for different facets of the sale and distribution of motor vehicles in Texas, general distinguishing numbers for each of a motor vehicle dealer's business locations, and license plates that may be placed on vehicles in a dealer's inventory. The bill provides that the licenses, general distinguishing numbers, and license plates are valid for the period prescribed by the Texas Transportation Commission and requires the commission to prorate the applicable annual fee if the commission prescribes a term for a period other than one year. The bill revises the fees to reflect which are and are not assessed annually.

**House Bill 3225**  
**Effective:** 9-1-07

**House Author:** Murphy  
**Senate Sponsor:** Carona

House Bill 3225 amends state law to replace "automobile" with "motor vehicle" in provisions relating to the scope of authority of the Automobile Theft Prevention Authority. The bill defines "motor vehicle" for purposes of those provisions.

**House Bill 3832**  
**Effective:** 6-15-07

**House Author:** Farias  
**Senate Sponsor:** Uresti

House Bill 3832 amends the Transportation Code to provide an exception for a motor vehicle that has its transmission in park or its parking brake applied to the provision allowing video equipment on a motor vehicle only if it is located so that the video display is not visible from the operator's seat.

**Senate Bill 350**  
**Effective:** 9-1-07

**Senate Author:** Ellis  
**House Sponsor:** Noriega, Rick

Previous law relating to the abatement of certain nuisances involving junked vehicles excluded a vehicle that has attached to it either an unexpired license plate or a valid motor vehicle inspection certificate from the definition of a junked vehicle. Senate Bill 350 amends the Transportation Code to specify that a vehicle must have both to be excluded from that definition.

Previous law also required a public hearing before removal of a junked vehicle that has been determined to be a public nuisance. Senate Bill 350 revises this provision to require a public hearing only on request of a person who has received notice that the nuisance must be abated and removed if the request is made not later than the date by which the nuisance must be abated and removed.

**Senate Bill 369**  
**Effective:** 9-1-07

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

Senate Bill 369 amends the Transportation Code to clarify that the offense of attaching or displaying an altered or obscured license plate on a motor vehicle applies to a number plate or registration insignia that has blurring or reflective matter that at any time significantly impairs the readability of the name of the state in which the vehicle is registered or the letters or numbers of the license plate number. The bill also applies the offense to any apparatus that alters or obscures the plate or insignia in a specified manner and clarifies that this provision may not be construed to apply to certain normal or customary apparatuses on a vehicle.

## Transportation

### **Senate Bill 959**

**Effective:** 9-1-07

**Senate Author:** Shapleigh

**House Sponsor:** Quintanilla

Senate Bill 959 amends the Transportation Code to require the Texas Department of Transportation to include the international symbol of access on a specialty license plate issued to a person with disabilities.

### **Senate Bill 1032**

**Effective:** 9-1-07

**Senate Author:** Uresti

**House Sponsor:** Haggerty

Senate Bill 1032 amends the Transportation Code to require the Texas Department of Transportation to issue specialty license plates that include the words "Insure Texas Kids" and to provide that fee revenue, after deduction of the department's administrative costs, may only be appropriated to the Health and Human Services Commission to fund outreach efforts for public and private health benefit plans available for children.

### **Senate Bill 1786**

**Effective:** 9-1-07

**Senate Author:** Carona

**House Sponsor:** Hill

Senate Bill 1786 amends the Transportation Code to require the Texas Department of Transportation to develop and maintain a secure, real-time database of information on vehicles to which dealers and converters have affixed temporary cardboard tags and on persons to whom temporary buyer's tags are issued. The bill requires the department to prescribe procedures for a converter or dealer to generate a vehicle-specific number using the database and requires the database to allow law enforcement agencies to use the vehicle-specific number assigned to and displayed on the tag. Before a tag may be displayed on a vehicle, the dealer or converter must enter into the database through the Internet information on the vehicle or buyer as prescribed by the department. The department is required to ensure that a dealer may generate in advance a sufficient number of vehicle-specific numbers in order to continue selling vehicles for a period of up to one week in which a dealer is unable to access the Internet due to an emergency. Each dealer is required to provide a one-page written notice to a buyer that explains the requirements of the law regarding a buyer's temporary cardboard tag, any criminal penalties relating to the tag, and certain other information. The bill establishes criminal penalties ranging from a Class C misdemeanor to a state jail felony for the unauthorized production, reproduction, purchasing, selling, or displaying of a temporary tag. The bill amends the Occupations Code to authorize the department to deny, revoke, or suspend the motor vehicle dealer license of a person who violates the law relating to a buyer's temporary tag database.

## **Rules of the Road**

### **House Bill 423**

**Effective:** 9-1-07

**House Author:** Corte, Frank

**Senate Sponsor:** Carona

House Bill 423 amends the Transportation Code to require a medical examiner or justice of the peace acting as coroner to submit a report in writing to the Texas Department of Public Safety of the death of a person that was the result of a traffic accident to which the law governing accidents and accident reports applies and that occurred within the jurisdiction of the medical examiner or justice of the peace in the preceding calendar quarter. The bill provides that the report must be submitted before the 11th day of each calendar month and include certain information and requires the report to be sent to one of two specified department destinations. The bill requires

the medical examiner or justice of the peace to take certain actions if toxicological test results are not available on the date a report must be submitted and requires the department to prepare the necessary report forms.

**House Bill 586****Effective:** 9-1-07**House Author:** Gonzalez Toureilles**Senate Sponsor:** Uresti

House Bill 586 amends the Code of Criminal Procedure to add the spouse or dependent child of a member of the U.S. military forces to the list of defendants eligible, at the discretion of the judge, to complete a driving safety course or motorcycle operator training and safety program in lieu of certain other court action on a traffic violation. The bill makes a defendant charged with driving at a speed of 95 miles per hour or more ineligible to take a driving safety course in lieu of certain other court action.

**House Bill 922****Effective:** 6-15-07**House Author:** Truitt**Senate Sponsor:** Carona et al.

House Bill 922 amends the Transportation Code to prohibit a municipality from implementing an automated traffic control system to enforce compliance with speed limits and requires the attorney general to enforce the prohibition.

**House Bill 1052****Effective:** 9-1-07**House Author:** Callegari**Senate Sponsor:** Carona

House Bill 1052 amends the Transportation Code to require a municipality to place warning signs at least 100 feet before an intersection indicating that a photographic traffic monitoring system is used at that intersection to enforce compliance with a traffic-control signal. A municipality that fails to place such a warning sign may not impose a penalty against a person for failure to comply with the instructions of a traffic-control signal at the applicable intersection. The bill does not prohibit a police officer from arresting or issuing a citation to a person whom the officer observes to have failed to comply.

**House Bill 1279****Effective:** 9-1-07**House Author:** Deshotel**Senate Sponsor:** Watson

House Bill 1279 amends the Transportation Code to require a detector for certain traffic-actuated electric traffic-control devices to be capable of registering the presence of a motorcycle.

**House Bill 1781****Effective:** 9-1-07**House Author:** Harless et al.**Senate Sponsor:** Ellis

House Bill 1781 amends the Transportation Code to expand and prescribe the order of certain information displayed on a disabled parking placard.

**House Bill 1840****Effective:** 9-1-07**House Author:** Bonnen et al.**Senate Sponsor:** Hegar

House Bill 1840 amends the Transportation Code to make the offense of failing to stop following a motor vehicle accident a third degree felony if the accident resulted in death or serious bodily injury.

## Transportation

### **House Bill 3089**

**Effective:** 6-15-07

**House Author:** Phillips

**Senate Sponsor:** Deuell

House Bill 3089 amends the Transportation Code to define the term "roadway" in provisions relating to local authorization for solicitation by a pedestrian.

### **Senate Bill 387**

**Effective:** 9-1-07

**Senate Author:** Carona

**House Sponsor:** Harper-Brown

Senate Bill 387 amends the Transportation Code to define "refuse" and to add the term to the definition of "loose material" for purposes of the law governing loose material transported by vehicle. The bill deletes a provision providing an exception to the law for a vehicle that is operated at a speed less than 30 miles per hour.

### **Senate Bill 1119**

**Effective:** 9-1-07

**Senate Author:** Carona

**House Sponsor:** Murphy et al.

Senate Bill 1119 amends the Transportation Code to authorize a local governmental entity to implement a photographic traffic signal enforcement system to detect red light violations at certain intersections. The bill sets out provisions for the installation and operation of the enforcement system. It prohibits a local authority that contracts for the administration and enforcement of the system from agreeing to pay the contractor a specified percentage or dollar amount from each penalty collected. Signs indicating the presence of a photographic monitoring system at an intersection must be installed along each approach to the intersection. The bill creates an offense if a person uses the enforcement system to produce a recorded image for a purpose other than detecting a violation of a traffic-control signal. The bill sets forth requirements for notification of a violation, hearing and appeal processes, and the maximum penalties for a violation.

Senate Bill 1119 amends the Health and Safety Code to create the regional trauma account as a dedicated account in the general revenue fund. The bill requires 50 percent of the revenue from penalties imposed through use of a red light traffic enforcement system to be deposited into the account and appropriated only for distributions to trauma service area regional advisory councils to fund uncompensated care. Remaining revenue may be used only to fund traffic safety programs, public safety programs, intersection improvements, and traffic enforcement, and to cover certain costs of the enforcement system.

### **Senate Bill 1127**

**Effective:** 9-1-07

**Senate Author:** Hegar

**House Sponsor:** Cook, Robby

Senate Bill 1127 amends the Transportation Code to increase from \$50 to \$200 the maximum fine for an offense under the law governing county traffic regulations. The bill removes provisions establishing the maximum fine at \$200 if a person has one previous conviction of an offense under that law, and at \$500 for two previous convictions, and provides that if conduct that constitutes an offense under that law also constitutes an offense under any other law, the actor may be prosecuted under either law.

### **Senate Bill 1723**

**Effective:** 9-1-07

**Senate Author:** Ogden

**House Sponsor:** Krusee

Senate Bill 1723 amends provisions of the Transportation Code relating to the collection of surcharges assessed under the driver responsibility program to authorize the Department of Public Safety to:



- reestablish an installment plan for payment of a surcharge after a person fails to make a required installment payment;
- modify a contract or enter into additional contracts to collect uncollected surcharges, limiting compensation to the contractor to no more than 30 percent of the amount of the surcharges and related costs;
- establish a periodic amnesty program for a holder of a driver's license on which a surcharge has been assessed for certain offenses;
- offer incentives for compliance with the law and efforts at rehabilitation, including reducing a surcharge or decreasing the length of an installment plan; and
- establish an indigency program for surcharged drivers.

## State Highway System

### House Bill 53

**Effective:** 6-15-07

**House Author:** Chavez

**Senate Sponsor:** Shapleigh

House Bill 53 amends the Transportation Code to provide that a part of the highway system, including a bridge or street, may be designated by the name of a person only if the person is deceased and was significant in the state's history or in the lives of the people of Texas, and to provide that the name must be designated by statute. The bill also provides that the Texas Department of Transportation is not required to design, construct, or erect a marker to indicate a designation unless a grant or donation is made to cover the cost of the marker. House Bill 53 designates the following parts of the highway system by name:

- Loop 375 between Interstate Highway 10, rather than Zaragoza Avenue, and Santa Fe Street in El Paso County is designated as the Cesar Chavez Border Highway
- Interstate Highway 345 located in Dallas between Interstate Highway 30 and Spur 366 is designated as the Russell H. Perry Memorial Highway
- Loop 534 between Interstate Highway 10 and State Highway 173 located in Kerrville is designated as the Veterans Highway
- the portion of State Highway 37 located in Franklin County is designated as the Tom Ramsay Highway
- the portion of Farm-to-Market Road 2004 located in Brazoria County is designated as the Jason Oliff Memorial Highway
- U.S. Highway 90 from the Blue Star rest area southeast of Sanderson to the Val Verde County line is designated as the Honorable Stillman Dudley Harrison Highway
- the portion of State Highway 286 between State Highway 357 and Interstate Highway 37 in Corpus Christi is designated as Dr. Hector P. Garcia Memorial Highway

### House Bill 210

**Effective:** 6-15-07

**House Author:** Flynn et al.

**Senate Sponsor:** Deuell

House Bill 210 amends the Transportation Code to designate the portion of Interstate Highway 20 between the Dallas-Kaufman County Line and the Texas-Louisiana border as the Ronald Reagan Memorial Highway.

**House Bill 412**

**Effective:** 9-1-07

**House Author:** Eissler et al.

**Senate Sponsor:** Carona

House Bill 412 amends the Transportation Code to add allowing outdoor advertising to be erected or maintained on one's property to the offense of erecting or maintaining outdoor advertising in certain places. The bill also adds a district or county attorney to the persons authorized to sue to collect a penalty under the law governing nuisance outdoor advertising. The bill amends the law regulating outdoor signs to provide that a person who intentionally violates the law may be, rather than is, liable for a civil penalty and to provide that a civil penalty is to be deposited to the credit of the state highway fund if collected by the attorney general and to the credit of the county road and bridge fund if collected by a district or county attorney. The bill makes it a misdemeanor offense punishable by a prescribed fine to erect an off-premise sign without a permit. The bill also applies this offense and penalty to knowingly allowing an unauthorized sign to be erected on one's property and provides that before a suit may be brought against a property owner for a violation of this law, the attorney general or the district or county attorney must give the person charged with the violation written notice. House Bill 412 establishes a defense to prosecution for any offense relating to unauthorized outdoor signs on rural roads. The bill authorizes the attorney general or a district or county attorney to apply for an injunction to require the removal of an unauthorized sign and entitles the state or county to recover all administrative and legal costs related to the sign's removal. The bill adds an exemption for certain temporary signs approved by the Texas Department of Transportation to these provisions.

**House Bill 413**

**Effective:** 9-1-07

**House Author:** Eissler et al.

**Senate Sponsor:** Carona

House Bill 413 amends the Transportation Code to provide that a person who places or commissions the placement of an unauthorized sign on a state highway right-of-way or on the right-of-way of a public road may be liable for a civil penalty. The bill prescribes the amount of the penalty and provides for its collection and deposit. The bill adds an exception for certain directional and utility signs to the laws governing signs on state highway rights-of-way and on public rights-of-way and revises the defense to prosecution for a violation of these laws and other laws relating to highway beautification on state highway rights-of-way. The bill provides that a person commits an offense if the person places a sign in violation of the law governing outdoor signs on public rights-of-way, rather than the provision prohibiting certain sign placement. The bill amends the Government Code and the Code of Criminal Procedure to establish that a county court and a justice court each has concurrent jurisdiction with a municipal court in connection with the regulation of outdoor signs in a municipality's extraterritorial jurisdiction.

**House Bill 484**

**Effective:** 9-1-07

**House Author:** Veasey

**Senate Sponsor:** Brimer

House Bill 484 amends the Transportation Code to designate the portion of United States Highway 287 south of State Highway 180 to its intersection with Interstate Highway 820 in Tarrant County as the Dr. Martin Luther King, Jr., Freeway.

**House Bill 693**

**Effective:** 1-20-09

**House Author:** Paxton

**Senate Sponsor:** Carona

House Bill 693 amends provisions of the Transportation Code relating to "Welcome to Texas" signs erected by the Texas Department of Transportation (TxDOT) along certain highways. The bill deletes the phrase naming the current president from the list of required elements on such

a sign and prescribes the form of a sign if the president of the United States is a resident of Texas. The bill requires TxDOT to ensure that a sign erected before the effective date of this Act complies with this Act no later than September 1, 2009.

**House Bill 1521**

**Effective:** See below

**House Author:** Kolkhorst

**Senate Sponsor:** Hegar

House Bill 1521 amends the Transportation Code to apply the law prohibiting off-premise signs on certain highways in this state to certain highways in Austin County. The bill provides a means for an affected landowner to exclude the landowner's property from application of the law and requires notice of the prohibition and the right to exclude property to be published in a newspaper in the county or counties where the highways are located within 45 days of the bill's effective date. The bill takes effect September 1, 2007, and application of the law takes effect on the 91st day after the Texas Department of Transportation receives proof of the newspaper notice from all appropriate county clerks.

**House Bill 1947**

**Effective:** 9-1-07

**House Author:** Hodge et al.

**Senate Sponsor:** West, Royce

House Bill 1947 amends the Transportation Code to designate the structure on Interstate 30 in the city of Dallas connecting the east and west levee of the Trinity River as the Margaret McDermott Bridge.

**House Bill 2296**

**Effective:** 5-15-07

**House Author:** Krusee

**Senate Sponsor:** Watson

House Bill 2296 amends the Transportation Code to designate the part of State Highway 130 between Interstate Highway 35 and State Highway 195 in Williamson County and Interstate Highway 10 in Guadalupe County as the Pickle Parkway.

**House Bill 2859**

**Effective:** 6-15-07

**House Author:** Brown, Betty et al.

**Senate Sponsor:** Deuell

House Bill 2859 amends the Transportation Code to require the Texas Transportation Commission by rule to establish and administer a memorial sign program to publicly memorialize the victims of alcohol or controlled substance-related vehicle accidents. The bill requires the Department of Transportation to establish an application process and a fee for the placement of a memorial sign, specifies items to be included on a sign, and sets out criteria for the replacement of a damaged sign. The bill provides for a memorial sign to remain posted for one year and then be returned to the applicant.

**House Bill 2944**

**Effective:** 9-1-07

**House Author:** Murphy

**Senate Sponsor:** Whitmire

House Bill 2944 amends provisions of the Transportation Code relating to state control of outdoor advertising along interstate and primary highways under the law commonly known as the Texas Highway Beautification Act and along all other highways in Texas that are located outside of the jurisdiction of a municipality under the law commonly known as the Rural Roads Act unless a municipality has filed a written notice with the Texas Department of Transportation to allow state regulation of signs in its extraterritorial jurisdiction. The bill's provisions affect a municipality with a population of more than 1.9 million that is exercising its authority to regulate outdoor advertising or off-premise signs within its jurisdiction. The bill amends the Texas Highway Beautification Act to authorize the Texas Transportation Commission to issue a permit for outdoor advertising within the jurisdiction of such a municipality only if the

## Transportation

municipality has not acted to prohibit new outdoor advertising within its jurisdiction and has issued a permit authorizing the outdoor advertising. The bill amends the Rural Roads Act to prohibit the commission from issuing a permit for an off-premise sign within the jurisdiction of such a municipality if the municipality has acted to prohibit new off-premise signs within its jurisdiction. The bill's provisions do not apply to the required relocation of a sign due to the construction, reconstruction, or expansion of a highway.

### **House Bill 2991**

**Effective:** 6-15-07

**House Author:** Murphy

**Senate Sponsor:** Williams

House Bill 2991 amends the Transportation Code to provide that, except for limitations imposed by the law governing the precedence of a Texas Transportation Commission order relating to control of access to a controlled access highway, a county with a population of 3.3 million or more or an adjacent county by resolution or order may control access to a controlled access highway within the county. The bill specifies that this authority does not apply to the placement of or access to a utility facility in or near a highway right-of-way.

### **House Bill 3441**

**Effective:** 6-15-07

**House Author:** Phillips

**Senate Sponsor:** Estes

House Bill 3441 amends the Transportation Code to require the Texas Transportation Commission to adopt rules for determining eligible highways along which specific information logo signs, major shopping area guide signs, and tourist-oriented directional signs may be located. The bill also requires the commission by rule to establish criteria for determining if a geographic area contains a sufficient concentration of retail establishments to be considered a major shopping area and revises certain references to an eligible urban highway in connection with major shopping area guide signs.

### **Senate Bill 850**

**Effective:** 9-1-07

**Senate Author:** Duncan

**House Sponsor:** Darby

Senate Bill 850 amends the Transportation Code to designate portions of 10 highways in Texas from the Mexican border to the Oklahoma state border as the Ports-to-Plains Corridor.

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

House Bill 160 - Environment  
House Bill 2090 - Special Districts  
House Bill 2105 - Military Forces and Veterans  
House Bill 2282 - Military Forces and Veterans  
House Bill 2398 - Military Forces and Veterans  
House Bill 3190 - Public Education  
House Bill 3770 - Special Districts  
House Bill 3849 - Parks and Wildlife  
House Bill 3955 - Local Government  
Senate Bill 274 - Military Forces and Veterans  
Senate Bill 502 - Insurance  
Senate Bill 893 - Local Government

# Utilities

This chapter covers legislation relating to electric, natural gas, and telecommunications utilities, except for bills relating to clean coal projects, which are in the **Energy Resources** chapter. Bills relating to water supply utilities are in the **Water** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### **House Bill 735**

**Effective:** 9-1-08

**House Author:** Straus et al.

**Senate Sponsor:** Williams et al.

House Bill 735 amends the Utilities Code to repeal statutes relating to the telecommunications infrastructure fund (TIF). In so doing, the bill abolishes the TIF board that has overseen the fund and eliminates associated assessments that have provided fund revenue. Amendments and repealers affecting the Education Code, Government Code, and other provisions of the Utilities Code make conforming changes.

### **House Bill 2096**

**Effective:** 9-1-07

**House Author:** Quintanilla et al.

**Senate Sponsor:** Uresti

Current law relating to connecting utilities in counties within 50 miles of an international border prohibits a utility from serving or connecting any subdivided land with electricity or gas unless the entity receives from the commissioners court a certificate or determination that adequate water and sewer services have been installed to service the subdivision. House Bill 2096 amends the Local Government Code to authorize a utility that has not received such a certificate or determination to provide electricity or gas service to a single-family residential dwelling in a subdivision in such a county if certain conditions are met.

### **Senate Bill 495**

**Effective:** 4-13-07

**Senate Author:** Van de Putte et al.

**House Sponsor:** Straus

Current law allows a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electricity or natural gas to the public to enter into a hedging contract and related security and insurance agreements in relation to fuel oil, natural gas, and electricity, to protect against loss due to price fluctuations. Senate Bill 495 amends the Government Code to allow the same kinds of contracts and agreements in relation to coal and nuclear fuel. The bill conforms the definition of hedging to this change and expands it to encompass the buying and selling of futures, options, or similar contracts on the specified commodities and related transportation costs, rather than only on the specified commodity futures.

### **Senate Bill 947**

**Effective:** 9-1-07

**Senate Author:** Duncan

**House Sponsor:** Chisum

Senate Bill 947 amends the Property Code to increase the limit on the total amount of certain unclaimed money that local telephone exchange companies, combined, can transfer to a rural scholarship fund during a state fiscal year from \$400,000 to \$800,000.

### **Senate Bill 1430**

**Effective:** 5-22-07

**Senate Author:** Van de Putte

**House Sponsor:** Puente

Current law provides that, if a municipal utility system's revenue is used to secure payment of public securities issued or obligations incurred by the municipality, the utility system's

routine maintenance and operation expenses are a first lien against that revenue. Senate Bill 1430, applicable to a municipally owned electric or gas utility, amends the Government Code to specify that, in a municipality with a population of more than one million, funding for a bill payment assistance program for low-income system customers who have been threatened with service disconnection for nonpayment of bills is a necessary operations expense to be included in the other expenses in the first lien against system revenue.

## Electric Utilities

### House Bill 624

**Effective:** 6-15-07

**House Author:** King, Phil et al.

**Senate Sponsor:** Fraser

Current law authorizes electric power companies subject to industry restructuring to use securitization to recover immediately their stranded costs—the difference between the net book value and the market value of their electric generation assets—by issuing bonds and retiring the bonds gradually through transition charges assessed customers. House Bill 624 amends the Utilities Code to authorize use of securitization to recover certain other investments in addition to stranded costs. It includes an adjustment mechanism to enable the refunding of securitization bonds in the event that a non-stranded amount being securitized undergoes judicial review.

The bill requires an electric utility (EU) or transmission and distribution utility (TDU) to report to and obtain approval of the Public Utility Commission of Texas (PUC) before closing any transaction in which: (1) the EU or TDU will be merged or consolidated with another EU or TDU; (2) at least 50 percent of the stock of an EU or TDU will be transferred or sold; or (3) a controlling interest in or operational control of either will be transferred. The PUC must approve a transaction if it finds that the transaction is in the public interest, considering the effects on electric service reliability, availability, or cost. The bill exempts from the reporting and approval requirement any transaction for which a definitive agreement was executed before April 1, 2007, if the EU, the TDU, or the acquisition or merger party made a filing before May 1, 2007, pursuant to certain other transaction reporting requirements currently in the Utilities Code. However, if any of those entities files with the PUC a stipulation, representation, or commitment in advance of or as part of a transaction report filing, whether the transaction report filing is made as required under the bill or under the current Utilities Code provision, the bill authorizes the PUC conditionally to enforce the stipulation, representation, or commitment.

### House Bill 1090

**Effective:** 9-1-07

**House Author:** Swinford et al.

**Senate Sponsor:** Jackson, Mike

House Bill 1090 amends the Agriculture Code to require the Texas Department of Agriculture (TDA) to develop and administer an incentive program to make grants to farmers, loggers, and other parties who divert agricultural biomass, forest and urban wood waste, or storm-generated biomass debris to recipient facilities in a form suitable to generate electricity. The recipient facility must be located in Texas, be placed in service after August 31, 2009, generate electricity sold to a third party, meet certain emission control requirements, and be in compliance with its Texas Clean Air Act operating permit. The bill requires the Public Utility Commission of Texas (PUC) and Texas Commission on Environmental Quality (TCEQ) to assist the TDA in determining whether a facility qualifies. Grants are \$20 per suitable bone-dry ton, or more if the agriculture commissioner determines that a higher amount is necessary to provide an adequate incentive. The facility operator pays the farmer, logger, or other diverter, and in turn is reimbursed by the TDA on a quarterly basis. Such grants may not exceed \$30 million statewide, or \$6 million to any one facility operator, per fiscal year. The bill authorizes additional TDA

grants to recipient facilities for similar biomass or waste that arrives in unsuitable form but is processed to enable its use for electricity generation. It also directs the agriculture commissioner, in consultation with the Texas Forest Service, to study and report on the volume of wood waste in East Texas and Central Texas forest regions.

Additionally, the bill amends Utilities Code provisions relating to the state's renewable portfolio standard (RPS) program and to the renewable energy credits (RECs) that are earned by generators of renewable-source electricity and marketed primarily to retail electric providers (REPs) and investor-owned utilities (IOUs) to retire their annual RPS obligations. The bill provides that RECs that are retired (e.g., by a municipal utility with no RPS obligation but with a "green" electricity program) do not subtract from anyone else's RPS obligations, and thus do not subtract from the share of Texas-generated electricity that is required to come from renewables. On the other hand, if an entity subject to RPS obligations serves a customer, such as an industrial customer, at transmission-level voltage, and the customer elects not to support RPS goals for a particular year, then that customer's electricity load is deleted from the calculation of the entity's RPS obligations. An entity with an RPS obligation may elect to make an alternative compliance payment rather than purchasing and retiring RECs. The bill gives the PUC the responsibility to establish alternative compliance payment amounts, within specified ranges and taking into account certain factors including the effects on retail electric competition, electricity rates, and the REC market.

**House Bill 1386**

**Effective:** 9-1-07

**House Author:** King, Phil

**Senate Sponsor:** Fraser

House Bill 1386 amends the Utilities Code to establish a mechanism to fund the eventual decommissioning of future nuclear power plants that are constructed in Texas. The mechanism applies only to the first six nuclear generating units that are under construction by January 1, 2015, for which the power generation company (PGC) that owns or shares in ownership of the units opts to use the prescribed mechanism. The bill expressly states that its provisions do not require a PGC to use a state-approved method, if in some other way the PGC satisfies the decommissioning financing requirements of the federal Nuclear Regulatory Commission (NRC).

Under the bill, a PGC that owns or shares in ownership and opts for the mechanism makes annual payments from its wholesale electric power supply revenue to cover, as those payments accumulate, its estimated decommissioning costs or its proportionate share of those costs. Payments go into a decommissioning trust fund administered by the nuclear generating unit PGC owner. The bill establishes procedures by which the Public Utility Commission of Texas (PUC) periodically reviews funding amounts and PGC obligations and may order revisions to the annual contributions. Besides the trust fund, a PGC separately must provide financial assurances that up to 16 years worth of decommissioning funding will be available if the PGC defaults on its annual trust fund obligation. In certain circumstances in which the PGC's financial assurances prove inadequate, retail electric customers may become responsible for the shortfall, but if those circumstances happen while the unit is still operational, the PGC or any new owner of the unit must repay those customers. The bill provides that a PGC's obligation to fund a trust fund is not dischargeable in bankruptcy. It requires the PUC, in conjunction with the NRC, to investigate the development of a mechanism whereby the State of Texas could ensure that decommissioning funds will be obtained when necessary in the same manner as if the State of Texas were the nuclear generating unit licensee under federal law.

**House Bill 2713**

**Effective:** Vetoed

**House Author:** Bonnen et al.

**Senate Sponsor:** Averitt

House Bill 2713 creates an interim special committee on electric energy generation capacity and environmental impact to study the state's future demand for electric generation capacity and the effects on the environment of existing electric generating facilities and to develop long-term electric energy and environmental impact plans. The bill also requires the Public Utility Commission of Texas to conduct a study on the potential of electric energy storage devices to benefit the operation of transmission and distribution systems and to authorize one or more electric utilities or transmission utilities to operate related demonstration projects.

Reason Given for Veto: "House Bill No. 2713 proposes legislative review of existing generation facilities, which would be duplicative. The Texas Commission on Environmental Quality already reviews existing generation facilities to ensure they meet the environmental quality standards set forth in state law. The Speaker and Lieutenant Governor can independently assign interim studies to their standing committees if they so choose."

**Senate Bill 484**

**Effective:** 5-23-07

**Senate Author:** Fraser et al.

**House Sponsor:** King, Phil

Senate Bill 484 amends the Utilities Code to alter the composition and duties of the Electric Utility Restructuring Legislative Oversight Committee. The bill provides for the chairs of the Senate Committee on Natural Resources and the Senate Committee on Business and Commerce to serve as ex officio members in lieu of two of the three senators previously appointed by the lieutenant governor and designates the latter as committee joint chair. The bill requires the committee to meet at least twice annually to encourage cooperation and coordination with the Public Utility Commission of Texas, Texas Commission on Environmental Quality, Railroad Commission of Texas, Electric Reliability Council of Texas, and comptroller's office. The bill further requires the committee to study and pursue policies and strategies to ensure that available fuel sources are used in a balanced and efficient manner while taking into consideration the reliability, economic viability, and environmental impact of new fuels and electric generation technologies, and requires the committee to report biennially to the governor, lieutenant governor, and speaker of the house on its activities in this regard.

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

House Bill 3693 - Energy Resources



# Water

This chapter covers legislation relating to water planning, development, conservation, finance, and use, as well as legislation relating to water and sewer supply service. Bills on water quality protection are in the **Environment** chapter, and those relating to water districts are in the **Special Districts** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

**House Bill 1656**  
**Effective:** 06-15-07

**House Author:** Puente  
**Senate Sponsor:** Averitt

State law requires a person to hold a license issued by the Texas Commission on Environmental Quality (TCEQ) to connect an irrigation system to a private or public water supply, or to sell, design, install, maintain, alter, repair, service, or act as a consultant in relation to an irrigation system. House Bill 1656 amends the Water Code and Local Government Code to allow water districts and municipalities with a population of 20,000 or more to require an installer of irrigation systems to obtain such a license and to obtain a permit before installing a system within the water district or the territorial limits or extraterritorial jurisdiction of the municipality. These provisions do not apply to an on-site sewage disposal system or to an irrigation system that is used on or by an agricultural operation or that is connected to a groundwater well used by a property owner for domestic use. The bill amends the Occupations Code to require a TCEQ license for a person to inspect an irrigation system for a water district or for a municipality of any population size. A person is ineligible for an inspection license if he or she engages in or has a financial interest in an entity that engages in any of the other types of irrigation system activities for which a TCEQ license is required.

**House Bill 3769**  
**Effective:** 6-15-07

**House Author:** Puente  
**Senate Sponsor:** Averitt

Provisions of the Water Code prohibit membership on the Texas Water Development Board (TWDB) or Texas Commission on Environmental Quality (TCEQ) by anyone who is employed by or participates in the management of an organization that is regulated by or receives money from the TWDB or TCEQ, respectively. House Bill 3769 amends the two Water Code provisions to specify that the prohibitions do not apply to an employee of a political subdivision unless, in the case of the TCEQ, the U.S. Environmental Protection Agency determines that a lifting of the prohibition will have a negative impact on the delegation to the state of responsibility for the National Pollution Discharge Elimination System.

**Senate Bill 616**  
**Effective:** 9-1-07

**Senate Author:** Duncan  
**House Sponsor:** Puente

Senate Bill 616 amends the Water Code to authorize the Texas Water Development Board to acquire, apply for, register, secure, hold, protect, and renew patents, copyrights, trademarks, and other intellectual property rights. It authorizes the board to contract for the use or distribution of its intellectual property, to receive compensation under such a contract, and to waive, increase, or reduce the amount of compensation if doing so furthers a goal or mission of the board and results in a net benefit to the state.

**Senate Bill 1383**

**Effective:** 6-15-07

**Senate Author:** Seliger

**House Sponsor:** Smithee

Senate Bill 1383 amends Water Code general-law provisions relating to groundwater conservation districts with respect to impermissible water well activities and their deterrence or redress by means of a citizen suit. It puts operating a well or wells without a permit on par with drilling a well or wells without a permit, declaring such activity likewise to be illegal, wasteful, and a nuisance. The bill limits lawsuits to adjacent landowners or others who have a right to produce groundwater from adjacent land, whereas previous law allowed a lawsuit by anyone who had an estate in adjacent land. An aggrieved party, before filing suit, must first file a written complaint with the district having jurisdiction. The bill requires the district to investigate the complaint and, after notice and hearing, to determine within 90 days after the date of complaint whether a district rule has been violated. The aggrieved party can only file suit after this 90-day period, unless the suit is to restrain or enjoin the drilling or completion of an illegal well, in which case the suit can be filed once the complaint is lodged but without waiting for 90 days to pass.

**Water and Sewer**

**House Bill 147**

**Effective:** 9-1-07

**House Author:** Phillips

**Senate Sponsor:** Seliger

House Bill 147 amends the Water Code to authorize the Texas Commission on Environmental Quality (TCEQ), for certain types of administrative penalties imposed against a municipally owned utility or a water supply or sewer service corporation, to defer payment of all or part of the penalty on the condition that the entity complies with all provisions for corrective action ordered by the TCEQ. The bill applies the same payment deferral terms for the same types of penalties imposed against certain water or similar special districts, excluding navigation districts, port authorities, and some groundwater conservation districts. The bill establishes factors to be considered by the TCEQ in determining whether to defer an administrative penalty. At the TCEQ's discretion, a deferred penalty becomes due and payable on that agency's determination that the entity is not in compliance with an order for corrective action.

**House Bill 149**

**Effective:** 9-1-07

**House Author:** Phillips

**Senate Sponsor:** Estes

House Bill 149 amends the Water Code to require the Texas Commission on Environmental Quality (TCEQ) by rule to establish a procedure allowing a retail public utility that takes over the provision of services for a nonfunctioning retail water or sewer service provider to charge a reasonable rate to customers and to bill them at that rate immediately to recover service costs. The rules must provide a streamlined process that allows the takeover utility to apply to the TCEQ for a ruling on rate reasonableness. They must provide also for adequate consideration of interconnection costs and costs of bringing the inherited system into compliance with TCEQ rules. The bill requires the TCEQ to provide a reasonable period for the takeover utility to reach such compliance, during which the TCEQ may not impose a penalty for an inherited system deficiency.

**House Bill 1314**

**Effective:** 6-15-07

**House Author:** Bailey et al.

**Senate Sponsor:** Jackson, Mike

House Bill 1314 amends the Local Government Code to provide that a county may, in addition to other actions, finance the operation of a water or sewer utility system to serve

an unincorporated area. The bill lowers from 2.8 million or more to 2.0 million or more the county population threshold for determining which counties are authorized to provide a water or sewer utility system in an area within a municipality with the municipality's approval. The bill also authorizes a county with a population of 3.3 million or more to regulate certain water and sewer utility systems.

**House Bill 3353**  
**Effective:** 9-1-07

**House Author:** Haggerty  
**Senate Sponsor:** Shapleigh

House Bill 3353 repeals Water Code provisions enacted in 2005, applicable to a municipality and a nonprofit water supply or sewer service corporation located in a county with a population of 650,000 or more that is situated on an international border. The repealed provisions established procedures for dissolution of the corporation and the assumption of its water system, assets, and liabilities by the municipality.

**House Bill 3475**  
**Effective:** 9-1-07

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

House Bill 3475 amends the Local Government Code to authorize the county commissioners court of a county located on an international border, and in which a military installation and natural recreation area are located, to acquire, construct, or operate a water supply or sewage system to serve unincorporated areas of the county, and to enter a management or lease agreement with another public or private entity for the operation of such a system. The bill allows the county to own, operate, or maintain a water or sewer utility in the same manner as a municipality, but it does not authorize the county to sell water for a purpose other than local use, and it prohibits the county from constructing, operating, or maintaining a water supply or sewage system in an area previously served by such a system after the area is annexed by a municipality and the municipality begins providing water or sewer services to the area. The county may apply and receive grants or other assistance from a state or federal governmental entity to implement the new provisions.

**Senate Bill 1271**  
**Effective:** 6-16-07

**Senate Author:** West, Royce  
**House Sponsor:** Giddings

Previous law authorized a county with a population of 2.8 million or more and any adjoining county to provide for a water or sewer utility system within a municipality with the municipality's approval. Senate Bill 1271 amends the Local Government Code to change the county population threshold to two million or more and to apply this same population threshold change to associated authority to issue general obligation bonds and exercise eminent domain powers.

## **Water Planning, Development, and Conservation**

**House Bill 3**  
**Effective:** See below

**House Author:** Puente et al.  
**Senate Sponsor:** Averitt

House Bill 3 amends the Water Code to create a process for developing and adopting environmental flow standards for each of several Texas river basins and bay systems. The process involves participation by an environmental advisory group of agency and legislative officials, a Texas environmental flows science advisory committee, and, for each river basin and bay system, a stakeholders committee and an expert science team, toward the development of environmental flow regime recommendations. As defined in the bill, an environmental flow regime is a schedule of flow quantities, reflecting seasonal and yearly fluctuations and typically

varying geographically, to maintain aquatic-based habitats and a sound ecological environment. The bill requires the Texas Commission on Environmental Quality (TCEQ), by September 1, 2010, to adopt environmental flow standards for each river basin and bay system, taking into consideration specified criteria and other public interests and relevant factors, and to establish set-aside amounts of unappropriated water, if available, to be able to satisfy those standards to the maximum extent reasonable when considering human water needs. The standards and set-asides would then become relevant to certain water rights permitting. New water appropriations permits or new water rights amendments that increase the amount of surface water authorized to be stored, taken, or diverted are required to include a provision allowing the TCEQ to adjust permit or water right conditions in certain circumstances in support of instream flows (freshwater amounts moving along streams and rivers) or freshwater inflows (freshwater amounts entering bays and estuaries). The bill authorizes the TCEQ, in emergency situations, to make set-aside water temporarily available for other essential uses not related to environmental flows. It prohibits the issuance of a new water rights permit for environmental flows, although it allows the TCEQ to approve an application to amend an existing permit or certificate of adjudication to change the use to or add a use for such flows. The bill includes additional Water Code provisions relating to watermasters, studies of flow conditions, water rights held in the Texas Water Trust, penalties for unlawful water diversions, and other issues.

The bill also amends the enabling statute for the Edwards Aquifer Authority (EAA). It increases to 572,000 acre-feet the allowable annual withdrawals from the aquifer, matching the quantity for which permits have been issued, and eliminates provisions relating to the retirement of permits to achieve a lower maximum. The bill places pumpage restrictions applicable to drought conditions, previously contained in EAA rules, into the statute and strengthens those restrictions. The bill authorizes the EAA to undertake certain aquifer recharge activities and requires the EAA to develop a recovery implementation program to preserve endangered species in the Edwards Aquifer area through a consensus-based process involving certain state and federal agencies, a new steering committee and expert science committee, and interested stakeholders. Provisions of the bill relating to the EAA take effect June 15, 2007. The rest of the bill takes effect September 1, 2007.

**House Bill 4**

**Effective:** See below

**House Author:** Puente

**Senate Sponsor:** Averitt

House Bill 4 amends the Water Code to require the Texas Water Development Board (TWDB), contingent on the biennial availability of appropriations, to develop and implement a statewide water conservation public awareness program. The bill creates a Water Conservation Advisory Council to monitor that program, monitor certain target and goal guidelines for water conservation, develop and implement a water management resource library, monitor the implementation of water conservation strategies included in regional water plans, and study water conservation training certification issues, among other duties. The council must report biennially on the progress of state water conservation. The bill revises submission requirements for entities for which water conservation plans are mandated. It requires each entity that must submit such a plan to the TWDB, the TWDB executive administrator, or the Texas Commission on Environmental Quality (TCEQ) to report annually to the executive administrator on progress in implementing the plan, and requires a retail public utility that provides potable water service to 3,300 or more connections to submit a plan. The bill requires the executive administrator to review each plan and annual report for compliance with certain minimal requirements. Other provisions of the bill encourage voluntary land and water stewardship, the application of voluntary water-efficiency practices, and the use of the water loan assistance fund for water conservation.

House Bill 4 amends the Health and Safety Code to provide that, if a structure is connected to a public water supply system and has a rainwater harvesting system for indoor use, the system may be used only for nonpotable indoor purposes and the structure must have appropriate cross-connection safeguards. The Education Code is amended to require the Texas Higher Education Coordinating Board to encourage institutions of higher education to develop curriculum and provide instruction regarding on-site water reclamation system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down. The bill amends the Government Code to provide that State Energy Conservation Office (SECO) standards for new state buildings or major renovation projects must incorporate the same technologies for landscape watering and nonpotable indoor use if specified roof-size or other feasibility or practicality criteria apply. The bill makes minor amendments to the Occupations Code regarding TCEQ irrigator standards, and amends the Tax Code to establish a sales and use tax exemption for tangible personal property that is used specifically to process, reuse, or recycle wastewater from fracturing work on an oil or natural gas well. The provisions relating to SECO take effect September 1, 2009. The remainder of the bill takes effect June 15, 2007.

**House Bill 3776**  
**Effective:** 6-15-07

**House Author:** Puente  
**Senate Sponsor:** Wentworth

House Bill 3776 authorizes the Texas Water Development Board, notwithstanding an applicable deadline in the Water Code, to approve and include in the 2007-2012 state water plan the regional water plan submitted by the Region L regional water planning group. Authority to approve the regional plan is contingent on the board including and deleting from the plan certain plan components specified in the bill.

**Senate Bill 3**  
**Effective:** See below

**Senate Author:** Averitt  
**House Sponsor:** Puente

Senate Bill 3, an omnibus water bill, incorporates substantially the same provisions as House Bill 3 relating to environmental flows and the Edwards Aquifer Authority, and provisions relating to water conservation and water management that are very similar to those of House Bill 4, as well as a number of additional provisions relating to the development, management, and preservation of state water resources.

Among the additional provisions, Senate Bill 3 amends the Water Code to designate river or stream segment sites recommended by the 2007 state water plan to be of unique ecological value and to designate reservoir sites recommended by that plan to be of unique value for the construction of a reservoir. A reservoir designation expires on September 1, 2015, unless a proposed project sponsor takes steps to make associated expenditures necessary for reservoir construction or to file associated applications for federal or state permits. Other reservoir provisions enable certain agricultural operations and certain utility service actions by political subdivisions to proceed, for the time being, within a designated reservoir site. Provisions that are applicable only to the proposed Marvin Nichols and Lake Fastrill reservoirs require at least one-fifth of associated water rights to be held by entities in the water planning region where the reservoir is located, and provide that if more than half the water is authorized for appropriation by entities elsewhere, those entities are responsible for reservoir costs until water diversions to the reservoir's own region begin.

The bill includes provisions to expedite the post-approval amendment of regional water plans, provided that specified criteria are met. It abolishes the Texas Water Advisory Council and repeals authority for a water import entity that never materialized. The bill requires the Texas Water Development Board (TWDB), in considering applications for certain types of

funding assistance, to give priority to funding for the implementation of water supply projects in the state water plan by entities that have already demonstrated significant water conservation savings or that will achieve significant savings via the projects. Other Water Code provisions of the bill relate to granting to municipalities certificates of convenience and necessity outside their extraterritorial jurisdictions, public participation in groundwater management in areas without a groundwater conservation district, groundwater permitting from certain wells in the Hill Country Groundwater Management Area, Lower Rio Grande water rights conversions from irrigation to municipal uses, a grace period to meet funding prerequisites in certain economically distressed areas, political subdivision powers under the National Flood Insurance Program, state mapping activities, water district and water supply corporation easements to facilitate renewable and clean coal energy projects and carbon sequestration activities, water district fee differentiation by customer class, water utility rate adjustments to reflect changes in energy costs, and contracts for consolidated billing of water and sewer services.

Senate Bill 3 establishes a Study Commission on Region C Water Supply, consisting of three members appointed by the Region C Regional Water Planning Group and three members appointed by the Region D Regional Water Planning Group. The bill requires the Brazos River Authority and the Lower Colorado River Authority to conduct a joint study of the economic development role of Lake Somerville, and requires the TWDB and the Region E Regional Water Planning Group to conduct a study of the possible impact of climate change on Rio Grande surface water supplies. It also creates a legislative joint interim committee to consider matters such as water infrastructure and water-related funding.

The bill amends the Education Code to create a Sustainable Water Supply Research Center at The University of Texas at Arlington. Amendments to the Local Government Code concern water-sewer cooperation between water service providers and certain municipalities, and the exemption of private institutions of higher education from certain water infrastructure fees.

The bill amends the Special District Local Laws Code to create the Tablerock Groundwater Conservation District and the True Ranch Municipal Utility District No. 1 in Coryell and Hays Counties, respectively, subject in each case to voter approval at a confirmation election. Other amendments to that code change the name of the La Joya Special Utility District to the Agua Special Utility District and address matters relating to its boundaries and governance. The bill amends the enabling law of the Culberson County Groundwater Conservation District to extend its boundaries to the entire county, subject to ratification by voters in the territory to be annexed.

Provisions relating to the river or stream segment and reservoir site designations, the proposed Marvin Nichols and Lake Fastrill reservoirs, the Region C study, the Edwards Aquifer Authority, the True Ranch Municipal Utility District No. 1, and the Agua Special Utility District take effect June 16, 2007. Certain provisions relating to the State Energy Conservation Office take effect September 1, 2009. The rest of Senate Bill 3 takes effect September 1, 2007.

**Senate Bill 662**  
**Effective:** 9-1-07

**Senate Author:** Wentworth  
**House Sponsor:** Hilderbran

Texas law provides that when a plat for the subdivision of a tract of land is submitted, and the source of water supply intended for the subdivision is groundwater under that land, a municipality or county may require the plat application to include a statement by an engineer or geoscientist certifying that adequate groundwater is available for the subdivision. Senate Bill 662 amends the Local Government Code to authorize the Texas Commission on Environmental Quality, in consultation with the Texas Water Development Board (TWDB), to require a person who submits such a plat to transmit to the TWDB, and to any groundwater conservation district (GCD) that

includes any part of the subdivision, information that would be useful in performing GCD activities, conducting regional water planning, maintaining the state's groundwater database, or conducting studies for the state related to groundwater.

**Senate Bill 1762****Effective:** 6-16-07**Senate Author:** Shapleigh**House Sponsor:** Guillen

Senate Bill 1762 requires the Texas Water Development Board, in coordination with the Far West Texas Regional Water Planning Group, to conduct a study of the possible impact of climate change on surface water supplies from the Rio Grande. The bill requires the board to convene a regional conference on the subject, with participants to include representatives of the Far West Texas Regional Planning Group, water authorities, industrial customers, agricultural interests, municipalities, fishing or recreational interests, environmental advocacy organizations, and institutions of higher education. It sets out an agenda for that conference and requires the board to report its findings to the legislature not later than December 31, 2008.

**Senate Joint Resolution 20****For Election:** 11-6-07**Senate Author:** Lucio et al.**House Sponsor:** Chavez et al.

Senate Joint Resolution 20 proposes an amendment to the state constitution to authorize the Texas Water Development Board (TWDB) to issue additional general obligation bonds in an amount not to exceed \$250 million to provide assistance to economically distressed areas of the state as defined by law. The proposed amendment specifies that certain constitutional provisions relating to payment of the principal of and interest on TWDB bonds apply to the bonds authorized by this amendment.

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

House Bill 3098 - Environment

Senate Bill 831 - Energy Resources





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