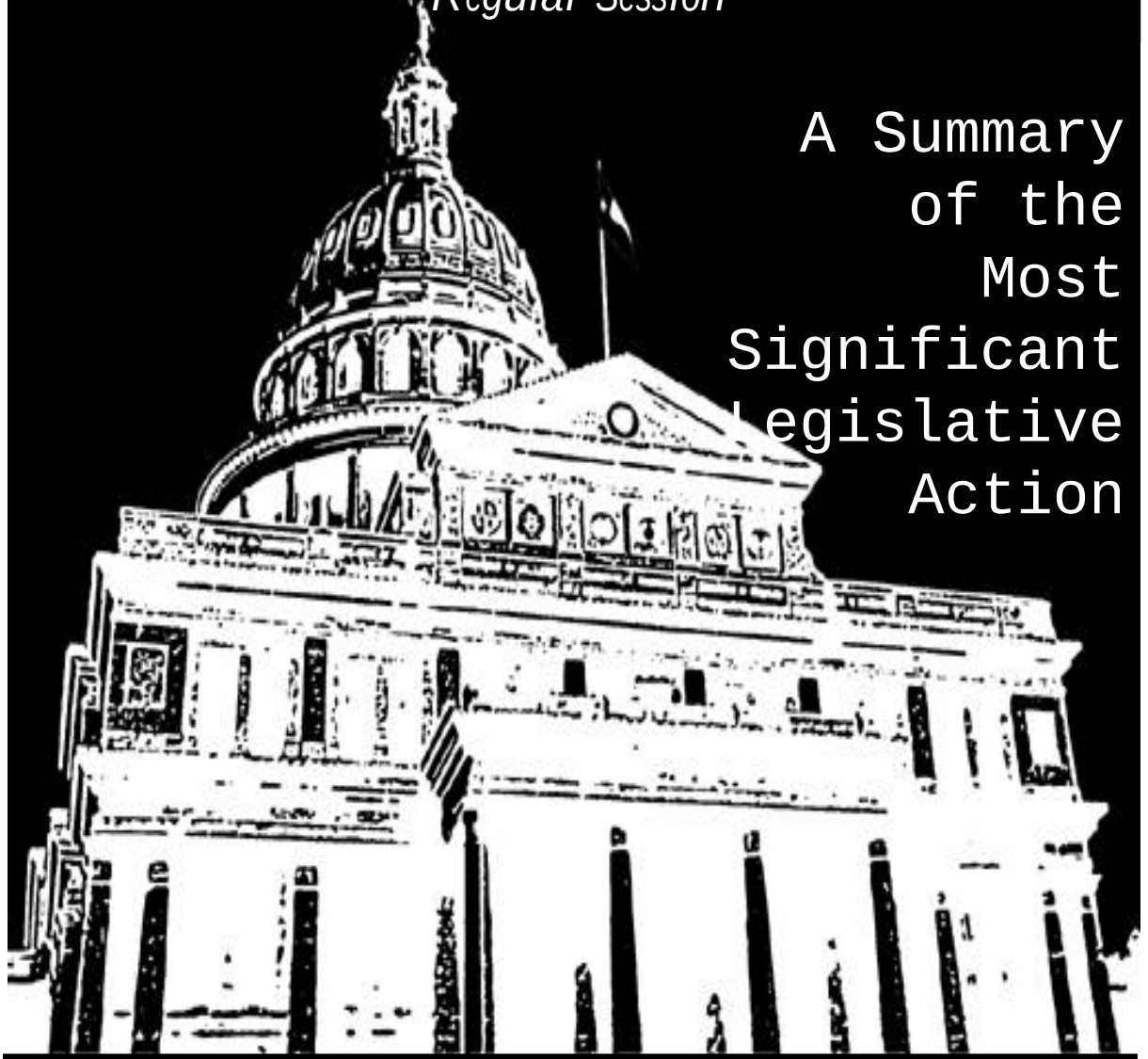
*July 1999*

# *Highlights of the 76th Texas Legislature*

*Regular Session*



## A Summary of the Most Significant Legislative Action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## GENERAL APPROPRIATIONS ACT - H.B. 1

*by Representative Junell*
*Senate Sponsor: Senator Ratliff*

Final recommended appropriations for the 2000-01 biennium total $98.1 billion from all fund sources — a $9.6 billion, or 10.9 percent increase in state funding from the 1998-99 biennial level. Emergency appropriations made during the 76th Legislature are included in the totals for the 1998-99 biennium. *(Figures 1 & 2)*

General revenue funding, including funds dedicated within the general revenue fund, totals $61.4 billion for the 2000-01 biennium, a $7.2 billion, or 13.2 percent increase over the 1998-99 level. State-funded education received the largest share of general revenue funding equal to $37.7 billion, or 61.5 percent, for 2000-01. *(Figures 3 & 4)*

H.B. 1 provides for a reduction of 789 full-time equivalent (FTE) positions from 227,960 total FTEs in 1999 to 227,171 total FTEs in 2001. This budget also includes $344 million for a $100 per month state employee pay raise. A pay raise is also included for teachers and peace officers.

The budget proposed by H.B. 1 stays within the four spending limits required by the constitution: the "pay-as-you-go" or balanced budget limit, the limit on the rate of growth of appropriations from certain state taxes, the limit on welfare spending, and a limit on tax-supported debt.

The recommended appropriations include $458.1 million in General Revenue-Dedicated Tobacco Settlement Receipts (made up of endowment distributions and direct appropriations detailed below) collected from the 1998 Comprehensive Tobacco Settlement. Total tobacco settlement receipts for the 2000-01 biennium are expected to be $1.8 billion. A significant part of those receipts will be dedicated to health-related endowments. The distributions from these endowments total $149 million for the 2000-01 biennium. Another portion, $309.1 million, of tobacco settlement receipts is in the form of direct appropriations. Numerous health programs are to be funded from these appropriations; the largest programs include CHIP (the Children's Health Insurance Program) ($179.6 million), Department of Health chest hospitals ($35 million), new generation medications for mental health clients ($30.5 million), and community mental health services for children ($15 million).

Tobacco settlement endowed funds include the following: endowments at 13 health-related institutions ($595 million); a Permanent Health Fund for Higher Education ($350 million); a Tobacco Education and Enforcement endowment ($200 million); a Permanent Fund for Children and Public Health ($100 million); a statewide Emergency Medical Services and Trauma Care endowment ($100 million); a Permanent Fund for Rural Health Facility Capital Improvement ($50 million); a Permanent Fund for Nursing Allied Health and Other Health-related Programs of general academic institutions ($45 million); a Permanent Fund for Minority Health Research and Education ($25 million); and a Community Hospital Capital Improvement Fund ($25 million).

*Figure 1*
**ALL FUNDS 2000-01 BUDGET: $98.1 BILLION**
**PERCENT OF BUDGET BY FUNCTION**

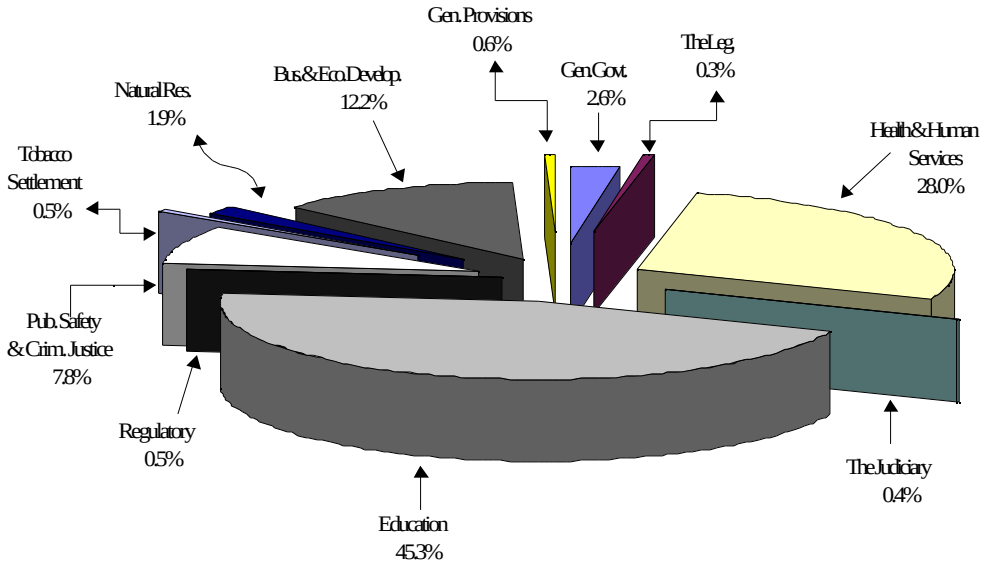


*Figure 2*
**COMPARISON OF ALL FUNDS**
**2000-01 BUDGET RECOMMENDATIONS TO 1998-99**

| Appropriation Areas | 1998-99 Biennium (in $millions) | 2000-01 Biennium (in $millions) | Biennial Change (in $millions) | Percent Change (%) |
|---|---|---|---|---|
| General Government | 2,062.2 | 2,508.9 | 446.7 | 21.7 |
| Health & Human Services | 26,370.4 | 27,436.9 | 1,066.5 | 4.0 |
| Education | 38,970.4 | 44,483.2 | 5,512.8 | 14.1 |
| *Public Education* | *26,745.1* | *31,099.3* | *4,354.2* | *16.3* |
| *Higher Education* | *12,225.3* | *13,383.9* | *1,158.6* | *9.5* |
| The Judiciary | 321.9 | 360.4 | 38.5 | 12.0 |
| Public Safety & Criminal Justice | 7,331.6 | 7,645.1 | 313.5 | 4.3 |
| Natural Resources | 1,708.6 | 1,867.2 | 158.6 | 9.3 |
| Business & Economic Development | 10,965.9 | 12,012.7 | 1,046.8 | 9.5 |
| Regulatory | 424.2 | 470.3 | 46.1 | 10.9 |
| General Provisions | 110.9 | 614.6 | 503.7 | 454.1 |
| The Legislature | 245.7 | 264.7 | 19.0 | 7.7 |
| **Total** | **88,511.8** | **97,664.1** | **9,152.3** | 10.3 |
| Tobacco Settlement | 0.0 | 458.1 | 458.1 | na |
| **Grand Total** | **88,511.8** | **98,122.2** | **9,610.4** | 10.9 |

1998-99 amounts include emergency appropriations in S.B. 472.
Totals may not add due to rounding.
Source: Legislative Budget Board

*Figure 3*

**GENERAL REVENUE & GENERAL REVENUE-DEDICATED FUNDS/2000-01 BUDGET: $61.4 BILLION—PERCENT OF BUDGET BY FUNCTION**

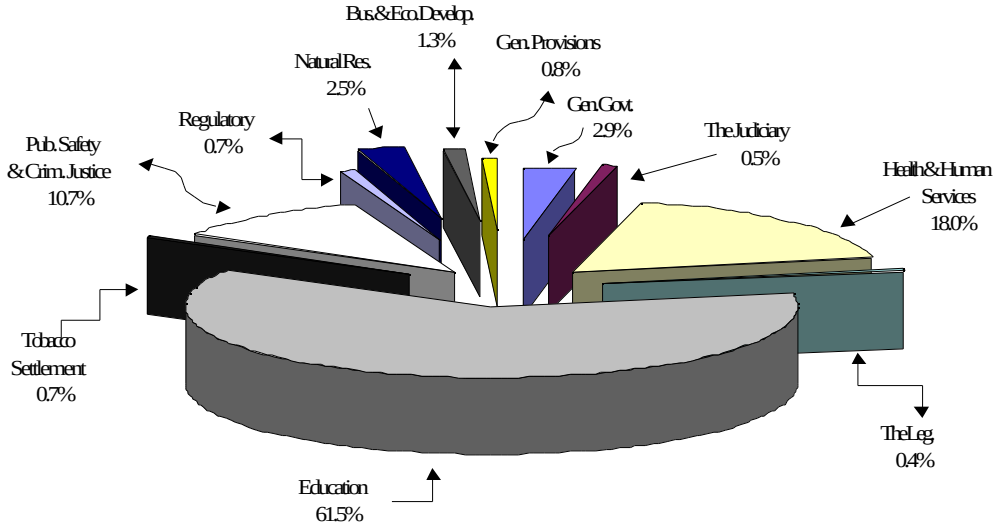


*Figure 4*

**COMPARISON OF GENERAL REVENUE & GENERAL REVENUE-DEDICATED FUNDS 2000-01 BUDGET RECOMMENDATIONS TO 1998-99**

| Appropriation Areas | 1998-99 Biennium (in $millions) | 2000-01 Biennium (in $millions) | Biennial Change (in $millions) | Percent Change (%) |
|---|---|---|---|---|
| General Government | 1,466.8 | 1,762.0 | 295.2 | 20.1 |
| Health & Human Services | 10,641.6 | 11,061.4 | 419.8 | 3.9 |
| Education | 32,914.0 | 37,749.3 | 4,835.3 | 14.7 |
| *Public Education* | *21,723.3* | *25,455.4* | *3,732.1* | *17.2* |
| *Higher Education* | *11,190.7* | *12,293.9* | *1,103.2* | *9.9* |
| The Judiciary | 284.0 | 312.3 | 28.3 | 10.0 |
| Public Safety & Criminal Justice | 6,055.4 | 6,587.2 | 531.8 | 8.8 |
| Natural Resources | 1,387.5 | 1,517.3 | 129.8 | 9.4 |
| Business & Economic Development | 787.4 | 808.5 | 21.1 | 2.7 |
| Regulatory | 410.6 | 442.9 | 32.3 | 7.9 |
| General Provisions | 60.7 | 469.6 | 408.9 | 673.8 |
| The Legislature | 242.8 | 261.9 | 19.0 | 7.8 |
| **Total** | **54,250.8** | **60,972.3** | **6,721.4** | 12.4 |
| Tobacco Settlement | 0.0 | 458.1 | 458.1 | na |
| **Grand Total** | **54,250.8** | **61,430.4** | **7,179.5** | 13.2 |

1998-99 amounts include emergency appropriations in S.B. 472.
Totals may not add due to rounding.
Source: Legislative Budget Board

### FACTORS AFFECTING GROWTH IN THE STATE BUDGET

One important factor influencing the size of the state budget is the increase, or decrease, in certain populations. During the last ten years average daily attendance in the public schools has grown by 19 percent; higher education enrollment in state universities has decreased by 1.5 percent, but enrollment in community colleges has increased by 13.7 percent; average monthly caseloads for Temporary Assistance for Needy Families (TANF) have decreased by 38.6 percent; average monthly caseloads for nursing home clients have grown by 14.8 percent; average monthly caseloads for Medicaid clients have grown by 51.2 percent; inmate population in the Department of Criminal Justice has grown by 243.3 percent; and average population in Texas Youth Commission (TYC) institutions has grown by 175.4 percent. This growth in certain populations is just one factor affecting the budget; cost-related factors also have a strong impact on the size of the budget. *(See Table 1 below)*

***Table 1***
**Major Budget Indicators**
**1990 & 1999**

| Indicators | Actual 1990 | Estimated 1999 | Percent Change |
|---|---|---|---|
| Average Daily Attendance - Public Schools | 3,071,843 | 3,655,000 | 19.0 |
| Fall Headcount Enrollment - State Universities | 405,682 | 399,812 | -1.5 |
| Community / Junior College Fall Headcount Enrollment | 371,299 | 422,284 | 13.7 |
| Average Monthly Caseload - Temporary Assistance for Needy Families (TANF) Grants (Basic & UP) | 603,255 | 370,399 | -38.6 |
| Average Monthly Caseload - Nursing Home Clients (Excludes Hospice) | 59,753 | 68,609 | 14.8 |
| Average Monthly Caseload - Medicaid Clients | 1,202,108 | 1,818,018 | 51.2 |
| Inmate Population - Department of Criminal Justice | 42,520 | 145,972 | 243.3 |
| Average Daily Population - Texas Youth Commission Programs | 1,996 | 5,497 | 175.4 |

Source: Legislative Budget Board

### PERFORMANCE MEASURES & PERFORMANCE TARGETS

There are four types of performance measures used in the appropriations process: "Outcome" (e.g., results/impact), "Output" (e.g., volume), "Efficiency," and "Explanatory," each serving a different purpose. For key outcome, output, and efficiency measures, a performance target is established for each year of the biennium for which funds are appropriated ("key" measures are those which appear in the General Appropriations Act). The recommended appropriations for the 2000-01 biennium contain 2,151 key performance measures, which represent a 22.5 percent reduction in the total number of key measures from the 1998-99 biennial level, and a 29.4 percent

reduction from the 1996-97 biennial level. The reduction of measures implements recommendations provided to the 76th Legislature by the Senate Interim Finance Committee, and was the focus of one of its interim studies.

***Table 2***
**Performance Measures by Type**

| Type of Measure | 1994-95 Appropriated | 1996-97 Appropriated | 1998-99 Appropriated | 2000-01 Recommended |
|---|---|---|---|---|
| Outcome (Results/Impact) | 1,134 | 1,083 | 1,018 | 902 |
| Output (Volume) | 1,279 | 1,345 | 1,123 | 828 |
| Effiency | 424 | 443 | 490 | 300 |
| Explanatory | 24 | 175 | 143 | 121 |
| **Totals** | **2,861** | **3,046** | **2,774** | **2,151** |

Source: Legislative Budget Board

### GENERAL GOVERNMENT

General government agencies include the Office of the Governor, and the administrative support agencies of state government such as the Comptroller of Public Accounts, Attorney General's Office, General Services Commission, and other agencies. All funds recommendations for general government total $2.5 billion, an increase of $446.7 million, or 21.7 percent, when compared to the 1998-99 biennium. General revenue and general revenue-dedicated funds appropriations total $1.8 billion, an increase of $295.2 million, or 20.1 percent, when compared to the 1998-99 biennium.

- ◊ Provides a $50 million increase to the Historical Commission for the Texas Courthouse Preservation initiative.
- ◊ Provides a $63 million increase for the Attorney General's Child Support Enforcement Program, including $51.7 million for implementation of federal welfare reform requirements and $11.3 million and 114 FTEs for improved customer services.
- ◊ Provides $13.5 million for increases in medical and indemnity payments to injured state workers and to offset an expected funding shortfall in FY 1999.
- ◊ Reappropriates $26 million to the Preservation Board for completion of the State History Museum, and $3.7 million for the renovation and operation of the Pease Mansion.
- ◊ Provides a $2.4 million increase to the Advisory Commission on State Emergency Communications to fund implementation of Phase I of 9-1-1 wireless enhancements.

**HEALTH & HUMAN SERVICES**

The second largest function of government supported by the state budget is health and human services, which amounts to $27.4 billion of all funds, an increase of $1.1 billion, or 4 percent, above the 1998-99 biennium. General revenue and general revenue-dedicated funds appropriations to health and human services total $11.1 billion, which represents an increase of 3.9 percent above the 1998-99 level.

- ◊ $179.6 million is provided to the Health and Human Services Commission for CHIP from tobacco settlement receipts.
- ◊ Recommended TANF Federal Funds total $1.2 billion, and available balances in TANF funds are projected to be $109.7 million at the end of the 2000-01 biennium, which can be carried forward to years in which the block grant is scheduled to be decreased.
- ◊ Provides an increase of $145.8 million for Child Protective Services (CPS) to reduce the number of cases per CPS worker, to reduce the number of CPS workers per supervisor, to increase salaries for CPS workers, to improve assessments during investigations, to purchase additional services, and to increase foster care rates. The funding also provides an increase to the CPS FTE cap by 160 positions.
- ◊ Funding for the Texas Medicaid Program within Article II agencies appropriations totals $18.8 billion, an increase of $838.8 million over the 1998-99 level, with $7.2 billion in general revenue funds and $11.6 billion in federal funds.
- ◊ Adds $63.4 million to the Women, Infants and Children (WIC) program.
- ◊ Provides $235 million to the Department of Human Services for Community Care Services and Long-term Care Eligibility and Planning due to caseload growth and higher levels of client need.
- ◊ Maintains 1999 Nursing Facility and Hospice Payment rates by providing $196.1 million to the Department of Human Services. The funding will also fund increases in client levels of need and allow for caseload growth in the Hospice Program.
- ◊ Reflecting a less favorable Federal Medical Assistance Percentage, $49.7 million is appropriated to the Department of Human Services, with an equal reduction in federal funds.
- ◊ Provides an overall general revenue and general revenue-dedicated funds increase of $53.2 million to the Department of Mental Health and Mental Retardation (MHMR).
- ◊ Tobacco settlement receipts will provide $30.5 million for New Generation Medications to serve 5,208 clients per year. Additionally, H.B. 1 provides $35.8 million in general revenue funds to MHMR for New Generation Medications and support services for clients receiving them.
- ◊ In addition, TANF has been expanded to designate more general revenue as Maintenance of Effort and to designate TANF Federal Funds at the Department of Protective and Regulatory Services for foster care and staff. This change in state

spending patterns redirects up to $162.1 million in general revenue funds. The majority of increased funding, however, is associated with Medicaid costs. Funding for the Texas Medicaid program totals $18.8 billion, with $7.2 billion in GR Funds.

**EDUCATION**

Recommended all funds appropriations for education during the 2000-01 biennium are $44.5 billion, an increase of $5.5 billion, or 14.1 percent over the previous biennium. Public education will receive $31.1 billion, or 69 percent, of that amount. For general revenue and general revenue-dedicated funds, funding equals $37.8 billion, an increase of $4.8 billion or 14.7 percent above the previous biennium. This represents the largest increase in education funding in the state's history.

**PUBLIC SCHOOLS:** The Foundation School Program received an increase of $3.8 billion, which will be used to provide property tax relief, increase teacher salaries, and maintain equity in the school funding system. Funding is also provided for early education initiatives, after-school programs, and student retention programs. Other increases will help schools finance facilities, and compensate school districts experiencing a decline in property values.

- ◊ Provides funding for a $3,000 per year pay raise for every full-time public school teacher, librarian, school nurse, and school counselor in the state.
- ◊ Includes a $196 million increase in general revenue funding to meet the 1998-99 instructional facilities allotment program obligation and to provide funds for additional facilities projects.
- ◊ Adds $158 million to the textbooks and technology allotment.
- ◊ Provides $173 million for the Student Success Initiative.
- ◊ Includes $18 million for the expansion of the Reading Initiative, $2 million for the Ready to Read Program, and $12 million to implement the Master Reading Teacher Program.
- ◊ Directs $25 million to an after-school initiative targeted to students in areas with high rates of juvenile crime.
- ◊ Funds the social promotion program to provide accelerated instruction to students who fail the Texas Assessment of Academic Skills (TAAS) test and to prohibit a student who fails the test three times in the 3rd, 5th, or 8th grade from going on to the next grade, with certain exceptions.
- ◊ Funds are also provided for grants to districts to implement or expand Head Start, Pre-kindergarten, Kindergarten, and ninth grade dropout prevention programs.
- ◊ Contributions to the Teacher Retirement System retirement fund are increased by $250.4 million to account for payroll growth in public and higher education and the impact of legislation to increase teacher compensation.
- ◊ Provides $76.2 million to cover the projected deficit in the TRS-Care Health Insurance Trust Fund.

**Higher Education:** Higher education received $857 million for base operations through the funding formulas, new or enhanced special items, institutional enhancement, and other special needs.

- ◊ Provides a $78.6 million increase to general academic institutions for capital equity and excellence funds.
- ◊ Provides a $77.2 million increase to general academic institutions for new or enhanced special items.
- ◊ Provides a $71.7 million increase to general academic institutions for tuition revenue bond debt service requirements.
- ◊ Provides a $48.1 million increase to general academic institutions for formula funded items.
- ◊ Provides a $2 million "Institutional Enhancement" to each general academic institution.
- ◊ Provides $100 million for new student financial aid scholarship programs (Toward Excellence, Access, and Success; and Teach for Texas).
- ◊ Provides $30 million for the Tuition Equalization Grant Program.
- ◊ Reallocates $39 million appropriated in 1998-99 for salary increases and distributing amounts among the institutions through the funding formulas.
- ◊ Provides a $37.8 million increase to the nine health-related institutions, adopting new funding formulas for instruction, research, and infrastructure.
- ◊ Provides a $65.3 million increase to two-year institutions to fund the estimated 4.6 percent growth in enrollment.
- ◊ Provides a $58.5 million increase for the contact hour funding formulas at two-year institutions.

### THE JUDICIARY

The recommended all funds budget for the judiciary total $360.4 million, an increase of $38.5 million, or 12 percent, over the 1998-99 biennium. General revenue and general revenue-dedicated funds appropriations total $312.3 million, which is an increase of $28.3 million, or 10 percent, above the 1998-99 level.

- ◊ Includes $2 million to reduce the case backlog in the First, Fifth, and Fourteenth Courts of Appeals located in Dallas and Houston.

### PUBLIC SAFETY & CRIMINAL JUSTICE

All funds appropriations recommended for public safety and criminal justice total $7.6 billion, an increase of $313.5 million or 4.3 percent, over the 1998-99 biennium. General revenue and general revenue-dedicated funds appropriations total $6.6 billion, which is an increase of $531.8 million, or 8.8 percent, above the 1998-99 level.

- ◊ Provides a $2.4 million increase to the Alcoholic Beverage Commission for commissioned peace officer salaries.
- ◊ Includes a $54.7 million increase to the Department of Criminal Justice (TDCJ) to provide full 24-month operation of all correctional capacity added during the 1998-99 biennium.
- ◊ Provides a $65.4 million increase to TDCJ to operate two 660-bed and two 990-bed high security prisons scheduled for completion in FY 2000.
- ◊ Provides a $58 million increase to TDCJ for psychiatric and managed health care funding for offender population growth and for increased costs related to Hepatitis B, HIV, psychotropic medications, and the aging inmate population.
- ◊ A reduction of $36.3 million to TDCJ because of a decrease of contracted temporary correctional beds at county jails, due to new prison capacity becoming operational.
- ◊ Provides $1.2 million to TDCJ for commissioned peace officer salaries.
- ◊ Provides $35 million to the Department of Public Safety for commissioned peace officer salaries.
- ◊ Provides $38.4 million to TYC to annualize operating costs for facilities phased in during the 1998-99 biennium.
- ◊ Includes $22.6 million to TYC in general obligation bonds and $25.8 million in federal funds to construct 456 new single cell beds, 30 administrative segregation beds, and a new education building for198 students.
- ◊ Provides $8.7 million to TYC for juvenile correctional officer salaries.

### NATURAL RESOURCES

All funds recommendations for natural resources total $1.9 billion, an increase of $158.6 million, or 9.3 percent, over the 1998-99 biennium. General revenue and general revenue-dedicated funds appropriations total $1.5 billion, which is an increase of $129.8 million, or 9.4 percent, above the 1998-99 level.

- ◊ Provides $50 million to the Department of Agriculture for drought relief (i.e., boll weevil eradication).
- ◊ Provides a $23 million increase to the General Land Office for coastal erosion response.
- ◊ Provides an $8 million increase to the Texas Natural Resource Conservation Commission (TNRCC) to perform detailed water quality analyses.
- ◊ Provides a $5 million increase to TNRCC for implementation of the national estuary programs.
- ◊ Makes a final payment of $36 million for the settlement in *Tejas Testing Technology One, L.C., et al. v. The State of Texas, et al*.
- ◊ Provides an $8.8 million increase to TNRCC for implementation and planning under new federal air quality standards.

- ◊ Provides $29.9 million to the Parks and Wildlife Department for repairs, construction, maintenance, equipment, and operating needs.
- ◊ Provides $4.9 million to the Parks and Wildlife Department for commissioned peace officer salaries.
- ◊ Provides a $10.4 million increase to the Water Development Board for regional planning grants.

### BUSINESS & ECONOMIC DEVELOPMENT

All funds appropriations for business and economic development total $12 billion, an increase of $1 billion, or 9.5 percent, over the 1998-99 biennium. General revenue and general revenue-dedicated funds appropriations total $808.5 million, which is an increase of $21.1 million, or 2.7 percent, above the 1998-99 level.

- ◊ Provides an $8.5 million increase to the Department of Housing and Community Affairs for the Housing Trust Fund Program. Overall, federal funds available to the department are reduced by $58.9 million.
- ◊ Lottery Commission appropriations include a $5.6 million decrease due to a projected decline in revenues from lottery ticket sales.
- ◊ Provides a $1.2 billion federal funds increase to the Texas Department of Transportation for highway planning and construction.
- ◊ Provides an $87.8 million increase to the Workforce Commission for child care programs, and an additional $71.8 million for the federal Welfare-to-Work grant.

### REGULATORY

All funds appropriations for regulatory agencies total $470.3 million, an increase of $46.1 million, or 10.9 percent, over the 1998-99 biennium. General revenue and general revenue-dedicated funds appropriations total $442.9 million, which is an increase of $32.3 million, or 7.9 percent, above the 1998-99 level.

- ◊ H.B. 1 provides that most regulatory agencies are subject to a special provision requiring that agency revenues cover the cost of agency appropriations, as well as an amount equal to other direct and indirect costs appropriated elsewhere in the General Appropriations Act.

## RIGHTS AND OBLIGATIONS RELATED TO LETTERS OF CREDIT - S.B. 85

*by Senator Carona*
*House Sponsor: Representative Smith*

This bill enhances the commercial acceptability of letters of credit by revising the Texas statute (Art. 5, Business and Commerce Code) to conform to the Uniform Commercial Code.

The provisions of the bill:

- ◊ clarify the legal obligation of issuers to pay promptly; and
- ◊ harmonize Texas law with modern commercial practices, including electronic communication.

## CREDIT UNION COMMISSIONER'S AUTHORITY TO BE EXPANDED - S.B. 891

*by Senator Harris*
*House Sponsor: Representative Marchant*

The Credit Union Commission periodically studies Texas statutes pertaining to credit union operations. As a result of such a study performed in 1998, the commission voted to recommend certain changes to be considered by the legislature. The purpose of S.B. 891 is to set forth the commission's recommendations. This bill also conforms various sections of the statutes with the General Appropriations Act, authorizing the credit union commissioner to enter into agreements with other state credit union supervisory agencies that share regulatory responsibility over credit unions with operations in multiple states, and to establish reporting requirements for foreign credit unions doing business in this state.

Requires the Credit Union Commission (department) to set the compensation of the credit union commissioner and the deputy credit union commissioner, according to the General Appropriations Act.

Authorizes the commissioner to enter into an agreement with any credit union supervisory agency regarding the examination or supervision of branch offices of credit unions chartered in this state and doing business in other states and foreign credit unions doing business in this state. Authorizes the commissioner to accept examinations or reports from other credit union supervisory agencies.

Authorizes the commissioner to enter into any cooperative arrangement with other credit union supervisory agencies to promote the effective regulation of state credit unions doing business across state lines, including contracting to use another agency's examiners, allowing for the use of the examiners of this state by another agency, or collecting fees on behalf of or receiving payments through another agency.

Authorizes the commissioner to file a consolidated group return form with the Internal Revenue Service on behalf of all credit unions under the department's jurisdiction. Sets forth procedural requirements to be included in the group return.

Prohibits a person who is not an authorized credit union or related entity from using a name or title containing the words "credit union" or any derivation of that term that indicates or implies or is calculated to lead a person to believe that certain business being conducted is the type of business carried on or transacted by a credit union.

Authorizes the commission to require a foreign credit union operating in this state to submit periodic reports. Requires the reports to be provided by the foreign credit union or by the credit union supervisory agency having primary responsibility for that credit union. Sets forth reporting requirements.

Requires a credit union to submit to the department on a semiannual basis a call report that states the credit union's financial condition. Provides that a credit union is authorized to provide insurance for the benefit of its members in accordance with applicable law or rules adopted by the commission. Authorizes a credit union to engage in any other type of financing transaction authorized by applicable law or rules adopted by the commission, rather than in accordance with applicable law.

## SECURED TRANSACTION LAW REVISIONS - S.B. 1058

*by Senator Carona*
*House Sponsor: Representative Solomons*

This bill is designed to update Chapter 9 of the Business and Commerce Code, which is based on Article 9 of the Uniform Commercial Code.

Amends Chapter 9 of the Business and Commerce Code to expand the scope of its application, to adjust many provisions to reflect modern financing practices, and to acknowledge technological advances made since Chapter 9 was originally adopted in 1967.

Provides that the bill has an effective date of July 1, 2001, a date chosen by the national drafting committee to encourage simultaneous entry into force throughout the United States.

Provides that a written electronic security agreement sent from within or received in this state in connection with a transaction governed by this chapter is considered signed if a digital signature is transmitted with the communication.

Provides that the section allowing digital signatures becomes effective August 30, 1999.

## REGULATION OF MORTGAGE BROKERS AND LOAN OFFICERS - S.B. 1074

*by Senator Carona*
*House Sponsors: Representatives Averitt and Driver*

This bill requires the savings and loan commissioner to license mortgage brokers and loan officers, who are currently unlicensed, and lays out the requirements for licensing. These requirements include provisions relating to administration of the licensing program, powers of the commissioner, qualifications, and license revocation and suspension.

## CREDIT CARD DELINQUENCY FEE INCREASED TO $15 - H.B. 744

*by Representative Eiland*
*Senate Sponsor: Senator Bernsen*

Currently, Texas law does not allow credit card issuers to charge an annual fee and limits fees for returned checks to $15. No other fees are authorized. Also, credit card issuers based in Texas may not charge interest at an annual rate that exceeds certain statutory percentages. H.B.744 provides that an interest rate would be identical to the interest rate on consumer installment loans, and establishes several authorized fees with a cap on each fee.

Sets forth fees to be charged to or collected from a customer in connection with an account. Prohibits a creditor from charging, contracting for, or receiving interest on authorized fees. Deletes text regarding a revolving credit account.

Prohibits the amount of a delinquency charge from exceeding $15, rather than $10. Requires the holder to remit 50 cents of each delinquency charge in excess of $10 collected to the comptroller for deposit to the credit of an account in the general revenue fund. Authorizes one-half of the money in the account to be appropriated only to finance research conducted by the finance commission and the other one-half of the money in the account to be appropriated only to finance educational activities and counseling services.

## NEW LAW REGULATES INTERSTATE BRANCH BANKING - H.B. 2066

*by Representative Marchant*
*Senate Sponsor: Senator Fraser*

In 1994, Congress passed the Interstate Banking and Branching Efficiency Act (Act). The Act created interstate branch banking for all states, unless a state chose to opt out before June 1, 1997. The Texas Banking Commissioner created the Interstate Branching Task Force to study all of the problems and issues associated with interstate branch banking, develop recommendations, and draft legislation in order to address outstanding issues.

H.B. 2066 establishes the regulation of bank holding companies in an interstate banking and branching environment, the authorization of interstate operations of financial institutions in accordance with the requirements of federal law, and the enhancement of state bank and trust company charters for the interstate banking and branching environment.

Sets forth conditions for legally operating an interstate branch considered to be in and chartered in this state, a multistate trust business, an interstate trust business of a state trust institution, and an out-of-state trust institution office.

Authorizes the banking commissioner, to the extent permitted by federal law, to enter into cooperative interactions with another bank supervisory agency.

Authorizes the commissioner, deputy commissioner, or an attorney with the Texas Department of Banking, through interpretive statements and opinions, to encourage the effective coordination and implementation of home state laws and host state laws with respect to interstate branching.

## INTERLOCAL AGREEMENTS WITH MEXICO - S.B. 77

*by Senator Truan, et al.*
*House Sponsor: Representative Cuellar*

Currently, United States law authorizes local governments and the state to enter into international interlocal agreements; however, local governments in Texas must have specific authorization to do so. Interlocal agreements allow local governments to contract to share responsibilities, functions, facilities, or funding. S.B. 77 addresses the scope and defines the terms of an interlocal agreement which may be entered into by a political subdivision or state agency with Mexico or the United Mexican States.

Establishes guidelines for international agreements between Texas state agencies or political subdivisions and the United Mexican States or Mexican political subdivisions.

Restricts a state agency or a political subdivision to enter such interlocal agreements that involve functions that the state agency or political subdivision is otherwise authorized to perform under state law.

Prohibits state agencies or political subdivisions from entering agreements that would create liability for this state or any of its agencies or political subdivisions on bonds or other obligations issued by the United Mexican States or its political subdivisions.

Enables a state agency or political subdivision to issue bonds or other evidence of indebtedness to finance an agreement, and specifies those state agencies that can issue bonds.

Requires the governor and the Legislative Budget Board to approve any agreement made by a state agency involving money appropriated from the state legislature.

## RESEARCH ON BORDER ENVIRONMENTAL ISSUES - S.B. 210

*by Senator Truan, et al.*
*House Sponsor: Representative Hinojosa*

Texas law requires the advanced research program to encourage and support basic research in certain subjects at state-funded colleges and universities. S.B. 210 makes an addition to the list of topics to be researched.

Adds environmental issues affecting the Texas-Mexico border region to the approved topics for the advanced research program.

Requires environmental issues affecting the Texas-Mexico border region to be included in the list of initial research areas of the advanced research program.

## AGENCY STRATEGIC PLANS TO REFLECT REGIONS SERVED - S.B. 501

*by Senator Shapleigh, et al.*
*House Sponsor: Representative Oliveira*

The Texas-Mexico border region is one of the most rapidly growing in the state and therefore has special needs for state agency services, programs, and staff. Under current law, state agencies do not maintain a tracking system of regional spending or regional services, making it difficult to ascertain how an agency's strategic plan is implemented. This bill adds to the elements required to be included in an agency's strategic plan the identification of each geographic region of the state, including the Texas-Louisiana border region and the Texas-Mexico border region. In addition, if appropriate, the plan should include the agency's means and strategies for serving each region. The bill also lists the counties to be included in the Texas-Louisiana and Texas-Mexico border regions.

## ENVIRONMENTAL PROJECTS IN MEXICO TO BENEFIT TEXAS - S.B. 828

*by Senator Shapleigh*
*House Sponsor: Representative Haggerty*

Texas law authorizes the Texas Natural Resource Conservation Commission (TNRCC) to charge administrative penalties for violations of environmental law or agency rules, based partly on the violator's willingness to contribute to a "supplemental environmental project."

S.B. 828 authorizes TNRCC to approve supplemental environmental projects located partially or wholly in the United Mexican States if the project substantially benefits territory in Texas.

## FUNDING FOR RIO GRANDE WATER CONSERVATION PROJECTS - S.B. 991

*by Senator Lucio*
*House Sponsor: Representative Counts*

Makes it possible for the Texas Water Development Board (TWDB), through the Texas Water Bank, to provide grants or loans to irrigation districts for water conservation projects in the Rio Grande Valley.

Authorizes the TWDB to charge a transaction fee per transfer not to exceed one percent of the value of the water or water rights received into, or transferred from, the Water Bank to cover expenses of the board in operating the water bank.

Authorizes the TWDB to take all actions necessary to operate the Water Bank and to facilitate the transfer of water rights from the Water Bank for future beneficial use.

## GOVERNOR TO APPOINT A BORDER COMMERCE COORDINATOR - S.B. 1136

*by Senator Shapleigh, et al.*
*House Sponsor: Representative Pickett*

S.B. 1136 addresses the problems caused by a burdened infrastructure and the lack of coordination between state and federal agencies at crossings along the Texas-Mexico border.

Requires the governor to designate a border commerce coordinator (coordinator) in the governor's office. Requires the coordinator to study the flow of commerce at ports of entry between Texas and Mexico, including the movement of commercial vehicles across the border, and to establish a plan to aid commerce and improve the movement of vehicles.

## STUDY ON BORDER TRANSPORTATION - S.B. 1375

*by Senator Shapleigh*
*House Sponsor: Representative Najera*

Requires the comptroller to conduct a study of the movement of commercial vehicles across the border between this state and Mexico to determine how separation of state government functions involving regulation of commerce from functions involving detection and prevention of crime would reduce congestion and enhance the effective movement of those vehicles.

Requires the comptroller to develop recommendations and a model for the continuing independent operation of those governmental functions.

## REVIEW OF BORDER REGION'S MEDICAL TRAINING NEEDS - S.B. 1378

*by Senator Shapleigh, et al.*
*House Sponsors: Representatives Rangel and Chavez*

Given that no freestanding state or private medical schools exist in the Texas-Mexico border region, local residents face many health challenges, including a shortage of health care providers and facilities, as well as sporadic outbreaks of infectious diseases that are associated with underdeveloped nations. S.B. 1378 calls for a review of medical training needs in the region.

Requires the Texas Higher Education Coordinating Board (board), in consultation with health agencies, to conduct a review of the medical training needs of health care professionals in the border region. Establishes required procedures for the board in conducting the review. Requires the board and the Texas Department of Health to make recommendations for any action needed to address medical training needs in the border region. Requires the board to report findings and recommendations for any necessary legislation needed to address future medical training needs to the governor, lieutenant governor, speaker of the house, and the 77th Legislature, no later than January 1, 2001.

## REGULATION OF COLONIAS - S.B. 1421

*by Senator Lucio, et al.*
*House Sponsors: Representative Cuellar, et al.*

This bill applies to a county any part of which is located within 50 miles of an international border, and regulates the subdivision or development of land in certain economically distressed areas. Currently, the Texas Water Development Board is the only state agency with statutory authority to ensure the delivery of water and wastewater services to colonias, and it is the only agency with appropriated state funds to finance the construction of colonia infrastructure projects. The needs of 392,000 colonia residents include clean water and adequate sewer systems.

S.B. 1421 establishes provisions in the Water Code and the Local Government Code regarding the regulation of the subdivision or development of land in certain economically distressed areas, including colonias, and creates penalties for violations of some of its provisions. A few of the more noteworthy provisions of S.B. 1421 include the following:

- ◊ Grants new rulemaking authority to county commissioners in certain economically distressed areas to require compliance with federal, state and county land use planning, construction, water, and flood regulations. Also confers upon county commissioners the authority to create *county planning commissions* to exercise these powers in the place of the commissioners court.

## BORDER COMMERCE COORDINATOR - H.B. 564

*by Representative Oliveira*
*Senate Sponsor: Senator Shapleigh*

This bill is designed to foster positive relations with Mexico, Texas' leading trade partner.

Requires the governor to designate a border commerce coordinator.

Requires the coordinator to examine trade issues, act as an ombudsman, work with federal officials to resolve transportation issues and streamline border crossing needs, work to increase funding to finance water and wastewater facilities, and explore the sale of excess electric power to Mexico.

## ANNEXED COLONIAS ELIGIBLE FOR POVERTY ASSISTANCE - H.B. 1982

*by Representative Hill*
*Senate Sponsor: Senator Truan*

Enables an annexed colonia to retain its eligibility for any form of state assistance for five years after annexation; this eligibility includes all programs for which the colonia would have been eligible had the annexation not occurred. This bill eliminates a disincentive to annexation that now exists for colonia inhabitants: the loss of support from state-funded poverty programs. The bill also assists the annexing municipality.

Defines a "colonia" as a geographic area: (1) that has a majority population composed of individuals and families of low income and very low income, as defined by the Government Code and based on the federal Office of Management and Budget poverty index, and that meets the qualifications of an economically distressed area under the Water Code; or (2) that has the physical and economic characteristics of a colonia as determined by the Texas Department of Housing and Community Affairs.

## BORDER HEALTH INSTITUTE IN EL PASO - H.B. 2025

*by Representative Pickett, et al.*
*Senate Sponsor: Senator Shapleigh*

Establishes the Border Health Institute in the city of El Paso and gives it the ability to:

- ◊ create and fund centers or component units within the institute to facilitate research in fields of study affecting public health in the border region, including research related to diabetes, Hispanic health issues, infectious diseases, emerging infections, environmental health issues, and children's health issues; and
- ◊ deliver health care or provide health education to persons living in the border region.

Provides that the institute is composed of the following institutions:

- ◊ The University of Texas at El Paso;
- ◊ Texas Tech University Health Sciences Center at El Paso;
- ◊ El Paso Community College District;
- ◊ R. E. Thomason General Hospital;
- ◊ El Paso City/County Health District;
- ◊ The University of Texas Health Science Center at Houston, School of Public Health;
- ◊ El Paso County Medical Society;
- ◊ Paso del Norte Health Foundation; and
- ◊ the Texas Department of Health.

Provides that the governing body of the institute is composed of the chief executive officer of each entity that is a member of the institute, or the officer's designee.

Allows the governing board to employ an executive director of the institute and any other officer or employee necessary for the operation of the institute.

Requires the governing board to meet, at least once a year, to review the progress of the institute and to determine the institute's future actions and operational plans.

## RIO GRANDE VALLEY HEALTH CARE SERVICES - H.B. 3504

*by Representatives Solis and Flores*
*Senate Sponsor: Senator Lucio*

Requires the Department of Health to contract for the construction of a new physical facility for outpatient health care services at the site of the current South Texas Hospital or collocated with the initial site of the Regional Academic Health Center (RAHC) at a common site in Harlingen, Texas, and adjacent to the center.

Requires the department to contract for renovations of the facilities at the South Texas Hospital in order to continue to provide outpatient services until construction of the new facility is completed. The department would be allowed to contract with a political subdivision to provide outpatient care. The department would be required to contract with a public or private health care provider or entity to provide inpatient health care services, including tuberculosis services, and laboratory services currently provided at the South Texas Hospital.

- ◊ Requires the contract to specify that the facility be designed and constructed to allow for the provision of all outpatient health care services, including outpatient tuberculosis services, provided at the South Texas Hospital.
- ◊ Provides that the facility may be designed and constructed to allow for the provision of additional outpatient health care services.

Provides that in the case of collocation of the initial physical facility with the RAHC, the contract must specify that, to the maximum extent possible, that facility and the RAHC must be designed and constructed together to realize potential savings in construction and long-term maintenance and operations costs.

Requires the board of regents of The University of Texas System to cooperate with the department to coordinate the structure and design of the facilities.

Allows the Texas Department of Health to contract for the construction of additional physical facilities for outpatient health care services. Provides that one facility may be located in McAllen, Texas, and another may be located in Brownsville, Texas.

Requires the transfer of all outpatient health care services provided by the South Texas Hospital on completion of the initial physical facility in Harlingen, Texas, to that facility.

Requires the Texas Department of Health to contract with one or more public or private health care providers or entities, including a political subdivision that is located in the Rio Grande Valley region, for the provision of inpatient health care services, including certain services provided by the South Texas Hospital.

Requires the Texas Department of Health to contract for minimally necessary structural and design renovations to the physical facilities of the South Texas Hospital required for compliance with Texas Accessibility Standards and the federal Americans with Disabilities Act of 1990, and for the continued operation of the South Texas Hospital to provide outpatient health care services until construction of the initial physical facility in Harlingen, Texas, for the provision of those services is completed.

Requires the Texas Board of Health to give the Texas Department of Mental Health and Mental Retardation (MHMR) the first option to lease the current physical facilities of the South Texas Hospital on completion of the initial physical facility.

Provides that if the initial physical facility constructed is collocated with the RAHC, the department and MHMR shall enter into an interagency contract to provide for the continuation of support services for the facility operated by MHMR that is collocated with the South Texas Hospital.

Authorizes enhanced retirement benefits to certain persons displaced as a result of the provisions above.

Requires the department to enter into the contracts required by this Act not later than September 1, 2000.

Provides that the primary purpose of the South Texas Hospital is to provide inpatient and outpatient services, either directly or by contract with one or more public or private health care providers or entities, to the residents of the Lower Rio Grande Valley.

**SEE ALSO: S.B. 1287 (HOUSING LOANS FOR LOW-INCOME FAMILIES) ON PAGE 203.**

## BUDGET RECODIFICATION: STATE EMPLOYMENT MATTERS - S.B. 174

*by Senator Ratliff*
*House Sponsor: Representative Junell*

Codifies certain state employment matters currently prescribed by the General Appropriations Act as general law to ensure their constitutional validity.

To satisfy one of its interim charges, the review of the use of riders in the Appropriations Bill, and to provide recommended guidelines to evaluate proposed riders for appropriateness and legality, the Senate Finance Committee created a working group composed of staff from the offices of the Lieutenant Governor, the Speaker of the House, the Comptroller's Office, the Legislative Budget Board, Legislative Council, the Senate Finance Committee, and the House Appropriations Committee. This working group analyzed each Article 9 rider to determine whether it would more properly belong in its current rider form or in a statute.

S.B. 174 is one of a package of bills filed as a result of the interim study, incorporating those riders which the group recommended for codification.

The bill codifies, or moves, various provisions regarding state employment matters from the General Appropriations Act to the Government Code, including matters regarding:

- reductions in force at a state governmental entity;
- exemption of positions by the governor;
- position classification;
- job notice posting;
- state office and employee working place and hours;
- salary schedules, payroll, and payment;
- vacation, sick, holiday, compensatory, and other leave time for state employees;
- insurance;
- promotions, reclassifications, salary caps, and other adjustments to salary;
- multiple employment; and
- voting.

## BUDGET RECODIFICATION: STATE TRAVEL PROVISIONS - S.B. 175

*by Senator Ratliff*
*House Sponsor: Representative Junell*

Codifies certain riders from the travel section of Article IX of the General Appropriations Act and codifies them into general law to ensure their constitutional validity.

To satisfy one of its interim charges, the review of the use of riders in the Appropriations Bill and to provide recommended guidelines to evaluate proposed riders for appropriateness and legality, the Senate Finance Committee created a working group composed of staff from the offices of the Lieutenant Governor, the Speaker of the House, the Comptroller's Office, the Legislative Budget Board, Legislative Council, the Senate Finance Committee, and the House Appropriations Committee. This working group analyzed each Article 9 rider to determine whether it would more properly belong in its current rider form or in a statute.

S.B. 175 is one of a package of bills filed as a result of the interim study, incorporating those riders which the group recommended for codification.

The bill codifies, or moves, various provisions regarding travel by state officers and employees from the General Appropriations Act to the Government Code, including matters regarding:

- ◊ state agency travel reimbursement;
- ◊ travel outside the state;
- ◊ group travel;
- ◊ examination of travel vouchers;
- ◊ reimbursement restrictions;
- ◊ travel by aircraft;
- ◊ state-owned aircraft and use of state-owned aircraft;
- ◊ insurance for state-owned or leased aircraft;
- ◊ travel reimbursement for pilots;
- ◊ travel by limousine;
- ◊ travel costs regarding training seminars;
- ◊ travel by state officers;
- ◊ travel by legislative employees;
- ◊ advance approval of travel; and
- ◊ travel contracts with commercial entities.

## BUDGET RECODIFICATION: ACCOUNTING REQUIREMENTS - S.B. 176

*by Senator Ratliff*
*House Sponsor: Representative Junell*

Codifies certain reporting and accounting requirements in Article IX of the General Appropriations Act into general law to ensure their constitutional validity.

To satisfy one of its interim charges, the review of the use of riders in the Appropriations Bill, and to provide recommended guidelines to evaluate proposed riders for appropriateness and legality, the Senate Finance Committee created a working group composed of staff from the offices of the Lieutenant Governor, the Speaker of the House, the Comptroller's Office, the Legislative Budget Board, Legislative Council, the Senate Finance Committee, and the House Appropriations Committee. This working group analyzed each Article 9 rider to determine whether it would more properly belong in its current rider form or in a statute.

S.B. 176 is one of a package of bills filed as a result of the interim study, incorporating those riders which the group recommended for codification.

The bill codifies, or moves, various provisions regarding reporting and accounting requirements from the General Appropriations Act to the Government Code and the Civil Practice and Remedies Code, including requirements regarding:

- agency meeting minutes;
- appropriations certification summary by the Comptroller;
- agency reporting of all payables and binding encumbrances;
- grant funds;
- agency annual financial reports;
- report of periodic internal auditor reports;
- agency contract reporting;
- state-owned aircraft travel log reporting;
- lawsuits filed against the state; and
- governor's rules and reporting requirements for commissions.

## BUDGET RECODIFICATION: EXPENDITURES BY PUBLIC ENTITIES - S.B. 177

*by Senator Ratliff*
*House Sponsor: Representative Junell*

Codifies certain provisions that authorize or prohibit expenditures by public entities currently prescribed by the General Appropriations Act into general law to ensure their constitutional validity.

To satisfy one of its interim charges, the review of the use of riders in the Appropriations Bill and to provide recommended guidelines to evaluate proposed riders for appropriateness and legality, the Senate Finance Committee created a working group composed of staff from the offices of the Lieutenant Governor, the Speaker of the House, the Comptroller's Office, the Legislative Budget Board, Legislative Council, the Senate Finance Committee, and the House Appropriations Committee. This working group analyzed each Article 9 rider to determine whether it would more properly belong in its current rider form or in a statute.

S.B. 177 is one of a package of bills filed as a result of the interim study, incorporating those riders which the group recommended for codification.

The bill codifies, or moves, various provisions regarding the authorization or prohibition of expenditures by public entities from the General Appropriations Act to the Government Code, including matters regarding:

- ◊ use of appropriated money by certain entities;
- ◊ prohibited expenditures and use of state vehicles involving certain political candidates;
- ◊ employment of lobbyists;
- ◊ termination of employment;
- ◊ payment of premiums;
- ◊ the delay of a technology initiative;
- ◊ restrictions on publicity of state employees or agencies;
- ◊ use of alcoholic beverages;
- ◊ use of motor vehicles;
- ◊ employee standards of conduct;
- ◊ use of goods and services;
- ◊ open market purchases;
- ◊ contractor selection and other provisions;
- ◊ postage and postal services;

- employee reimbursement;
- membership in professional organizations;
- use of state facilities;
- use of publications; and
- expenditures involving two fiscal years.

## BUDGET RECODIFICATION: EXPENDITURES BY PUBLIC ENTITIES - S.B. 178

*by Senator Ratliff, et al.*
*House Sponsors: Representatives Junell and Flores*

To satisfy one of its interim charges, the review of the use of riders in the Appropriations Bill and to provide recommended guidelines to evaluate proposed riders for appropriateness and legality, the Senate Finance Committee created a working group composed of staff from the offices of the Lieutenant Governor, the Speaker of the House, the Comptroller's Office, the Legislative Budget Board, Legislative Council, the Senate Finance Committee, and the House Appropriations Committee. This working group analyzed each Article 9 rider to determine whether it would more properly belong in its current rider form or in a statute.

S.B. 178 is one of a package of bills filed as a result of the interim study, incorporating those riders which the group recommended for codification.

### HISTORICALLY UNDERUTILIZED BUSINESSES

Codifies provisions of the General Appropriations Bill regarding contracting with historically underutilized businesses by governmental entities:

- Provides that a historically underutilized business must have its principal place of business in Texas.
- Changes the definition of historically underutilized businesses to include economically disadvantaged persons, rather than socially disadvantaged persons.
- Requires the General Services Commission (GSC) to use the results of disparity studies prepared on behalf of the state in adopting rules regarding historically underutilized businesses. All state agencies must adopt these rules.
- Provides that this Act and the rules shall apply to all agency construction contracts and purchases of goods or services made with appropriated money.

Requires state agencies to report, with regard to the expenditure of both treasury and nontreasury funds:

- ◊ the total dollar amount of purchases and payments made under contracts awarded to historically underutilized businesses;
- ◊ the number of businesses participating in the issuance of state bonds by the agency;
- ◊ the number of contracts awarded to historically underutilized and all other businesses; and
- ◊ the number of bids, proposals, or other applicable expressions of interest made by historically underutilized businesses with regard to contracting opportunities with the agency.

Requires the State Auditor to periodically audit state agency compliance with the statute requiring state agencies to prepare a written plan for increasing the agency's use of historically underutilized businesses. The auditor is to report to GSC if a state agency is not in compliance and the commission is to assist the agency in compliance.

Strikes the provision that state agencies make an effort to assist historically underutilized businesses receive at least 30 percent of the value of total contracts awarded for goods, services, or construction, instead requiring agencies to make a good faith effort to increase such contract awards based on rules adopted by GSC under this act.

- ◊ Authorizes GSC to establish the maximum size of a historically underutilized business.
- ◊ Requires state agencies with a biennial budget that exceeds $10 million to designate a staff member as the historically underutilized businesses coordinator.

Expands the authority of GSC to approve other programs certifying historically underutilized business, women's and minority business enterprises, and disadvantaged business enterprises and provides for the joint certification of a business by the commission and local government programs.

Requires GSC to:

- ◊ provide historically underutilized businesses information about state programs and orientation packages on certification or recertification;
- ◊ track to the rates historically underutilized businesses that grow to exceed the size standards determined by the commission graduate from the historically underutilized business certification program;
- ◊ design a voluntary mentor-protégé program to foster relationships between prime contractors and historically underutilized businesses and increase the ability of such disadvantaged businesses to receive state contacts and subcontracts;

- ◊ design a program of forums allowing historically underutilized businesses to make technical and business presentations to state agencies; and
- ◊ by September 1 of each year, to report to the governor, lieutenant governor, and speaker of the house of representatives on the commission's education and training efforts regarding historically underutilized businesses.

Requires state agencies, in their legislative appropriations, to include a detailed report showing the extent to which the agency has complied with the laws and rules regarding historically underutilized businesses.

Requires state agencies, for any contract with an expected value of $100,000 or more, to determine subcontracting opportunities. If there will be such opportunities, the state agency must require any bids or proposals under that contract to include a historically underutilized business subcontracting plan. If the contract is awarded, the subcontracting plan is made part of the contract, and the contractor must make a good faith effort to comply with the plan.

Requires the Sunset Advisory Commission, in determining whether a public need exists for the continuation of an agency, to consider state law and the applicable rules of any state agency regarding purchasing goals and programs for historically underutilized businesses.

Amends state law barring an officer or employee of the state or a political subdivision, while acting in an official capacity, from granting or withholding a benefit based on race, religion, color, sex, or national origin to exempt programs designed to increase the participation of businesses owned by women, minorities, or disadvantaged persons in public contracts.

**CONTRACTING FOR SERVICES AND CONTINGENCY FEES**

Declares that all funds recovered by a state governmental entity in litigation or settlement are state funds that must be deposited in the state treasury. Legal fees and expenses under a contingent fee contract for legal services may be paid from recovered funds only after the funds have been appropriately deposited and in accordance with applicable law.

Adds Subchapter C, Chapter 2254, to the Texas Government Code:

- ◊ defines "contingent fee," "contingent fee contract," and "state governmental entity";
- ◊ provides that this subchapter applies only to a contingent fee contract for legal services entered into by a state governmental entity.

Permits such an entity that has authority to enter into a contract for legal services in its own name to enter into a contingent fee contract for legal service only if, depending on the type of entity, the contract has been approved by: the entity's governing body and signed by the governing body's presiding officer; approved and signed by an elected or appointed officer who governs the entity; or approved and signed by the governor.

Provides that the attorney general may enter into a contingent fee contract for legal services in a matter referred to the attorney general by another state governmental entity only if that entity approves and signs the contract pursuant to this subchapter.

Requires that, before approving the contract, the governing body, elected or appointed officer, or governor, must find that:

- ◊ there is a substantial need for the legal services;
- ◊ the legal services cannot be adequately performed by either attorneys and supporting personnel of the state governmental entity or those of another state entity; and
- ◊ the legal services cannot reasonably be obtained from private attorneys under an hourly fees contract, either because of the nature of the matter or the state governmental entity does not have appropriated funds available to pay the estimated amounts required under an hourly fees contract.

Requires a state governmental entity, before entering into a contingent fee contract for legal services in which the estimated amount that may be recovered exceeds $100,000, to notify the Legislative Budget Board and provide certain information. If the entity has made the finding that it does not have appropriated funds available to pay the estimated amounts required under an hourly fees contract, the Legislative Budget Board must determine that this finding is correct, or the contract will be void.

Provides that any contract must require that the contracting attorney or law firm keep current and complete written time and expense records describing in detail the time and money spent each day in performing the contract. The governing body or governing officer of the state governmental entity, the attorney general, and the state auditor must be permitted to inspect or copy such records at any time on request.

Requires the contracting attorney or law firm, upon conclusion of the matter for which legal services were obtained, to provide the contracting state governmental entity with a complete written statement setting out the outcome of the matter, amount of any recovery, computation of the amount of the contingent fee, and final complete time and expense records.

Provides that such records and statement are public information, subject to certain exceptions.

Sets out general requirements for any contingency fee contract.

Sets forth the contract requirements regarding the computation of the fee for contracts under which:

- ◊ the expected or actual amount recovered exceeds $100,000;
- ◊ only part of the fee is contingent on the outcome of the matter, with the rest of the fee payable on a regular hourly rate basis; or
- ◊ reimbursable expenses are incurred for subcontracted legal or support services performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm.

Sets outs the procedure for payment of fees and expense reimbursement under a contingency fee contract with a state governmental entity.

Adds Section 404.097 to the Texas Government Code:

- ◊ States that "contingent fee contract" and "state governmental entity" have the same meaning as in Section 2254.101;
- ◊ Provides that all funds recovered by a state governmental entity in litigation or settlement are public funds and must be deposited in the state treasury to the credit of the appropriate fund or account; and
- ◊ Permits legal fees and expenses to be paid from the recovered funds under a contingent fee contract for legal services only in accordance with Subchapter C, Chapter 2254, and after the funds are deposited in accordance with this section.

**MISCELLANEOUS**

Other provisions touch on a number of areas regarding procurement, purchasing, audits, accounting, and expenditure of state funds by state agencies. These include making certain reports electronically available to the legislature, policies regarding the expenditure of treasury funds, procedures for reimbursement of the General Services Commission by state entities, provisions regarding payment of interagency contracts and contracts with private entities, periodic review of rules by an agency, requiring the state auditor to report accounting irregularities by institutions of higher education, preferences for Texas or American made goods in procurement, acceptance of real property gifts, use of the consolidated telecommunications system, contracts with former agency employees, retention of mineral rights, and authorizing pay telephones and vending machines in state-owned locations.

## EMERGENCY APPROPRIATION - S.B. 472

*by Senator Ratliff*
*House Sponsor: Representative Junell*

Authorizes emergency appropriations and other actions for the following state programs totaling $104.1 million:

- ◊ $18,840,000 is appropriated from the general revenue fund to the Texas Education Agency for the purpose of providing teacher training and to assist Texas schoolchildren in developing reading skills.
- ◊ $8,971,763, consisting of $2,819,220 from the general revenue fund and $6,152,543 of federal funds, is appropriated to the Department of Protective and Regulatory Services for the purpose of providing child protective services. It is the intent of the legislature that these appropriations be used to reduce the number of cases per worker, reduce the number of workers per supervisor, and increase purchased services for families and children. It is also the intent of the legislature that the amount of salaries expended from the appropriation made by this section not exceed $1,344,481 in fiscal year 1999.
- ◊ The full-time equivalent employee limitation for the Department of Protective and Regulatory Services for fiscal year 1999 is increased by 60 for the third quarter of fiscal year 1999, and by 220 for the fourth quarter of fiscal year 1999.
- ◊ It is the intent of the legislature that the appropriations made to the Department of Protective and Regulatory Services be used to make a cash purchase of approximately $471,450 of computer equipment to be used by the additional employees authorized above.
- ◊ $7,132,134 is appropriated from the general revenue fund to the Texas A&M University System for the use by its components for the purpose of reimbursing extraordinary expenses related to the suppression of forest fires.
- ◊ $717,361 is appropriated from the general revenue fund to the Texas School for the Deaf for the purpose of payment of increased salary expenses.
- ◊ $498,000 is appropriated from the general revenue fund to the Texas School for the Blind and Visually Impaired for the purpose of payment of increased salary expenses.
- ◊ $724,518 is appropriated from the general revenue fund to the Texas Commission for the Blind for the purpose of payment of costs and expenses related to the Blindness Education, Screening, and Treatment Program.
- ◊ $6,000,000 is appropriated from the general revenue fund to the State Office of Risk Management for the purpose of payment of workers' compensation benefits.

- ◊ $27,600,000 is appropriated from the general revenue fund to the Texas Department of Criminal Justice for the purpose of providing for expenditures relating to additionally constructed prison capacity and contracts with counties for additional temporary capacity.
- ◊ $25,000,000 is appropriated from the general revenue fund to the Department of Agriculture for the purpose of payment of costs and expenses related to providing drought relief.
- ◊ $350,000 is appropriated from the Advance Interest Trust Fund to the Texas Workforce Commission for the purpose of payment of certain extraordinary expenses associated with local program assistance. The appropriation made by this section shall be reduced by the amount received by the Texas Workforce Commission in settlement of claims arising out of the terminated contracts.
- ◊ $874,648 is appropriated from the general revenue fund to the Texas Agricultural Extension Service for the purpose of expanding the Financial and Risk Management Assistance (FARM Assist) program statewide.
- ◊ $103,000 is appropriated from the general revenue fund dedicated account number 5022, Oyster Sales, to the Texas Department of Health. No more than $10,000 of the total appropriation made by this section may be used by the Texas Department of Health for the purpose of collecting and delivering oyster and water samples to the Seafood Microbiology Laboratory. $93,000 of the funds appropriated by this section may be used by the Texas Department of Health only for the purpose of entering into an agreement with Texas A&M University at Galveston for the testing of vibrio parahaemolyticus levels in Texas oysters and Texas bay waters.
- ◊ $152,600 is appropriated from the general revenue fund to the Department of Information Resources for the purpose of implementing a plan to create an Internet website to address Year 2000 computer problems, and to establish a toll free telephone system for reporting Year 2000 computer problems.
- ◊ $13,600,000 is appropriated from the general revenue fund for transfer to the Disaster Contingency Fund for purposes as determined by the Disaster Emergency Funding Board.

Funds appropriated by the 1997 General Appropriations Act to institutions of higher education, other than those institutions belonging to The University of Texas System or the Texas A&M University System, may be transferred from one appropriation item to another at the discretion of the chief administrative officer of the Employees Retirement System of Texas for the purpose of applying appropriations in excess of actual general revenue group insurance premium costs, at any of the institutions of higher education to cover appropriation shortfalls for general revenue group insurance premiums at any of the other institutions of higher education.

Reduces the contingency appropriation made by Article IX, Rider 198, of the 1997 General Appropriations Act, regarding enrollment growth, by $18,840,000.

## PAYMENT OF MISCELLANEOUS CLAIMS AND JUDGMENTS - S.B. 928

*by Senator Ratliff*
*House Sponsor: Representative Junell*

Generally, at the conclusion of each biennium, the State of Texas has a number of outstanding claims and judgments against it for varying amounts of money. As such, additional appropriations are required to be made in order to honor the state's obligations.

S.B. 928 makes appropriations from the General Revenue Fund, various dedicated accounts in the General Revenue Fund, and other state funds to pay miscellaneous claims and judgments against the state, totaling approximately $16 million in FY 2000.

The two largest items come from receipts originating from the tobacco settlement in *The State of Texas v. The American Tobacco Co., et al.,* which will pay the Texas Association of School Boards Risk Management Fund $5 million, and the Texas Municipal League Group Boards Risk Management Fund $10 million.

## TOBACCO SETTLEMENT - H.B. 1161

*by Representative Junell, et al.*
*Senate Sponsor: Senator Ratliff*

This bill provides a vehicle to implement the County & Hospital District Agreement regarding the Comprehensive Settlement Agreement reached by the State of Texas and certain tobacco companies. The agreement, styled *Agreement Regarding Disposition of Settlement Proceeds*, was signed on July 18, 1998, between former Attorney General Dan Morales, Senator Bill Ratliff, Representative Robert Junell, certain counties and hospital districts, and the American Tobacco Company, et al., and applies only to additional money that is for the benefit of certain counties and hospital districts. The agreement was reached to settle and resolve outstanding issues and controversies relating to the settlement agreement and the disbursement of settlement proceeds.

H.B. 1161 provides a vehicle to implement the County & Hospital District Agreement by:

- ◊ Implementing a plan to distribute funds under the agreement. The funds will be used exclusively by political subdivisions of the state defined in the bill with legal responsibility for providing indigent health care services.
- ◊ Creating the Tobacco Settlement Permanent Trust Account, which will be composed of funds received in accordance with the agreement's provisions, assets purchased with that money, the earnings of the account, and other contributions, and would not be a part of the general funds of the state. At the direction of the Texas Department of Health (TDH), the comptroller will make annual distributions of the net earnings from the account to eligible political subdivisions as defined in the bill.

- ◊ Creating two new advisory committees, one of which will advise the comptroller on managing the assets of the account; the other committee will advise the Board of Health on implementing the bill's provisions. TDH will provide administrative support and resources to the Board of Health's advisory committee.

## TOBACCO SETTLEMENT - H.B. 1676

*by Representative Junell, et al.*
*Senate Sponsor: Senator Ratliff*

This bill provides a vehicle to implement the Texas Memorandum of Understanding (MOU). The MOU, signed by former Attorney General Dan Morales, Senator Bill Ratliff, and Representative Robert Junell, on February 3, 1998, states that all parties to the Comprehensive Settlement Agreement between the State of Texas and certain tobacco companies agree to use their best efforts to ensure that all future tobacco settlement funds will be utilized for the benefit of children and public health.

The intent of the MOU is to avoid any delay in obtaining the settlement funds and their disbursement, and, rather than continue litigation regarding the issue, agree that it is in the best interests of the state, the children, and the public health of the State of Texas to prevent a delay in the implementation of the court order and in the disbursement of the funds.

H.B. 1676 provides a vehicle to implement the Texas MOU by:

- ◊ Creating the Permanent Fund for Tobacco Education and Enforcement, to be a dedicated account within the General Revenue Fund. Investment returns of the fund may be appropriated to the Texas Department of Health (TDH) for certain programs to reduce the use of cigarettes and tobacco products. The bill will transfer $200 million to the fund on the effective date of the bill from the Tobacco Settlement Temporary Hold Account of the General Revenue Fund.
- ◊ Creating the Permanent Fund for Children and Public Health, to be a dedicated account within the General Revenue Fund. Investment returns of the fund may be appropriated to the TDH to improve children's health care and for grants to local communities to address public health priorities. The bill will transfer $100 million to the fund on the effective date of the bill from the Tobacco Settlement Temporary Hold Account of the General Revenue Fund.
- ◊ Creating the Permanent Fund for Emergency Medical Services and Trauma Care, to be a dedicated account within the General Revenue Fund. Investment returns of the fund may be appropriated to the TDH for programs to provide emergency medical services and trauma care. The bill will transfer $100 million to the fund on the effective date of the bill from the Tobacco Settlement Temporary Hold Account of the General Revenue Fund.

- ◊ Creating the Permanent Fund for Rural Health Facility Capital Improvement, to be a dedicated account within the General Revenue Fund. Investment returns of the fund may be appropriated to the Center for Rural Health Initiatives for programs and duties related to rural health care. The bill will transfer $50 million to the fund on the effective date of the bill from the Tobacco Settlement Temporary Hold Account of the General Revenue Fund. The bill also adds language to the Health and Safety Code to enable the Center for Rural Health Initiatives to implement these provisions.
- ◊ Creating the Community Hospital Capital Improvement Fund, to be a dedicated account within the General Revenue Fund. Investment returns of the fund may be appropriated to the TDH for the purpose of providing grants, loans, or loan guarantees to public or nonprofit community hospitals with 125 beds or fewer located in an urban area of the state. The bill will transfer $25 million to the fund on the effective date of the bill from the Tobacco Settlement Temporary Hold Account of the General Revenue Fund.

Each new fund will be managed by the comptroller and consist of money transferred at the direction of the legislature, gifts and grants contributed to the fund, and the interest received from investment of money in the fund. The Permanent Fund for Rural Health Facility Capital Improvement and the Community Hospital Capital Improvement Fund will also receive payments of interest and principal on certain loans, and certain fee revenue.

Money in each of the new funds could be appropriated to pay any amount of money the federal government determines that the state should repay to the federal government, or that the federal government should recoup from the state in the event of national tobacco legislation.

## TOBACCO SETTLEMENT - H.B. 1945

*by Representatives Junell and Cuellar*
*Senate Sponsor: Senator Ratliff*

This bill provides a vehicle to implement the Texas Memorandum of Understanding (MOU). The MOU, signed by former Attorney General Dan Morales, Senator Bill Ratliff, and Representative Robert Junell, on February 3, 1998, states that all parties to the Comprehensive Settlement Agreement between the State of Texas and certain tobacco companies agree to use their best efforts to ensure that all future tobacco settlement funds will be utilized for the benefit of children and public health.

The intent of the MOU is to avoid any delay in obtaining the settlement funds and their disbursement, and, rather than continuing litigation regarding the issue, agree that it is in the best interests of the state, the children, and the public health of the State of Texas to

prevent a delay in the implementation of the court order and in the disbursement of the funds.

H.B. 1945 provides a vehicle to implement the Texas MOU by:

- ◊ Creating the Permanent Health Fund for Higher Education (fund), to be held in the state treasury outside the General Revenue Fund, administered by the University of Texas System Board of Regents (board) and authorizing the board to manage the fund for the benefit of 10 health-related institutions of higher education. Seventy percent of fund earnings will be distributed in equal amounts to each institution, with the remaining 30 percent distributed in equal amounts based on three funding criteria: instructional expenditures, research expenditures, and unsponsored charity care. The bill will transfer $350 million to the fund on the effective date of the bill from the Tobacco Settlement Temporary Hold Account of the General Revenue Fund.
- ◊ Creating separate permanent endowment funds for the benefit of 13 health-related institutions of higher education, to be held in the state treasury outside the General Revenue Fund and administered by the comptroller, or any of the institutions' governing boards. Investment returns for each fund will be used only for research and other programs that are conducted by the institution for which the fund is established and that will benefit the public health. The bill transfers a total of $595 million to the funds on the effective date of the bill from the Tobacco Settlement Temporary Hold Account of the General Revenue Fund.
- ◊ Creating the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health-Related Programs, to be held in the state treasury outside the General Revenue Fund, administered by the comptroller or any of the eligible institutions' governing boards. Investment returns of the fund may be appropriated to the Texas Higher Education Coordinating Board (THECB) to provide grants to institutions that offer upper-level academic instruction and training in the field of nursing, allied health, or other health-related education. The bill will transfer $45 million to the funds on the effective date of the bill from the Tobacco Settlement Temporary Hold Account of the General Revenue Fund.
- ◊ Creating the Permanent Fund for Minority Health Research and Education, to be held in the state treasury outside the General Revenue Fund, administered by the comptroller or any of the eligible institutions' governing boards. Investment returns of the fund may be appropriated to THECB to provide grants to institutions of higher education, including Centers for Teacher Education, that conduct research or educational programs that address minority health issues or form partnerships with minority organizations, colleges, or universities. The bill transfers $25 million to the funds on the effective date of the bill from the Tobacco Settlement Temporary Hold Account of the General Revenue Fund.

Each new fund would consist of money transferred at the direction of the legislature, gifts and grants contributed to the fund, and the interest received from investment of money in the fund. Money in each of the new funds could be appropriated to pay any amount of money the federal government determines that the state should repay to the federal government, or that the federal government should recoup from the state in the event of national tobacco legislation.

The bill also appropriates $1 million from the General Revenue Fund to THECB to fund a contract with the Baylor University Medical Center in Dallas for the Institute of Metabolic Disease to study the relationship of maternal smoking and metabolic derangement to the impaired growth rate in low-weight infants, and for the Division of Prevention and Wellness to support an anti-tobacco task force.

## DURATION OF EMERGENCY PROTECTIVE ORDERS - S.B. 23

*by Senator Nelson, et al.*
*House Sponsor: Representative Naishtat*

Currently, an emergency protection order issued by a magistrate remains in effect until the 31st day after the order's date of issuance. This bill increases the maximum duration of an emergency protective order issued by a magistrate from 31 to 60 days.

◊ Provides that an emergency protective order is in force for at least 30 days.

## PUNISHMENT FOR REPEAT DOMESTIC VIOLENCE - S.B. 24

*by Senator Nelson*
*House Sponsors: Representatives Hinojosa and Naishtat*

This bill is designed to curb family violence with more severe penalties for repeat offenders.

Makes it a third degree felony if a person is convicted of an offense against a family member and it is shown that the person has been previously convicted of an offense against a family member.

## LONGER LASTING PROTECTIVE ORDERS - S.B. 50

*by Senator Nelson, et al.*
*House Sponsors: Representative Naishtat, et al.*

Currently, a protective order lasts for one year at most and cannot be renewed unless a violation of the order occurs while the order is in effect. This bill makes the following changes relating to protective orders.

Increases the maximum duration of a protective order from one year to two years.

◊ If the subject of the protective order is incarcerated at the time of the expiration of the protective order, the order remains in effect until one year after the subject is released from incarceration.

Allows a person subject to a protective order to request a court review, after one year, of the continuing needs for the order.

◊ If the court finds the need continues, the order remains in effect until its original expiration date.

◊ If the court finds the need does not continue, the court is required to set a new expiration date.

Prohibits any person who is the subject of a protective order from possessing a firearm or ammunition.

Sets forth provisions for applying for a protective order if a previously rendered protective order is alleged to have been violated or the threat of harm continues.

### PERPETRATORS PAY FAMILY VIOLENCE SHELTERS- S.B. 461

*by Senator Nelson, et al.*
*House Sponsor: Representative Howard*

Allows a judge to order a defendant, who was convicted of an offense involving domestic violence and placed on community supervision, to pay up to $100 to a local family violence shelter.

◊ Prohibits the copy of the terms and conditions of the community supervision from containing information about the local violence shelter receiving the payment.

### PROHIBITING ADR IN FAMILY VIOLENCE CASES - S.B. 1124

*by Senator Armbrister*
*House Sponsor: Representative Hinojosa*

Currently, some Texas counties refer a number of their domestic violence cases to mediation in hopes of working out a plea bargain. The National Council of Juvenile and Family Court Judges recommends that in cases in which family violence forms the basis of criminal charges, alternative dispute resolution processes (ADR), such as mediation or arbitration ,are not appropriate to use for resolution of contested issues.

Prohibits a judge from referring or ordering mediation, dispute resolution, arbitration, or other similar alternative dispute resolution processes in a family violence case.

### DOMESTIC VIOLENCE OFFENDERS CAN BE DETAINED LONGER - H.B. 577

*by Representative Giddings*
*Senate Sponsor: Senator Nelson*

Currently, Texas law allows a family violence suspect to be detained by a magistrate for 24 hours after bond is posted, in order to help insure the victim's safety. This bill allows the detention period to be extended for up to an additional 48 hours.

◊ For the additional detention to exceed 24 hours, the magistrate must conclude that there is probably cause to believe that the person committed the offense and that, within the previous 10 years, the person had been arrested for one or more family violence offenses or for any other offense in which a deadly weapon was used or exhibited.

## DOMESTIC VIOLENCE OFFENDER CUSTODY RIGHTS LIMITED - H.B. 1411

*by Representative Naishtat*
*Senate Sponsor: Senator Moncrief*

Currently, the Family Code prohibits the appointment of a parent with a history of family violence as a joint managing conservator. However, sole managing conservatorship can be awarded to a parent with a history of family violence. This bill limits a court's ability to award sole managing conservatorship or unrestricted visitation to a parent with a recent history of family violence, and authorizes courts to enter visitation orders that protect children and victims of family violence.

Prohibits the court from allowing a parent to have access to a child if it is shown, by a preponderance of the evidence, that the parent has a history or pattern of committing family violence during the two years preceding the filing of a custody suit or during the custody suit, unless the court:

- ◊ finds that awarding the parent access to the child would not endanger the child and would be in the best interest of the child; and
- ◊ renders visitation designed to ensure the safety and well-being of the child and any other person who has been a victim of family violence committed by the parent.

## EMERGENCY PROTECTIVE ORDERS FOR DOMESTIC VIOLENCE - H.B. 2124

*by Representative Cuellar*
*Senate Sponsor: Senator Ellis*

Currently, magistrates do not consistently issue an order for emergency protection in cases involving family violence. A victim of domestic violence who is not under such an order may be in danger if the defendant is released from jail.

This bill requires a magistrate to issue an order for emergency protection in domestic violence cases in which the victim has suffered serious bodily injury or a deadly weapon has been used or exhibited during the assault.

Additionally, courts are authorized to suspend a handgun license of a person who is the subject of a protective order.

- ◊ Sets forth the notification procedures for suspension of the handgun license.

## MONEY FOR RELOCATION OF DOMESTIC VIOLENCE VICTIMS - H.B. 3255

*by Representative Gallego*
*Senate Sponsor: Senator Carona*

Currently, the Crime Victims' Compensation Act does not permit victims of domestic violence to file claims seeking compensation from the Victims of Crime Compensation Fund for reimbursement of relocation and housing rental expenses. Frequently, such victims have no recourse when they attempt to relocate in order to escape further violence.

This bill permits a victim of domestic violence to file a claim on the Victims of Crime Compensation Fund for costs incurred for relocation and housing rental expenses up to the following amounts:

- ◊ $2,000 for relocation expenses; and
- ◊ $1,800 for housing rental expenses.

## CRIMINAL STREET GANG DATABASE - S.B. 8

*by Senator West, et al.*
*House Sponsor: Representative Goodman*

This bill allows the establishment of a statewide gang tracking database.

Allows a law enforcement agency to compile and maintain information relating to a criminal street gang only if the agency compiles and maintains the information in accordance with the criminal intelligence systems operating policies and the submission criteria.

Requires a local law enforcement agency to send the information to the Department of Public Safety (DPS) if information is compiled and maintained at a local level.

Requires DPS to establish an intelligence database and maintain information received from an agency.

Allows a local law enforcement agency that collects and maintains criminal information relating to criminal street gangs to adopt a policy of notifying the parent or guardian of a child who is associated with a criminal street gang.

Gives a person or parent or guardian of a child a right to request a judicial review of criminal information collected by the agency under this chapter relating to the person or child to determine if reasonable suspicion exists regarding the accuracy of the information.

## NOTIFICATION OF RELEASE OF A PRISON GANG MEMBER - S.B. 1576

*by Senator West, et al.*
*House Sponsor: Representative Allen*

This bill is designed to increase communication and collaboration between the Texas Department of Criminal Justice-Institutional Division (TDCJ-ID), Parole Division, and local and state law enforcement as it applies to monitoring the activities of prison gang members or security threat groups that are released back into society.

Requires TDCJ-ID to notify a sheriff and/or chief of police of the date of release of an inmate who is a member of a gang or security threat group.

## PAROLE OFFICER TRAINING REGARDING GANG MEMBERS - S.B. 1577

*by Senator West, et al.*
*House Sponsor: Representative Allen*

This bill is designed to create training for parole officers who supervise gang members' release from the Texas Department of Criminal Justice.

Requires TDCJ to develop and provide specialized training for parole officers supervising releasees previously identified by TDCJ as members of prison gangs, criminal street gangs, or security threat groups.

## GANG RESOURCE SYSTEM - S.B. 1578

*by Senator West, et al.*
*House Sponsor: Representative Goodman*

This bill is designed to create statewide tracking of gang migration and gang identification and aid law enforcement in combating gang-related crimes.

Requires the office of the attorney general to establish an electronic gang resource system to provide law enforcement agencies with information about criminal street gangs in the state.

Prohibits information specifically identifying an offender from being maintained in the gang resource system.

Limits access to the system to law enforcement personnel.

## PENALTIES FOR SOLICITING GANG MEMBERSHIP - S.B. 1579

*by Senator West, et al.*
*House Sponsor: Representative Hinojosa*

This bill is designed to curb gang membership recruitment.

Makes it a felony of the third degree if a person knowingly causes, encourages, recruits, or solicits another person to become a member of a criminal street gang, and as a condition of initiation or membership, requires the commission of any conduct which constitutes a felony.

Makes a second or subsequent offense a second degree felony.

## VIOLENT GANG TASK FORCE - S.B. 1580

*by Senator West, et al.*
*House Sponsor: Representative Goodman*

This bill establishes the Texas Violent Gang Task Force, which is a strategic partnership between state, federal, and local law enforcement agencies and is designed to better enable law enforcement agencies to take a proactive stance towards tracking gang activity, and the growth and spread of gangs statewide.

Requires the task force to focus its efforts on:

- ◊ developing a statewide networking system that will provide timely access to gang information;
- ◊ establishing communication between different law enforcement agencies, combining independent agency resources, and joining agencies together in a cooperative effort to focus on gang membership, gang activity, and gang migration trends; and
- ◊ forming a working group of law enforcement and correctional representatives from throughout the state to discuss specific cases and investigations involving gangs and other related gang activities.

Requires the Department of Public Safety to support the task force to assist in coordinating statewide anti-gang initiatives.

## SOLICITATION OF GANG MEMBERSHIP - H.B. 861

*by Representative Dukes, et al.*
*Senate Sponsor: Senator Ellis*

This bill is designed to curb gang recruitment.

Creates an offense for coercing, inducing, or soliciting a child younger than 17 years of age to actively participate in the activities of a criminal street gang.

Provides that the offense of coercing, inducing, or soliciting gang membership is a state jail felony.

Provides that the offense of coercing, inducing, or soliciting gang membership through threats of bodily injury or actual bodily injury is a third degree felony.

## ESCAPE FROM JUVENILE FACILITY IS A FELONY - S.B. 152

*by Senator West*
*House Sponsor: Representative Dunnam*

Currently, Texas law may only charge a juvenile adjudicated of committing a felony who escapes from a secure juvenile correctional facility with a Class A misdemeanor, except in cases in which the juvenile causes bodily injury, serious bodily injury, or uses or threatens to use a deadly weapon during the escape. Recently, there has been an increase in the number of escapes and attempted escapes at state juvenile correctional facilities.

This bill makes the escape of a high risk juvenile from a Texas Youth Commission facility (other than a half-way house) a third degree felony, rather than a Class A misdemeanor.

## DISSEMINATION OF INFORMATION ON JUVENILE CRIMINALS - S.B. 187

*by Senator Lucio*
*House Sponsor: Representative Keel*

Allows the Department of Public Safety to disseminate the name, any aliases, the physical description, and the photograph of a juvenile offender if a directive to arrest or an arrest warrant has been issued for a juvenile who is suspected of committing criminal homicide, kidnapping, a sexual offense, an assaultive offense, robbery, or aggravated robbery or who flees arrest for these crimes.

## CONSOLIDATION OF AT-RISK YOUTH SERVICES - S.B. 1574

*by Senator West*
*House Sponsor: Representative Gray*

Gives the Department of Protective and Regulatory Services (DPRS) the primary responsibility for implementing and managing programs intended to provide early intervention or prevent at-risk behaviors that lead to child abuse, delinquency, running away, truancy, and dropping out of school. This bill also updates provisions relating to the Communities In Schools program.

### CONSOLIDATION

Requires DPRS to operate a division to provide these services and sets forth guidelines for the operation of the division.

Transfers the following programs to DPRS:

- ◊ Parents as Teachers program from the Texas Department of Mental Health and Mental Retardation;
- ◊ Communities In Schools program from the Texas Education Agency and Texas Workforce Commission; and
- ◊ Buffalo Soldier Heritage program from the Texas Juvenile Probation Commission.

**COMMUNITIES IN SCHOOLS PROGRAM**

This bill makes technical revisions to the statutes governing the Communities In Schools program, and adds education, employment, employment support training services, activities and programs funded by Temporary Assistance for Needy Families to the program's purview of authority.

## JUVENILE APPEAL LIMITATIONS - H.B. 251

*by Representative Puente*
*Senate Sponsor: Senator Ellis*

Prohibits a child from appealing a juvenile court order in which the court ruling was based on an agreement between the state and the child regarding the disposition of the case.

## CHANGES IN JUVENILE COURT JURISDICTION AND AUTHORITY - H.B. 688

*by Representative Gallego*
*Senate Sponsor: Senator Ellis*

The Texas Judicial Council's Committee on Juvenile Justice Reform/Impact on Courts made recommendations in 1998 for the improvement of juvenile justice in this state, focusing on justice and municipal courts. H.B. 688 implements several recommendations.

Clarifies the jurisdiction of the justice and municipal courts:

- ◊ allows the court to find a juvenile in contempt of court;
- ◊ prohibits the court from ordering a child to a term of confinement or imprisonment for contempt of a court order, but allows the court to order a fine of up to $500; and
- ◊ allows a justice or municipal court to order a child to take the GED exam.

Broadens the scope of orders a court may give a parent of a juvenile defendant.

Allows a court flexibility in ordering rehabilitative community service for an alcohol-related offense if the county does not offer programs involving alcohol awareness.

## DETENTION OF A JUVENILE - H.B. 1269

*by Representative Goodman, et al.*
*Senate Sponsor: Senator Shapiro*

Requires a child, who is alleged to have engaged in delinquent conduct and to have used, possessed, or exhibited a firearm while committing an offense, to be detained until:

- release is directed, either in person or by phone, by a juvenile court judge, a magistrate, the juvenile board, or a referee appointed by the juvenile board or juvenile court; or
- a detention hearing is held.

Normally such a child would be detained in a juvenile detention facility. However, this bill allows such a child to be held in a county jail and another designated facilities under certain circumstances, such as a juvenile detention facility not being available.

- If such a child is held in county jail or another designated facility, a detention hearing without a jury must be held promptly, generally within 24 hours.

## SHARING INFORMATION ABOUT JUVENILE OFFENDERS - H.B. 1749

*by Representative Van de Putte*
*Senate Sponsor: Senator Armbrister*

Public elementary and secondary schools are subject to the federal Family Educational Rights and Privacy Act, which governs disclosure of information in educational records. A 1994 amendment to the Act authorizes educators to share with juvenile justice officials information on children who are at risk of involvement, or have become involved, in the juvenile justice system.

This bill allows, within a county, a school district superintendent and a juvenile probation department to enter into a written interagency agreement to share information about juvenile offenders.

- Sets forth provisions to protect the confidential nature of school and criminal history records.

## INFORMATION HELPS JUVENILES GET PROBATION - H.B. 2869

*by Representative Capelo, et al.*
*Senate Sponsor: Senator Ellis*

Facilitating the apprehension and prosecution of people who provide handguns to juveniles may reduce the number of handguns in the hands of juveniles. H.B. 2869 requires the juvenile, as a condition of probation, to notify the juvenile's supervising juvenile probation officer of the manner in which the juvenile acquired the handgun.

The bill also requires the probation officer to notify the appropriate local law enforcement agency upon receiving the information from the child, and prohibits use of the information as evidence against the child in a juvenile or criminal proceeding.

## JUVENILE JUSTICE PROCEEDINGS - H.B. 3517

*by Representative Goodman, et al.*
*Senate Sponsor: Senator Harris*

Juvenile justice practitioners and officials who contributed to the development of the extensive juvenile justice reforms of the previous two legislative sessions met over several months prior to this session to identify problem areas for possible legislation. The main area of concern is in Chapter 55 of the Juvenile Justice Code dealing with procedures related to children with mental illness and mental retardation. This chapter had not been reviewed extensively since its adoption in 1973. A group of juvenile justice and mental health practitioners from both the public and private sectors, juvenile court and county court judges, and university faculty members assisted in making recommendations for improving the handling of these cases that continue to increase in number and complexity.

A number of substantive revisions contained in the bill relate to proceedings for children with mental illness or mental retardation, determinate sentencing practices, probation after age 18, detention practices, authority of juvenile court referees, release of information about juveniles, and suspected abuse reporting and investigation in juvenile correctional and detention facilities.

### PROCEDURES RELATED TO CHILDREN WITH MENTAL ILLNESS AND MENTAL RETARDATION

Provides an option to the juvenile court to refer proceedings for commitment of a child for mental health or mental retardation services to a court that customarily handles such proceedings.

At any time during juvenile justice proceedings against a juvenile, provided the child meets the appropriate Health and Safety Code commitment criteria, the juvenile court must order the placement of a child who has been found unfit to proceed or lacks responsibility for his or her conduct in a facility designated by the Texas Department of Mental Health and Mental Retardation (TMHMR), in a private psychiatric inpatient facility, or in an adequate outpatient setting for up to 90 days.

- ◊ The treatment facility must report back to the court so that the court may either dismiss the proceedings against the juvenile or proceed with the case.

### DETENTION PRACTICES

Limits the time a juvenile can be detained, without a petition for prosecution:

- ◊ to 30 working days after the initial detention hearing if the juvenile is alleged to have committed a capital, first degree, or aggravated controlled substance felony; or
- ◊ to 15 working days if the youth is alleged to have committed other offenses.

Removes parental supervision-related criteria from the criteria a juvenile court must apply when considering to detain a person older than age 18 pending a hearing to determine whether to try the youth as a juvenile or adult.

- ◊ Allows the court to order the defendant's detention in either a juvenile or adult detention facility.

Lowers the age from 18 to 17 at which a youth may be detained in an adult jail facility for having escaped from a Texas Youth Commission (TYC) facility or violated a condition of TYC parole.

### AUTHORITY OF JUVENILE COURT REFEREES

Expands the authority of juvenile court referees and masters to include:

- ◊ warning a juvenile of his or her rights;
- ◊ accepting written statements from a juvenile when he or she has been detained or been taken into an officer's custody; and
- ◊ conducting proceedings concerning children with mental illness or mental retardation.

### RELEASE OF JUVENILE INFORMATION

Allows the juvenile court to release information related to the name, physical description, photograph, and alleged offense of a child who is the subject of an arrest warrant or directive to apprehend.

Allows DPS to release information related to the name, physical description, photograph, and alleged offense of a child who escaped from county detention facilities and other post-adjudication facility for youth on probation.

### SUSPECTED ABUSE REPORTING AND INVESTIGATION

Continues to require TYC professionals to report youth confessions of child abuse, but authorizes the professionals to report the confessions directly to TYC, rather than directly to a law enforcement agency or DPRS. Additionally, TYC is required to adopt rules in consultation with DPRS to identify which reports will be referred for follow-up investigation by a law enforcement agency or DPRS, based on the severity and immediacy of the alleged harm to the victim.

Gives the Texas Juvenile Probation Commission (TJPC) the responsibility to investigate allegations of abuse and neglect in all programs operated by a juvenile probation department or under contract with a juvenile board, including juvenile justice alternative education program, and gives TJPC access to medical and mental health records as necessary for the investigations.

### MISCELLANEOUS PROVISIONS

Currently, there is nothing that can be done in the case of a child who kills someone before the age of 14, but is not identified as the murderer until after he or she reaches the age of 18. There can be no determinate sentencing because the person is already 18 and there can be no criminal proceedings because the offense occurred before age 14, the age at which a child can be certified to stand trial as an adult. This bill authorizes the juvenile court to transfer a person for criminal proceedings if the person is 18 years of age or older and the person was 10 to 17 years old at the time of the murder or capital murder offense.

Includes juvenile probation officers, detention officers, and juvenile correctional officers who are certified by TJPC among those persons whose professional license may be ordered suspended for failure to pay child support.

Makes punishments for convictions of traffic offenses the same for juveniles as for adults, including any non-fine, non-confinement sanction.

## SEX OFFENDER REGISTRATION - S.B. 399

*by Senator Shapiro*
*House Sponsor: Representative Allen*

This bill is designed to bring Texas into compliance with the Jacob Wetterling Crimes Against Children and the Sexually Violent Offender Registration Act of 1994.

Requires the judge to make an affirmative finding of fact and enter the affirmative finding in the judgment if the victim was younger than 17 years of age at the time of the offense.

Requires an offender to register in this state if the offender will reside in another state but work or attend school in this state.

Requires an offender to register in another state if the offender will live in this state but work or attend school in another state that has a sex offender registration requirement.

## SEX OFFENDER INVESTIGATIVE UNIT - S.B. 565

*by Senator Jackson*
*House Sponsor: Representative Allen*

Currently, there is no unit within the Texas Department of Public Safety (DPS) that deals specifically with monitoring the compliance of sex offenders with Texas sex offender registration and notification laws. As of February 1999, there have been 16,404 sex offenders registered with the Texas Sex Offender Program.

Requires DPS to create a sex offender compliance unit to investigate and arrest persons who have committed certain sexually violent offenses.

## SEX OFFENDER REGISTRATION - S.B. 1224

*by Senator Shapiro*
*House Sponsor: Representative Allen*

This bill is designed to update and expand Texas' program to register sex offenders.

Requires a person to register as a sex offender in Texas if the person is required to register as a sex offender under the laws of another state with which the Department of Public Safety has entered into a reciprocal registration agreement and who is not otherwise required to register because:

- ◊ the person does not have a reportable conviction for an offense under the laws of the other state containing elements that are substantially similar to an offense requiring registration under Texas law; or

- ◊ the person does not have a reportable adjudication of delinquent conduct based on a violation of an offense under the laws of the other state containing elements that are substantially similar to an offense requiring registration under Texas law.

Requires local law enforcement to verify the age of the victim, the age of the person subject to registration, and the basis on which the person is subject to registration within eight days after receiving a registration form.

- ◊ Requires the notification of certain individuals within the school system if the victim is a child younger than 17 years of age or the person subject to registration is 17 years of age or older and a student enrolled in a public or private secondary school.

Requires TDCJ to provide written notice to residents when a person subject to registration who is civilly committed is due to be released from the penal institution or intends to move to a new residence within this state.

Requires certain sex offenders to register once a year, not earlier than 30 days before and not after 30 days from the person's birthday.

Requires a person subject to registration to report that fact to local law enforcement if the person on at least three occasions during any month spends more than 48 consecutive hours in a municipality or county in this state, other than the one in which the person is registered.

## DIRECT NEIGHBORHOOD NOTIFICATION ABOUT SEX OFFENDER - S.B. 1650

*by Senator Jackson*

*House Sponsors: Representatives Haggerty and Allen*

This bill establishes provisions regarding the public notice requirements applicable to persons who are subject to sex offender registration.

Requires a risk assessment review committee to determine a sex offender's risk to the community using the sex offender screening tool, assign the person a numeric risk level of one or two, and send a written notice of the risk level to the penal institution from which the person is due to be released.

Requires TDCJ to establish a risk assessment review committee to be composed of at least five members, each of whom are employed by the state. To the extent possible, the committee should include at least one member having law enforcement experience, one member having experience working with juvenile sex offenders, one member having experience as a sex offender treatment provider, and one member having experience working with victims of sex offenses.

Requires the committee to develop a screening tool, or select from existing tools, to be used in determining the risk level of a person subject to registration.

Requires TDCJ to verify a person's risk level upon notice that the person subject to registration is due to be released from a penal institution, has been placed in community supervision or juvenile probation, or intends to move to a new residence in this state.

Requires TDCJ to provide a notice of release to notify by mail or delivery everyone within a certain radius of the place where the person intends to reside.

## DUTY TO REPORT SEXUAL ASSAULT OF A CHILD - H.B. 628

*by Representative Hope, et al.*
*Senate Sponsor: Senator Shapiro*

This bill is designed to protect victims of sexual assault.

Creates an offense for failing to stop or report an offense of a sexual or assaultive nature that was being committed or is about to be committed against a child.

## MARRIAGE TO SEX OFFENDER REQUIRES NOTICE - H.B. 1462

*by Representative Dunnam*
*Senate Sponsor: Senator Shapiro*

Requires a parent to inform the other parent, if the parent resides with for at least 30 days, marries, or intends to marry:

- ◊ a sex offender; or
- ◊ a person charged with a sex offense.

The notice to inform the other parent must be made as soon as practicable, but no later than 40 days after the parent and sex offender start living together or 10 days after the marriage occurs.

- ◊ Failure to inform the other parent is a Class C misdemeanor.

## DRIVER'S LICENSE REQUIREMENTS FOR SEX OFFENDERS - H.B. 1939

*by Representative Grusendorf*
*Senate Sponsor: Senator Harris*

This bill is designed to provide requirements and procedures regarding driver's licenses or personal identification certificates for persons subject to registration as a sex offender.

Provides that the court is to require the Texas Department of Public Safety (DPS) to include in any driver's license record or personal identification certificate an indication that the person is subject to registration as a sex offender.

Requires the person subject to registration as a sex offender to apply to DPS in person for an original or renewal driver's license or personal identification certificate not later than the 30th day after the date the person is released or the date DPS sends written notice to the person.

Requires an official of a penal institution to inform a person, who is subject to registration as a sex offender, before he or she is released, that the person must apply to DPS in person not later than the 30th day after release for an original or renewal driver's license or personal identification certificate.

Requires a person subject to registration as a sex offender to annually renew in person each driver's license or personal identification certificate until the person's duty to register expires.

## SEX OFFENDER REGISTRATION REQUIREMENTS - H.B. 2145

*by Representatives Allen and McClendon*
*Senate Sponsor: Senator Whitmire*

This bill updates provisions for persons subject to sex offender registration requirements and conditions for supervised release of those persons.

Requires a judge to make an affirmative finding in the judgment of the case if it is determined that the victim was younger than 17 years of age.

Allows a judge who grants community supervision to a person to require a $50 payment to a children's advocacy center.

Requires registration for workers, students, persons regularly visiting, and out-of-state registrants.

Requires disclosure of name, specific address and photograph in certain circumstances.

**SEE ALSO: S.B. 365 (TEXAS DEPARTMENT OF CRIMINAL JUSTICE/SUNSET) ON PAGE 56.**

## FRAUDULENT USE OR POSSESSION OF IDENTIFYING INFORMATION - S.B. 46

*by Senator Carona*
*House Sponsors: Representatives Hinojosa and Goolsby*

Current law provides criminal penalties for credit card fraud and forgery, but does not provide a criminal penalty for the behavior leading up to the fraud.

Makes it a state jail felony to obtain, possess, transfer, or use identifying information of another person without their consent and with intent to harm or defraud another. Identifying information includes:

- ◊ name, social security number, date of birth, and government-issued identification number;
- ◊ unique biometric data, including the individual's fingerprint, voice print, and retina or iris image; and
- ◊ telecommunication identifying information or access device.

"Telecommunication access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another telecommunication access device may be used to:

- ◊ obtain money, goods, services, or other thing of value; or
- ◊ initiate a transfer of funds other than a transfer originated solely by paper instrument.

## ACCEPTABLE BLOOD ALCOHOL CONTENT LEVEL LOWERED - S.B. 114

*by Senator Gallegos, et al.*
*House Sponsors: Representatives Hochberg and Wise*

This bill is designed to reduce the number of alcohol-related accidents and fatalities throughout Texas.

Amends the current law, and redefines "intoxicated" by changing the level of alcohol concentration to 0.08 or more, rather than 0.10 or more.

## TAXI-DANCING - S.B. 222

*by Senator Gallegos*
*House Sponsor: Representative Farrar*

This bill penalizes a business that authorizes, permits, or induces a person younger than 18 years of age to dance with or for another person in exchange for a benefit.

Makes a permittee or licensee who authorizes, permits, or induces a person younger than 18 years of age to dance with or for another person in exchange for a benefit at the permittee's or licensee's establishment subject to a Class A misdemeanor.

## BOARD OF PARDONS AND PAROLES/SUNSET - S.B. 352

*by Senator Brown*
*House Sponsor: Representative McCall*

This bill is designed to update the Texas Board of Pardons and Paroles with recommendations by the Sunset Commission.

Amends the Government Code to update the standard Sunset language requiring appointments to be made without bias, prohibits conflicts of interest by board members and agency employees, specifies grounds for removing board members, and provides for board member training.

## TEXAS DEPARTMENT OF CRIMINAL JUSTICE/SUNSET - S.B. 365

*by Senator Brown*
*House Sponsor: Representative McCall*

S.B. 365 authorizes the continuation and the functions of the Texas Department of Criminal Justice (TDCJ), the administration of the Private Sector Prison Industries Oversight Authority (PSPIOA), and the administration of the Texas Council on Offenders with Mental Impairments. This bill is also designed to stop certain individuals from repeatedly committing sex crimes.

The Texas Board of Criminal Justice and the Texas Department of Criminal Justice are continued for 12 years, until September 1, 2011.

Incorporates the standard Sunset Commission language for TDCJ, TDCJ board, PSPIOA, and Texas Council on Offenders with Mental Impairments regarding: conflicts of interest for board or department employment and membership, board removal, equal employment opportunity, training, policy making and management responsibilities, public access, and complaint procedures.

Requires the TDCJ board and the Board of Pardons and Paroles Policy Board to review rules, policies, and procedures related to the operation of the parole process. Requires the board and the policy board to identify areas of inconsistency between the department and the Board of Pardons and Paroles and amend rules or policies for consistent operation.

Authorizes the executive director with the approval of the board, to create, eliminate, or reassign duties of, divisions listed under Section 493.002 or created under this section, notwithstanding certain sections. Authorizes the executive director to reorganize the distribution of power granted to a division with the consideration of comments from the judicial advisory council.

Authorizes the TDCJ board to develop, by rule, and TDCJ to administer an incentive pay scale for work program participants consistent with rules adopted by PSPIOA, rather than inmates who participate in prison industries. Requires TDCJ to apportion pay earned by a work program participant as required by the PSPIOA under Section 497.0581. Requires TDCJ to consider each participant's classification and availability to work in assigning positions in factories, rather than prison factories. Requires TDCJ to give priority to participants closest to release in assigning training, rather than inmates' needs and projected release date.

Authorizes a corporation to claim credit for wages paid for an employee employed for more than one year after release from supervision.

**SEXUALLY VIOLENT PREDATORS**

Defines a sexually violent predator as a repeat sexually violent offender who suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence.

Requires the Texas Department of Criminal Justice (TDCJ) or the Department of Mental Health and Mental Retardation (MHMR) to notify the multidisciplinary team of the anticipated release of a person who is serving a sentence for a sexually violent offense or has been committed to the MHMR after having been adjudged not guilty by reason of insanity of a sexually violent offense.

Creates a multidisciplinary team to be composed of: two persons from MHMR; three persons from TDCJ, one of whom must be from victim services; one person from the Department of Public Safety (DPS); and one person from the Interagency Council on Sex Offender Treatment.

Requires the multidisciplinary team to determine whether the person is a repeat sexually violent offender and whether the person is likely to commit a sexually violent offense after release or discharge and give notice of that determination to TDCJ or MHMR as appropriate.

Requires TDCJ or MHMR to give notice and corresponding documentation to the attorney representing the state. The attorney representing the state must then file a petition.

Requires a judge to conduct a trial to determine whether a person is a sexually violent predator. The person or the state is entitled to a jury trial, which must find the person to be a sexually violent predator by a unanimous verdict.

If the person is determined to be a sexually violent predator, the judge shall commit the person for outpatient treatment and supervision, to continue until the person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

Requires a person determined to be a sexually violent predator to be supervised and requires that the supervision include tracking services. Requires the Interagency Council on Sex Offender Treatment to enter into an interagency agreement with DPS for the provision of tracking services.

Requires a person committed under this section to be examined twice a year to determine if a requirement imposed on a person pursuant to this law should be modified or probable cause exists to believe that the person is no longer likely to engage in a predatory act of sexual violence.

## DEPARTMENT OF PUBLIC SAFETY/SUNSET - S.B. 370

*by Senator Brown*
*House Sponsor: Representative Bosse*

This bill continues the Department of Public Safety (DPS) for ten years, until September 1, 2009.

Requires a person who is appointed to and qualifies for office as a member of the Public Safety Commission (PSC) to complete a training program before the person may vote, deliberate, or be counted as a member in attendance at a meeting of PSC.

Requires PSC to establish a process for approving DPS' disposition of seized or forfeited assets.

Authorizes PSC to appoint a certain officer as a Special Texas Ranger, who is subject to the orders of PSC and the governor.

Requires DPS to:

- ◊ conduct a long-term needs assessment for the enforcement of commercial motor vehicle rules; and
- ◊ include, on the reverse side of a driver's license, a place to write emergency contact information.

Allows DPS to provide for renewal of a driver's license by telephone, over the Internet, or by other electronic means.

## PENALTIES FOR DISTRIBUTING THE DRUG EPHEDRINE - S.B. 656

*by Senator Wentworth*
*House Sponsor: Representative Hilbert*

This bill is designed to protect minors from misuse of ephedrine sold over-the-counter.

Makes it a crime for a person who is not a doctor or health care provider to sell, transfer, or otherwise furnish a product containing ephedrine to a minor.

Makes the first offense a Class C misdemeanor and a subsequent offense a Class B misdemeanor.

## CHILD SAFETY ZONES - S.B. 660

*by Senator Cain*
*House Sponsor: Representative Betty Brown*

The Code of Criminal Procedure creates conditions for certain criminals to prevent their participation in programs of areas designated for children. The drug and gun free zones were specifically created to protect children from drug dealers, pedophiles, and other criminals. This bill creates child safety zones to protect children from certain criminal offenders.

Provides that the child safety zone may consist of premises where children commonly gather such as schools, day-care facilities, playgrounds, public or private youth centers, public swimming pools, or video arcade facilities.

Allows a judge or a parole panel to:

- establish a zone which prohibits a person on community supervision, parole, or mandatory supervision for certain offenses including murder, capital murder, indecency with a child, aggravated kidnapping, aggravated sexual assault, or sexual assault from going into child safety zones; and
- prohibit, as a condition of community supervision, parole, or mandatory supervision, a defendant from supervising or participating in any program that includes persons under 17 years of age as participants and that regularly provides athletic, civic, or cultural activities.

Allows the person subject to the child safety zone to request the zone be modified if the zone:

- interferes with the ability of the person to attend school or hold a job; or
- is broader than necessary to protect the public.

## IMPROPER SEXUAL ACTIVITY - S.B. 894

*by Senator Ogden*
*House Sponsor: Representative Allen*

This bill sets forth criteria for the offense of improper sexual activity between certain law enforcement or correctional personnel and persons under custody, and provides penalties.

Amends the current law, and makes sexual contact with an individual in custody a punishable offense.

Changes the definition of "custody" to include a juvenile offender detained at a Texas Youth Commission facility or at a facility under contract with the Texas Youth Commission.

Makes it a state jail felony for an employee of the Texas Department of Criminal Justice to engage in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual who is not the employee's spouse and who the employee knows is under the supervision of the department but not in the custody of the department.

## SEX CRIMES COMMITTED USING ROHYPNOL - S.B. 1100

*by Senator Cain, et al.*
*House Sponsors: Representative McCall, et al.*

This bill makes it an offense to administer rohypnol or gamma hydroxybutyrate to a person with the intent of facilitating the offense of aggravated sexual assault.

Requires the court to make an affirmative finding, if it is shown beyond a reasonable doubt that the defendant administered or provided a controlled substance to the victim with the intent to facilitate the commission of the offense.

- ◊ Requires the court to increase the punishment prescribed for the offense to the next highest category of offense if the court makes an affirmative finding.

## INMATES PAY COUNTIES CONFINEMENT COSTS - S.B. 1276

*by Senators Wentworth and Moncrief*
*House Sponsors: Representatives Cuellar and Siebert*

This bill reimburses counties for expenses associated with confining people who commit misdemeanor crimes.

Allows a court that sentences a defendant to serve a term of confinement in county jail for a misdemeanor to require the defendant to reimburse the county for the defendant's confinement at a rate of $25 a day.

Prohibits a judge from requiring reimbursement if the defendant is indigent.

Restricts the court by allowing it to only require the defendant to reimburse the county for those days which the defendant is confined after the date of conviction or on which a plea of guilty or nolo contendere was entered.

Requires the court to consider the defendant's employment status, earning ability, financial resources, and any other special considerations that may affect the defendant's ability to pay in determining whether to order reimbursement.

Requires the sheriff to present a bill to the defendant on the day the defendant who is required to reimburse the county discharges an executed sentence of confinement or completes the period of confinement required as a condition of community supervision.

## GRAFFITI ON SCHOOLS - H.B. 152

*by Representative Pickett, et al.*
*Senate Sponsor: Senator Shapleigh*

This bill is designed to stop graffiti on schools.

Makes it a state jail felony if graffiti is marked on a school, whether public or private, or on institutions of higher education.

## NO EXECUTION OF MENTALLY INCOMPETENT PEOPLE - H.B. 245

*by Representatives Gallego and Naishtat*
*Senate Sponsor: Senator Ellis*

This bill establishes a procedure to determine if a person is mentally incompetent and prohibit the state from executing a mentally incompetent person.

Prohibits a person who is incompetent from being executed.

Requires the trial court to order at least two mental health experts to examine the defendant to determine whether the defendant is incompetent to be executed if the trial court determines that the defendant has made a substantial showing of incompetency.

Provides that a defendant is incompetent to be executed if the defendant does not understand that the defendant is to be executed, the imminence of the execution, and the reason why the execution is to take place.

## FAKE LIABILITY INSURANCE CARD PENALTIES - H.B. 319

*by Representatives Driver and Garcia*
*Senate Sponsor: Senator Cain*

This bill creates stiffer criminal penalties for forging, possessing, selling, or offering to sell a government record that is evidence of financial responsibility.

Redefines "government record" to include a standard proof of motor vehicle liability insurance card.

Provides that it is a Class B misdemeanor if the defendant is convicted of presenting or using the government record.

Provides that it is a felony of the third degree if the defendant is convicted of making the government record.

Provides that it is a felony of the second degree if the actor's intent in committing the offense was to defraud or harm another.

## HELP IN COVERING COSTS FOR CAPITAL MURDER TRIALS - H.B. 424

*by Representative Bob Turner, et al.*
*Senate Sponsor: Senator Armbrister*

This bill is designed to minimize the financial strain a capital murder trial can have on a county's budget.

Authorizes the criminal justice division of the governor's office to distribute money appropriated by the legislature for capital murder trials.

Provides that a county is eligible to apply to the division for a distribution of money, if during the fiscal year, certain conditions existed.

Requires the commissioners court to submit an application and a financial statement of the county that shows certain items for the fiscal year.

Sets forth requirements for the distribution of the money.

## MISSING PERSONS SEARCH - H.B. 605

*by Representative Greenberg, et al.*
*Senate Sponsor: Senator Armbrister*

This bill is designed to enable law enforcement officials to begin immediately searching for certain missing persons before a 24-hour period has elapsed.

Requires local law enforcement to immediately start an investigation in order to locate a person who is known to have chronic dementia, including Alzheimer's dementia, whether caused by illness, brain defect, or brain injury.

Makes it a Class C misdemeanor to knowingly file a false report or make a false statement regarding a missing child or missing person.

## ITEMS BANNED FROM SALE AT FLEA MARKETS - H.B. 749

*by Representatives Van de Putte and Gutierrez*
*Senate Sponsor: Senator Nelson*

This bill prohibits the sale of certain items at flea markets.

Provides that if a person sells or offers for sale infant formula, baby food, or contact lenses at a flea market, it is a misdemeanor.

Provides a defense to prosecution if the person selling the item is authorized in writing to sell the item at retail by the manufacturer, or only a sample of the item or a catalog or brochure was available at the flea market, and the item sold was not delivered to the buyer at the flea market.

## PENALTY FOR TAMPERING WITH TAAS SCORES - H.B. 926

*by Representative Garcia*
*Senate Sponsor: Senator Zaffirini*

Allegations of alteration of Texas Assessment of Academic Skills (TAAS) answer sheets have arisen in more than 11 school districts statewide. Currently, tampering with such records is a misdemeanor. This bill makes tampering with a governmental record that is a public school record, report, or assessment instrument under Chapter 39, Education Code, a third degree felony.

## DNA RECORD FOR CRIMINALS - H.B. 1188

*by Representative Gallego, et al.*
*Senate Sponsor: Senator Shapiro*

This bill is designed to create a DNA record for certain criminals.

Requires the institutional division of the Texas Department of Criminal Justice to collect a blood sample or other specimen from an inmate serving a sentence for murder, aggravated assault, burglary punishable under Section 30.02(c)(2), Penal Code, or an offense for which registration as a sex offender is required.

Requires the Texas Youth Commission to collect a blood sample or other specimen from a juvenile who is committed to the commission for murder, aggravated assault, burglary punishable under Section 30.02(c)(2), Penal Code, or an offense for which registration as a sex offender is required.

## INCREASED PENALTY FOR TRESPASS ONTO SUPERFUND SITE - H.B. 1265

*by Representative McClendon*
*Senate Sponsor: Senator Barrientos*

Dangerous chemicals and industrial by-products may be found in designated Superfund sites, making such sites potentially dangerous areas. This bill defines "superfund site" for purposes of state law, and creates a Class A misdemeanor for a trespass committed on a superfund site. H.B. 1265 also makes it clear that a superfund site is a facility on the National Priorities List or the state registry, and makes trespass onto such a site a more serious offense than other forms of trespass.

## NO FIRING AN EMPLOYEE FOR SERVING AS A JUROR - H.B. 1324

*by Representative Garcia*
*Senate Sponsor: Senator Carona*

Currently, an employer may terminate an employee for serving as a juror without criminal repercussions. Although most other states would make the firing a criminal offense, in Texas the employee may sue the former employer for up to six months' compensation and reasonable attorney's fees. This bill makes it a Class B misdemeanor for a private employer to terminate a permanent employee because the employee served as a juror.

Authorizes a court, in addition to any other sanction or remedy under law, to punish by contempt an employer who terminates, threatens to terminate, or penalizes an employee who performs jury duty.

Increases the damages available to a person injured by such violation from an amount not to exceed an amount equal to six months of that employee’s compensation to an amount equal to not less than one year's compensation or more than five years' compensation.

Requires an action for damages to be brought not later than the second anniversary of the date on which the person served as a juror.

## UNLAWFUL RESTRAINT - H.B. 1428

*by Representative Staples*
*Senate Sponsor: Senator Shapiro*

This bill amends the Penal Code regarding unlawful restraint, by expanding the definition of "restraint" to include - by any means even with the victim's acquiescence - moving a child who is older than 14 years of age but less than 17 outside the state and outside of a 120-mile radius from the victim's residence without the consent of the child's parent, guardian, or institution acting in loco parentis.

- ◊ Makes it an affirmative defense if no force or deception was used and the actor was not more than three years older than the victim; there is already an existing affirmative defense if the actor is the child's relative.
- ◊ Makes an offense a state jail felony, unless the actor recklessly exposes the victim to a substantial risk of serious bodily injury, in which event it is a third-degree felony.

## FELONIOUS CHUNKING - H.B. 1713

*by Representative Ellis, et al.*
*Senate Sponsor: Senator Ogden*

This bill is designed to help the Texas Department of Criminal Justice deter inmates that "chunk," a term used to refer to the throwing of feces, urine, blood, or seminal fluid.

Makes "chunking," no matter who the victim is, a third degree felony.

## ILLEGAL TRANSPORT OF PERSON SEEKING UNLAWFUL ENTRY - H.B. 2879

*by Representative Chavez*
*Senate Sponsor: Senator Shapleigh*

This bill is designed to stop persons from transporting illegal aliens into Texas and putting them in danger of serious bodily injury or death.

Provides that it is a state jail felony to transport a person for pecuniary benefit in a way that is designed to conceal the individual from law enforcement officials and puts the person at risk of serious bodily injury or death.

## DIETARY SUPPLEMENT DISTRIBUTION BAN - H.B. 3420

*by Representative Maxey, et al.*
*Senate Sponsor: Senator West*

This bill is designed to stop high school coaches from encouraging the use of dietary supplements, such as creatine, by their athletes.

Prohibits a school district employee from knowingly selling, marketing, or distributing a dietary supplement that contains performance-enhancing compounds to a primary or secondary student with whom the employee has contact as part of the employee's school district duties; or knowingly endorsing or suggesting the ingestion, intra-nasal application, or inhalation of a dietary supplement by a student with whom the employee has contact as a part of the employee's school district duties.

Provides that a person who violates this section commits a Class C misdemeanor.

## DISSOLUTION OF INDUSTRIAL DEVELOPMENT CORPORATIONS - S.B. 269

*by Senator Duncan*
*House Sponsor: Representative Isett*

Currently, under Texas law, economic development corporations formed under Section 4A, Article 5190.6, V.T.C.S. (Development Corporation Act of 1979), are subject to dissolution by popular election. Development corporations formed under Section 4B are not subject to popular dissolution. This bill provides a procedure for the popular dissolution of Section 4B development corporations.

Allows economic development corporations formed in the most populous counties in Texas under Section 4B of the Development Corporation Act to be dissolved by popular vote.

◊ Sets forth provisions for the election for dissolution.

## SUPPORT FOR 2007 PAN AMERICAN GAMES OR 2012 OLYMPICS - S.B. 456

*by Senator Madla, et al.*
*House Sponsors: Representative Arthur Reyna, et al.*

Currently, the City of San Antonio is bidding to host the 2007 Pan American Games, while the cities of Dallas and Houston are bidding on the 2012 Olympics. The site selection committees that review these bids require the bidding cities to submit sufficient evidence that the state in which the bidder is located supports the bids and is willing to grant good faith assurances that the games will be produced should the games be awarded to that city. S.B. 456 authorizes the state to provide financial support to persons and municipalities as well as assurances that the Texas Department of Economic Development's (TDED) commitments will be fulfilled to the site selection organization sponsoring the games if the state is the site chosen for either the 2007 Pan American Games or the XXX Olympiad in 2012.

Provides that commitments made by the TDED in a games support contract will be fulfilled. Finds that the state's conduct of the 2007 Pan American Games or the XXX Olympiad Games would provide invaluable public visibility throughout the world for the state and site communities, and would encourage and provide major economic benefits to the state and site communities.

Requires the comptroller to:

◊ determine quarterly incremental increases in sales and use tax receipts within an accepted applicant's market area whose site application has been accepted, beginning on the first day after the site selection date;

◊ deposit funds into a special treasury account called the Olympics and Pan American Games support fund;

◊ discontinue depositing this amount after the closing of the event. Authorizes the department, in its sole discretion, to use Olympic and Pan American Games money, rather than state funds, to fulfill state selection organization obligations under a support contract or any other agreement which provides assurances from TDED to a site selection organization.

Prohibits money in the fund from being spent except as directed by TDED and prohibits the use of state funds from being used for the purposes of this Act.

## YEAR 2000 LIABILITY MITIGATION - S.B. 598

*by Senators Duncan and Fraser*
*House Sponsors: Representative McCall, et al.*

Sets forth findings regarding the financial impact of the "Year 2000" or "Y2K" problem on the Texas economy and the need for establishing legal incentives to abate the problem. Sets forth purposes of this Act regarding protection for citizens and the economy, and establishes legal incentives that encourage certain actors in the computer industry to remedy the date problem.

Sets forth requirements and procedures for bringing action for issues arising from Year 2000 computer problems.

Provides for a two-year statute of limitations on Year 2000 lawsuits after the date the computer failure first caused the harm that is the subject matter of the action.

Requires a claimant to commence an action against a manufacturer or seller of a computer product or computer service within 15 years after the date of the sale, except in the following case: a manufacturer or seller expressly represented that the computer product or computer service product would not manifest the computer date failure.

Provides for an affirmative defense in subsequent lawsuits if a seller of computer products notifies its customers of problems and offers those customers no-cost or low-cost solutions.

Requires the Texas Department of Information Resources (DIR) to establish a toll-free telephone number for persons to inquire about Year 2000 issues, and provides that there is a refutable presumption that notice has been given via DIR's Year 2000 Project Office website or the toll-free number established to provide information on this issue.

Provides a framework for settling claims, which may include an offer to cure or correct the computer date failure.

Limits damages against defendants who take action to resolve Year 2000 related problems of customers.

## DEVELOPMENT CORPORATION FOR SPACEPORT FACILITIES - S.B. 1092

*by Senators Brown and Truan*
*House Sponsors: Representatives Oliveira and Jim Solis*

Currently, no state statute authorizes a county to establish a development corporation designated to design, construct, and operate a commercial spaceport. Such a corporation would encourage local economic development through the production of related industries. This bill is designed to create and govern such a development corporation.

Authorizes a county or combination of municipalities and counties to create a development corporation to promote and develop a spaceport and new or expanded business enterprises related to a spaceport.

## PROGRAMS AND SERVICES IN AREAS IMPACTED BY NAFTA - S.B. 1107

*by Senator Shapleigh*
*House Sponsor: Representative Najera*

Requires the Texas Business and Community Economic Development Clearinghouse (clearinghouse) at the Texas Department of Economic Development (department), at least once each two-year period, to provide written notice on those programs and services that will benefit and assist communities and entities that have experienced significant job losses associated with the implementation of the North American Free Trade Agreement (NAFTA).

Requires the clearinghouse to provide information in English and Spanish on the department's Internet website and to each of the governing bodies of the municipalities and counties, chambers of commerce, small business development centers, and economic development centers located in the border region.

Requires the information being furnished to the communities and other entities to contain the Internet address of the department's website and the toll-free telephone number of the clearinghouse.

## THE TEXAS COMMUNITY INVESTMENT PROGRAM - H.B. 64

*by Representative Greenberg, et al.*
*Senate Sponsor: Senator Lucio*

Currently, as an investment to spur economic growth in economically depressed areas, certain corporations and institutions make loans to small minority-owned businesses. Since there is a greater measure of risk involved, it can be difficult to obtain funds for such investment programs. This bill creates the Texas Community Investment Program to provide matching grants for investment programs that assist businesses in distressed areas of the state, to be administered by the Texas Department of Economic Development.

- ◊ Requires the department to determine the eligibility of a community development investor (CDI), and authorizes the department to set a limit on the number of participants. Requires a participation agreement from a CDI. Requires the participation agreement to provide for an annual audit of all program money received by the CDI.
- ◊ Requires the CDI to take certain actions with the money it receives from the department within 18 months of its receipt. Requires the CDI to return unused funds after the 10th day after the 18-month period.
- ◊ Provides maximum loan amounts, and that the maximum loan term is 15 years.
- ◊ Limits the maximum equity investment for a single business to $50,000, and the maximum term of investment to seven years. Limits the maximum ownership that a CDI can acquire in a business to 50 percent of the business's equity.

## MUNICIPAL NEIGHBORHOOD EMPOWERMENT ZONES - H.B. 313

*by Representative Giddings, et al.*
*Senate Sponsor: Senator West*

Currently, there is no law authorizing a municipality to establish neighborhood empowerment zones (zone). The establishment of such zones may be a useful means of revitalizing distressed neighborhoods. This bill authorizes a municipality to create a neighborhood empowerment zone if it finds that the zone would benefit the public health, safety, and welfare of municipal residents.

Authorizes a municipality to create a neighborhood empowerment zone covering a part of the municipality if the municipality determines the creation of the zone would promote:

- ◊ the creation of affordable housing, including manufactured housing, in the zone;
- ◊ an increase in economic development in the zone;
- ◊ an increase in the quality of social services, education, or public safety provided to residents of the zone; or
- ◊ the rehabilitation of affordable housing in the zone.

Authorizes a municipality to:

- ◊ waive or adopt fees related to the construction of buildings in the zone;
- ◊ enter into agreements relating to sales tax refunds and abatements; and
- ◊ enter into agreements abating municipal property taxes on property in the zone.

## PROMPT PAYMENT TO CONTRACTORS - H.B. 1522

*by Representative Siebert, et al.*
*Senate Sponsor: Senator Armbrister*

This bill requires prompt payment by an owner or the owner's representative to a contractor or subcontractor who, under a contract, properly performs work. It also requires a contractor to pay a subcontractor in a timely manner for work properly performed.

Provides an exception for a good faith dispute over the amount owed under a contract for construction or improvements to a single-family resident, duplex, triplex, or quadruplex. Provides an exception for a good faith dispute on other construction contracts, in which the person disputing the obligation to pay may not withhold more than 100 percent of the difference between the amounts that are claimed as due.

Allows a contractor to suspend work if an owner fails to pay for work performed within a certain time limit. Lays out the procedures for notification.

Provides an exemption to this chapter for any contract to explore, produce, or develop oil, natural gas, and other related products.

## TEXAS FILM INDUSTRY GUARANTEED LOANS - H.B. 1687

*by Representative Hunter, et al.*
*Senate Sponsor: Senator Armbrister*

This bill is designed to promote the film industry in this state by establishing the Texas film industry development loan guarantee program for Texas films made by Texas film producers.

- ◊ Provides that the Texas film industry administrative fund is an account in the general revenue fund.
- ◊ Requires the comptroller to administer a program to guarantee a certain amount of one or more qualified Texas film production loans as a means to facilitate access to capital for the production of filmed entertainment in this state.
- ◊ Requires a loan to meet certain requirements, to qualify as a Texas film production loan.

Provides that this program is subject to Sunset review, and if the program is not continued, it expires September 1, 2005.

## SMALL BUSINESS ADVOCATE - H.B. 2022

*by Representative Garcia*
*Senate Sponsor: Senator Lucio*

Establishes a small business advocate, to be appointed by the governor, at the Texas Department of Economic Development (TDED). Requires the Office of Small Business Assistance at TDED to develop a "one-stop" approach to small business needs.

## DEVELOPMENT CORPORATIONS - H.B. 2614

*by Representative Counts*
*Senate Sponsor: Senator Fraser*

Currently, a county or municipal corporation is allowed to charter a development corporation, but there is no provision to allow a group of counties to charter a development corporation.

H.B. 2614 creates a county alliance, with the same powers, functions, and authorities as currently granted to an individual county or municipality, to jointly authorize the creation of a development corporation. The counties composing the alliance shall be adjacent to one another or in close proximity.

Defines "county alliance" to mean two or more counties that jointly authorize the creation of a corporation under the Development Corporation Act.

## DEVELOPMENT CORPORATION ACT - H.B. 3029

*by Representative Oliveira, et al.*
*Senate Sponsor: Senator Brown*

The Development Corporation Act (Act) allows cities to adopt a sales and use tax to be dedicated to the promotion of local economic development. Cities which have adopted the tax have cumulatively raised in excess of $200 million annually.

H.B. 3029 clarifies and strengthens the existing Act by:

- ◊ Redefining "project" to include targeted infrastructure and improvements to promote new and expanded business development, job creation and retention, job training, and educational facilities.
- ◊ Providing that the costs of a publicly owned and operated project that is purchased or constructed under Section 4A include the maintenance and operating costs of a project, and allows 4A tax proceeds to be used to pay those costs. An election to approve the use of the 4A tax proceeds for maintenance and operating costs may be required under certain conditions.

- ◊ Increasing the maximum combined sales and use tax rate from 7.25 percent to 8.25 percent that an eligible 4B city may impose.
- ◊ Exempting certain projects from property taxation by local tax units.

The bill also allows for the creation of a development corporation and its corresponding powers for the development of spaceport facilities.

Finally, the bill defines a "defense base development corporation" as a corporation established under Section 4B of the Act, for the purpose of promoting projects regarding a military base closure or realignment under the Defense Base Closure and Realignment Act of 1990.

## ENTERPRISE ZONE PROGRAM - H.B. 3658

*by Representative Oliveira, et al.*
*Senate Sponsor: Senator Sibley*

Makes technical and substantive changes to the enterprise zone program in order to increase the efficiency of the program. H.B. 3658 accomplishes this by:

- ◊ modifying certain reporting and certification requirements;
- ◊ clarifying when a retained job is eligible for enterprise zone benefits;
- ◊ requiring enterprise projects to meet certain scoring criteria; and
- ◊ eliminating a specific tax incentive that is infrequently used.

## UT-PAN AMERICAN ADDS VIDEO TELECONFERENCING PROGRAM - S.B. 73

*by Senator Truan, et al.*
*House Sponsor: Representative Hinojosa*

Requires the International Trade and Technology Center at The University of Texas-Pan American (center) to develop and implement a video teleconferencing pilot program (pilot program) designed to assist small businesses in establishing international trade relationships by allowing the businesses access to certain video conferencing facilities for a fee. Specifies requirements for the center when developing the pilot program. Authorizes the center to obtain federal foundation funds available for that purpose or private funds from any source, in order to cover the cost of administering and implementing the pilot program.

Requires the center to submit an initial report concerning the effectiveness of the pilot program to the governor and the legislature, no later than January 15, 2001. Requires the center to submit to the governor and the legislature a subsequent report no later than January 15, 2003.

## ISSUANCE OF BONDS FOR EDUCATION LOANS - S.B. 184

*by Senator Barrientos, et al.*
*House Sponsor: Representative Hunter*

Allows the Texas Higher Education Coordinating Board to issue an additional $400 million in bonds to finance educational loans to students.

## CONSTITUTIONAL AMENDMENT - S.J.R. 16

*by Senator Barrientos, et al.*
*House Sponsor: Representative Hunter*

Amends Article III of the Texas Constitution by adding Section 50b-5 to enable S.B. 184 to go into effect.

## CONTRACTS WITH HIGHER EDUCATION ADMINISTRATORS - S.B. 192

*by Senators Ogden and Moncrief*
*House Sponsor: Representative Junell*

Currently, the Texas Constitution prohibits the granting of extra compensation to a state employee after service has been rendered. Some institutions of higher education have granted administrators long-term contracts that permit or require large cash settlements when the employee resigns or leaves.

Additionally, some administrators have been granted tenure without the same scrutiny given to other faculty or have been given salaries substantially higher than their peers. This bill provides restrictions on contracts with and compensation of administrators of public institutions of higher education. This bill addresses these issues.

Prohibits a contract with a higher education administrator from exceeding three years. Limits the amount of severance or other payments to an administrator at the termination of the contract.

Requires development leave taken by administrators to be on terms similar to development leave granted to faculty.

Requires any administrator granted developmental leave to return to the institution for an amount of time equal to the leave or repay the institution for all costs of the leave, including the amount of salary paid during the leave.

Requires tenure granted to administrators to be awarded under the same policy that tenure is granted to faculty.

Prohibits a salary granted to an administrator reassigned to a faculty or other position at the university from exceeding the salary of other persons with similar qualifications performing similar duties.

Requires all records pertaining to a contract between an institution and an administrator to be public.

## TEXAS TOMORROW FUND COVERS TWO-YEAR TRADE SCHOOLS - S.B. 315

*by Senator Ellis*

*House Sponsor: Representative Dukes*

Allows the Texas Tomorrow Fund to be used for proprietary schools offering a two-year associate degree approved by the Texas Higher Education Coordinating Board.

- ◊ A proprietary school offers training or preparation for a business, trade, technical, or industrial occupation, or for avocational or personal improvement.

Expands current law allowing the purchaser of a prepaid tuition contract for a senior college plan, before the beneficiary graduates from high school, to enter into a supplemental contract to prepay additional tuition and credit hours to also include a private college plan.

## HIGHER TUITION FOR CERTAIN UNDERGRADUATE STUDENTS - S.B. 345

*by Senator Bivins*
*House Sponsors: Representative Rangel, et al.*

Beginning with funding recommendations for the 2001-2002 fiscal year, prohibits the Texas Higher Education Coordinating Board, in establishing funding formulas for higher education, from including funding for semester credit hours earned by a resident undergraduate student who has previously attempted a number of semester credit hours that exceeds by at least 45 hours the number of semester credit hours required for completion of the degree program in which the student is enrolled.

Beginning with tuition charged for the 1999 fall semester, allows a higher education institution to charge a higher rate than that charged to other resident undergraduate students, but not to exceed out-of-state tuition, to resident undergraduate students described above.

Grandfathers funding for semester credit hours earned by students enrolled as an undergraduate before the 1999 fall semester.

Requires the legislature to compute local funds available to each institution as if the higher tuition rate were not collected from students described above.

For the appropriations to higher education institutions for 1999-2000 and 2000-2001, prohibits the legislature from including funding for semester credit hours attributable to enrollment growth for the 1997-1998 and 1998-1999 academic years to be earned in the 1999-2000 and 2000-2001 academic years by resident students who are charged the resident tuition rate for those hours but who would have been subject to tuition for those hours at a higher rate if this law had been in effect in January 1999.

Provides that a student who is not enrolled in a degree program is considered to be enrolled in a degree program requiring a minimum of 120 hours.

Exempts from the above requirements semester credit hours:

- taken by the student before receiving a baccalaureate degree previously awarded;
- earned by examination or other procedure without registering for a course for which tuition is paid;
- earned for a remedial education course, a technical course, a workforce education course, or another course that does not count toward the student's degree program; and
- earned by the student at a private institution or an out-of-state institution.

Requires each institution of higher education to inform each new undergraduate student in writing of the limitation on the number of hours a Texas resident is entitled to complete while paying tuition at the resident rate.

## REQUIRED NOTICE OF AUTOMATIC COLLEGE ADMISSION - S.B. 510

*by Senator Shapleigh*
*House Sponsor: Representative Rangel*

Requires each high school in every school district in the state to post appropriate signs in each counselor's office, each principal's office, and in each administrative building containing information about automatic college admission for students in the top 10 percent of the graduating class.

Requires each high school counselor and class advisor to be provided with a detailed explanation of the automatic acceptance provisions and requires the counselor or advisor to explain those provisions to eligible students.

Requires each district to provide each eligible senior student at the beginning of a class's senior year with a written notification of the student's eligibility with a detailed explanation of the law providing automatic admission for students in the top 10 percent of a high school graduating class.

## TX CHIROPRACTIC COLLEGE BECOMES A PUBLIC COLLEGE - S.B. 1651

*by Senator Jackson*
*House Sponsor: Representative John Davis*

Authorizes the transfer of the Texas Chiropractic College to the governing board of a university, to be agreed to by both boards; to be reviewed, approved, and aided by the Texas Higher Education Coordinating Board; and to be effective September 1 following the coordinating board's approval.

Explicitly states the legislative intent to not create an institution of higher education entitled to funds under Section 17 or 18 of Article VII of the Texas Constitution.

## TEXAS AND TEACH FOR TEXAS GRANT PROGRAMS - H.B. 713

*by Representative Cuellar, et al.*
*Senate Sponsor: Senator Ellis*

Creates a student financial assistance program to enable eligible students to attend public and private institutions of higher education, including public junior colleges and public technical institutes, in Texas, to be coordinated by the Texas Higher Education Coordinating Board (board).

**TEXAS GRANT PROGRAM**

Requires the board and eligible institutions to give highest priority to awarding TEXAS grants to students who demonstrate the greatest financial need.

Requires a student, in order to be eligible:

- ◊ to be a resident of Texas;
- ◊ to have graduated from a public or private high school in Texas no earlier than the 1998-1999 school year and to have completed the recommended or advanced high school curriculum or its equivalent, or to have received an associate degree from an eligible institution no earlier than May 1, 2001;
- ◊ to meet financial need requirements; to be enrolled in an undergraduate degree or certificate program at an eligible institution;
- ◊ to be enrolled as an entering undergraduate student for at least three-fourths of a full course load no later than the 16th month after graduation from high school, or no later than the 12th month after receipt of an associate degree;
- ◊ to have applied for any available financial aid; and
- ◊ to comply with any additional nonacademic requirement adopted by the board.

Provides that an individual is not eligible for a TEXAS grant or to continue to receive a TEXAS grant if the person has been convicted of a felony or a crime involving a controlled substance unless the person meets all above requirements, and has received a certificate of discharge or completed probation, and at least two years have passed since the date of receipt or completion, or has been pardoned, or has had the record expunged.

Provides that an individual who has been granted a baccalaureate degree is not eligible to receive a TEXAS grant.

Limits receipt of a TEXAS grant to no more than 150 semester hours or the equivalent and to six years after the initial award.

Exempts from the requirement of having completed the recommended or advanced high school curriculum students who attended a public high school in a district that did not offer all the necessary courses for the person to complete the entire recommended or advanced curriculum, and the person completed all courses at the high school that were offered toward the recommended or advanced curriculum.

Requires the Commissioner of the Texas Education Agency (TEA) to provide the board by March 1 of each year with a list of all public high schools that do not offer the full recommended or advanced curriculum.

Allows the board to adopt rules to accommodate individuals in the event of hardship or other good cause shown.

Requires a student, in order to continue to receive a TEXAS grant, to:

- meet financial need requirements;
- remain enrolled in an undergraduate degree or certificate program at an eligible institution;
- be enrolled for at least three-fourths of a full course load for an undergraduate student;
- make satisfactory academic progress toward an undergraduate degree or certificate; and
- comply with any additional nonacademic requirement adopted by the board.

Defines satisfactory academic progress toward an undergraduate degree or certificate as:

- in the person's first academic year, meeting the satisfactory academic progress requirements of the institution at which the person is enrolled; and
- in a subsequent academic year, completing at least 75 percent of the semester credit hours attempted in the student's most recent academic year, and earning an overall GPA of at least 2.5 or the equivalent on coursework previously attempted.

Allows a student to become eligible to receive a TEXAS grant in a subsequent semester if the person meets the above requirements and completes a semester during which the student is not eligible for a scholarship.

Allows a person who qualifies for and receives a TEXAS grant who receives an undergraduate certificate or associate degree to remain eligible for a TEXAS grant so long as, no later than the 12th month after the person receives the certificate or degree, the person enrolls in a program leading to a higher level undergraduate degree.

Allows a person eligible to receive a TEXAS grant to continue to remain eligible if the person enrolls in or transfers to another eligible institution.

Allows a student receiving a TEXAS grant to use the money to pay any usual and customary cost of attendance at an institution of higher education only after the tuition and required fees incurred by the student have been paid.

Provides that the amount of a TEXAS grant for a semester is to be determined by the Board as the average statewide amount of tuition and required fees that a resident student enrolled full time in a baccalaureate degree program would be charged for that semester:

- at general academic teaching institutions for a student enrolled at either a private or independent institution of higher education or a public general academic teaching institution;

- ◊ at public technical institutes for a student enrolled at a public technical institute; and
- ◊ at public junior colleges for a student enrolled at a public junior college.

Prohibits the amount of a TEXAS grant from being reduced by any gift aid for which the student receiving the grant is eligible, unless the total amount of a person's grant plus any financial aid received exceeds the total cost of attendance at an eligible institution.

Requires the board, no later than January 31 of each year, to publish the amounts of each grant established.

Prohibits a public institution of higher education from charging a student who receives a TEXAS grant an amount of tuition and required fees in excess of the amount of TEXAS grant received, or from denying admission to or enrollment in the institution based on a person's eligibility to receive or receipt of a TEXAS grant.

Allows an institution to use other available sources of financial aid, other than a loan or a Pell grant, to cover any difference in the amount of a TEXAS grant and the actual amount of tuition and required fees at the institution.

Requires the legislature to account for tuition and required fees received for TEXAS grants in a way that does not increase the general revenue appropriations to that institution.

Requires the board to distribute to each eligible institution and to each school district a copy of rules adopted to implement the TEXAS grant.

**TEACH FOR TEXAS GRANT PROGRAM**

Creates the Teach for Texas grant program to attract to the teaching profession persons who have expressed interest in teaching and to support the certification of those persons as classroom teachers.

Limits availability of a Teach for Texas grant to individuals who receive a TEXAS grant, apply for a Teach for Texas grant, and are enrolled as a junior or senior in a baccalaureate degree program that is in a teaching field experiencing a critical shortage of teachers in Texas in the year the person begins the degree program, or the person agrees to teach in a public school in a community experiencing a critical shortage of teachers in any year in which the person receives the grant.

Requires a person, in order to receive the grant, to agree to teach full time for five years at the preschool, primary, or secondary level in a public school in Texas in the critical field or community experiencing a shortage.

Provides that the amount of a Teach for Texas grant is equal to twice the amount of TEXAS grant and allows a person to receive both grants for the same semester.

Requires the person to begin fulfilling the teaching obligation no later than the 18th month after the person completes the degree program and any courses required for teacher certification, unless the board grants additional time.

Requires the person to complete the teaching obligation no later than the sixth year after the date the person begins to fulfill the commitment, unless the board grants more time for good cause.

Requires each recipient to sign a promissory note that if the person does not complete the teaching obligation to repay the amount of the grant plus interest and collection costs.

Allows the board to solicit and accept grants for the program and allows the legislature to appropriate funds for the program.

**TEACH FOR TEXAS PILOT PROGRAM**

Creates the Teach for Texas Pilot Program relating to alternative certification to encourage the creation and expansion of educator preparation programs that recognize the knowledge and skills gained through previous educational and work-related experiences and that are delivered in a manner that allows participants to remain employed full time while becoming certified.

Requires the State Board of Education Certification (SBEC) to offer financial incentives to participants in the pilot program, including tuition assistance and loan forgiveness in exchange for an obligation to teach in a public school in Texas for a stated period after certification and additional assistance to those who agree to teach in an underserved area.

**PRISONERS OF WAR BENEFITS**

Requires the governing board of each institution of higher education in the state, for each semester or summer session up to a total of 120 semester credit hours, to exempt from the payment of tuition and required fees and charges for lodging and board (or if the individual lives off campus, provide a stipend for), and provide a scholarship to cover the costs of books and other educational materials to, any person who:

- ◊ is a resident of Texas and was a resident of Texas at the time the person entered the U.S. armed forces;
- ◊ was first classified as a prisoner of war by the U.S. Department of Defense on or after January 1, 1999; and
- ◊ is enrolled for at least 12 semester credit hours.

**MISCELLANEOUS**

Requires each school district to notify its middle school students, junior high school students, and high school students, those students' teachers and counselors, and those students' parents about:

- ◊ the TEXAS grant and Teach for Texas grant program;
- ◊ the eligibility requirements of each program;
- ◊ the need for students to make informed curriculum choices to be prepared for success beyond high school; and
- ◊ sources of information on higher education admissions and financial aid.

Requires school districts and private schools to ensure that, no later than a student's junior year, each student's official transcript or diploma indicates whether the student has completed or is on schedule to complete:

- ◊ the recommended or advanced high school curriculum; or
- ◊ the portion of the recommended or advanced high school curriculum completed by the student if the district or school does not offer the full curriculum.

Creates a legislative oversight committee composed of three senators and three representatives to:

- ◊ meet with the board at least twice a year;
- ◊ receive information regarding rules established by the board;
- ◊ monitor the operation of the TEXAS and Teach for Texas grant programs; and
- ◊ file a report identifying any problems with the grant programs with the Governor, Lieutenant Governor, and Speaker no later than December 31 of each even-numbered year.

Requires the board to develop a Center for Financial Aid Information, in cooperation with public and private or independent institutions of higher education, TEA, public school counselors, representatives of student financial aid offices, regional education service centers, and the Texas Guaranteed Student Loan Corporation.

Requires the Center to disseminate information about financial aid opportunities and procedures, including information about different types of financial aid available, eligibility requirements, procedures for applying for financial aid, and the Teach for Texas program through a toll free number, the Internet, publishing materials, and furnishing written copies of the information to each middle school, junior high school, and high school counselor in the state.

Requires the board to create and appoint an advisory committee consisting of experts in financial aid administration, public school counselors and others.

Requires each district improvement plan to include strategies for providing to middle school, junior high school and high school students, those students' teachers and counselors and parents information about:

- ◊ higher education admissions and financial aid;
- ◊ the TEXAS grant program and Teach for Texas program;
- ◊ the need for students to make informed curriculum choices to be prepared for success beyond high school; and
- ◊ sources of information on higher education admissions and financial aid.

Requires TEA, the board, and SBEC to develop and distribute, from available funds, materials that emphasize the importance of the teaching profession and inform individuals about state-funded loan forgiveness and tuition assistance programs.

Requires the board to review and study the laws relating to student financial aid, grant and scholarship programs and tuition and fee waivers or exemptions and to issue a report describing improvements that may be made no later than December 1, 2000.

Requires the board, in conjunction with TEA, to conduct a study relating to the performance of students at institutions of higher education as that performance relates to whether a student completed the recommended or advanced high school curriculum and to issue the report with recommendations no later than January 1, 2003.

## DIVERSITY IN COLLEGE AND UNIVERSITY STUDENT BODIES - H.B. 1678

*by Representative Rangel, et al.*
*Senate Sponsor: Senator Barrientos*

Achieving a student population that is reflective of the state's demographics is often a goal of Texas colleges and universities, particularly in light of the recent *Hopwood* decision.

This bill requires Texas Higher Education Coordinating Board (board) to develop a uniform identification, recruitment, and retention strategy to aid in creating a student population reflective of the state's demographics.

Requires each institution of higher education to report annually to the board on the manner in which the institution has implemented its strategy.

## VIDEO CONFERENCING PROGRAM AT UT-PAN AMERICAN - H.B. 1874

*by Representative Hinojosa*
*Senate Sponsor: Senator Lucio*

Creates provisions regarding the operation and administration of a small business video conferencing pilot project. The International Trade and Technology Center at the University of Texas-Pan American, does not now operate a video conferencing program, an important educational and business tool. H.B. 1874 creates such a program.

## HIGHER EDUCATION FACULTY'S GRIEVANCE RIGHTS - H.B. 1952

*by Representative Rangel*
*Senate Sponsor: Senator Bivins*

In Texas, public officials are prohibited from entering into a collective bargaining contract with a labor organization regarding the wages, hours, and conditions of employment of public employees. However, Section 617.005, Government Code, preserves the right of individual public employees to present a grievance to their employer regarding such matters. Although attorney general opinions have interpreted grievances broadly, certain public institutions of higher education have denied full-time faculty members' grievance rights.

This bill establishes the right of certain faculty members at institutions of higher education to present grievances on certain personnel issues.
Excludes from having the established right faculty members whose work is primarily administrative, such as chancellors, vice-chancellors, presidents, vice-presidents, provosts, associate or assistant provosts, deans, or associate or assistant deans.

## PREPAID TUITION FOR GRADUATE & PROFESSIONAL SCHOOL - H.B. 2555

*by Representative Cuellar*
*Senate Sponsor: Senator Zaffirini*

Authorizes the Prepaid Higher Education Tuition Board to establish a plan to allow a person to prepay all or part of tuition and required fees for enrollment in a graduate or professional degree program at a public or private institution of higher education if the board determines that:

- ◊ the plan is feasible, and
- ◊ there is sufficient demand for the plan.

## TEXAS GUARANTEED STUDENT LOAN CORPORATION - H.B. 2568

*by Representative Cuellar*
*Senate Sponsor: Senator Zaffirini*

In 1979, the 66th Legislature, established the Texas Guaranteed Student Loan Corporation (TGSLC) to administer the federal Guaranteed Student Loan Program, later renamed the Federal Family Education Loan Program (FFELP). TGSLC is established as a public nonprofit corporation and receives no appropriations from the legislature; however, the TGSLC board of directors is appointed by the governor and confirmed by the senate. TGSLC is subject to the statutory provisions of the Texas Sunset Act and Open Meetings Act and the Open Records Act by the attorney general's opinion. The state auditor also has the authority to conduct audits of TGSLC. FFELP is the largest source of student financial aid in Texas, providing $1.6 billion in 410,000 educational loans to 120,000 postsecondary education students and parents. TGSLC has processed approximately $12 billion in federally insured educational loans for students and parents since 1981. The annual default rate on which TGSLC's reinsurance is based is less than five percent. FFELP provides 67 percent of all state and federal student financial aid allocated each year.

H.B. 2568 amends TGSLC's authorizing statute to conform with changes made in 1998 to FFELP provisions in the federal Higher Education Act of 1965, and requires TGSLC to work with other entities to develop, implement, and coordinate awareness and outreach activities regarding student financial aid and postsecondary educational opportunities.

## MATCHING SCHOLARSHIPS FOR STUDENTS LEAVING TEXAS - H.B. 2867

*by Representative Dunnam, et al.*
*Senate Sponsor: Senator West*

Currently, some of the state's brightest high school student choose to attend colleges and universities in other states. One reason for this exodus is Texas' inability to compete with other states regarding the scholastic awards they are able to offer. This bill creates provisions which allow Texas institutions of higher education to offer matching non-athletic scholarships to high school graduates.

Requires the Texas Higher Education Coordinating Board (board) to adopt rules that allow a public or private or independent institution of higher learning to use any funds appropriated to the institution or that the institution may use for the award of scholarships or grants to match any non-athletic scholarship offer from an out-of-state institution of higher education. Requires the rules to provide for verifying that an out-of-state institution has made an offer and the amount of the offer.

Provides that the board may not require an institution to match a scholarship or grant offer.

Requires each institution to report all scholarships offered to match out-of-state offers and all scholarships or grants offered or awarded by the reporting institution under this section and the methods used to encourage students to attend the Texas institution. Requires the report to include the race or ethnicity and gender of each person offered or awarded a scholarship, the high school from which the person graduated, the out-of-state institution that offered the scholarship, and the value and type of the scholarship or grant.

Requires the board, by December 31, 2000, to report to the presiding officer of the standing committee on higher education in each house on the initial implementation of this Act.

## TUITION DISCOUNT FOR STUDENTS MAKING PROGRESS - H.B. 3138

*by Representative Naishtat*
*Senate Sponsor: Senator Bivins*

Currently, Texas law does not allow Texas schools to discount tuition as part of a plan to increase graduation rates through positive incentives. This bill authorizes Texas institutions of higher education to discount tuition for students enrolled in at least 15 semester credit hours and making satisfactory progress toward a degree.

Authorizes the governing board of an institution of higher education to reduce tuition charged to a student if the tuition reduction is part of a policy adopted by the board to increase the average semester hour course load of students at the institution or to improve the retention and graduation rate at the institution. The institution must determine that the student is making satisfactory progress towards a degree and is enrolled in at least 15 semester hours during the semester for which he receives the reduction.

Allows the board to:

- ◊ offer the tuition reduction in a fixed dollar amount, a percentage amount, or any other manner that it considers appropriate. The reduction may not exceed the tuition for three semester credit hours; and
- ◊ prorate the amount of the reduction based on the number of credit hours or the length of the semester or term for which the student is enrolled.

Provides that the board is not required to offer a tuition reduction under this section to all institutions under its governance or to all degree programs offered at an institution under its governance.

## PARENTS AS SCHOLARS PILOT PROGRAM - H.B. 3470

*by Representative Olivo, et al.*
*Senate Sponsor: Senator Zaffirini*

Allows the Texas Department of Human Services (DHS) to establish a student financial aid pilot program, Parents as Scholars, in which DHS, in cooperation with the Texas Higher Education Coordinating Board (board), assists certain recipients of pubic financial assistance (Temporary Assistance for Needy Families, or TANF) to obtain student financial aid available under the TEXAS grant program, created by the legislature this session in H.B. 713.

Requires DHS, if it chooses to establish such a program, to establish eligibility criteria for the program:

- ◊ requiring a participant to meet eligibility for financial assistance at the time the person begins participation in the program as well as eligibility requirements for a TEXAS grant;
- ◊ requiring the participant to seek an undergraduate degree or certificate that DHS and the board consider likely to improve the participant's ability to obtain employment in the local labor market; and
- ◊ designed to result in the selection of participants who are currently unable, due to a lack of skills and training, to obtain employment at a compensation level equal to at least 85 percent of the area median income and who demonstrate the aptitude to successfully complete the requirements for obtaining an undergraduate degree or certificate.

Under the program, DHS must advise recipients of TANF of:

- ◊ the availability of financial aid under the TEXAS grant program;
- ◊ the need for recipients who are in high school to make informed curriculum choices;
- ◊ sources of information on higher education admissions and financial aid;
- ◊ eligibility and application procedures for participation in the program; and
- ◊ to assist a recipient chosen to participate in the program in obtaining the TEXAS grant.

Allows a participant who obtains a TEXAS grant to continue to receive the grant regardless of whether the participant ceases to receive TANF.

Requires DHS and the board to jointly develop procedures necessary for administration of the program, including:

- ◊ determining and monitoring a participant's initial and continuing eligibility for a TEXAS grant;

- ◊ providing appropriate information to financial aid officers of institutions of higher education; and
- ◊ exchanging all necessary information between the department and the board, including copies of rules adopted by the board regarding the TEXAS grant program.

Requires DHS, no later than January 15, 2001, to submit to the legislature a report relating to the program, including an evaluation of the programs effectiveness in improving employability of persons eligible for TANF and recommendations from DHS regarding termination, continuation or expansion of the program.

## MANAGEMENT AND DISTRIBUTION OF PUF AND AUF - H.J.R. 58

*by Representatives Junell and Cuellar*
*Senate Sponsor: Senator Ratliff*

Currently, the University of Texas System Board of Regents (UT Regents) maintains financial control of the permanent university fund (PUF). Total returns from investments of the PUF produce the Available University Funds (AUF), which helps finance higher education in Texas. The UT Regents must exercise certain controls over the investment decisions of the PUF, as required by the Texas Constitution. This resolution must be approved through a constitutional amendment to be enacted.

Authorizes the UT Regents to manage the assets of the PUF under a prudent investor standard, taking into consideration the investment of all the assets of the PUF rather than a single investment.

Requires the amount of any distributions to AUF to be determined by the UT Regents to provide the AUF with a stable and predictable stream of annual distributions and to maintain, over time, the purchasing power of PUF investments and annual distributions to the AUF.

Requires the amount distributed to the AUF in a fiscal year to be not less than the amount needed to pay the principal and interest due and owing in that fiscal year on bonds and notes issued.

- ◊ If the purchasing power of PUF investments for any rolling 10-year period is not preserved, prohibits the UT Regents from increasing annual distributions to the AUF until the purchasing power of the PUF is restored, except as necessary to pay the principal and interest due and owing on bonds and notes issued.

Restricts an annual distribution made by the UT Regents to the AUF during any fiscal year to not exceed seven percent of the average net fair market value of the PUF investment assets, except as necessary to pay the principal and interest due and owing on bonds and notes issued.

Requires the expenses of managing PUF land and investments to be paid by the PUF.

Requires an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Regents of Texas A&M University to come out of one-third of the annual distribution from the PUF to the AUF, and the remainder of that one-third of the annual distribution to the AUF to be appropriated to the A&M Regents.

Requires an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the UT Regents to come out of the other two-thirds of the annual distribution from the PUF to the AUF, and the remainder of that two-thirds of the annual distribution to the AUF to be appropriated to the UT Regents.

Restricts these provisions from impairing any bonds or notes issued before January 2000.

## PUBLIC SCHOOL FINANCE - S.B. 4

*by Senator Bivins, et al.*
*House Sponsor: Representative Sadler*

The Legislature has made a commitment to increase funding for public education. S.B. 4 proposes a comprehensive package to allow the educational system to benefit from this commitment. This bill is a comprehensive school finance, property tax relief, and school employee pay raise package that increases state support of the Texas public education system and attempts to reduce the burden on local property taxes to fund the public schools. This bill also raises the amounts of several formulas in the school finance system. This bill provides a $3000 pay raise to all teachers, librarians, counselors and school nurses, and adds counselors and school nurses to the minimum salary schedule. This bill provides salary transition to help pay for the mandated salary increases. This bill compresses tax rates and adds enhanced support for the debt and construction of school facilities. This bill also provides programs to enhance student learning.

### GENERAL FINANCING

Raises school districts' allowable wealth per student to $295,000.

Raises the basic allotment per student to $2,537.

Increases the guaranteed yield to $24.99 through compression for the amount of tax rate below $1.50 and to $23.10 without compression for the amount of tax rate above $1.50 tax rate.

Allows the taxable values of a school district to be adjusted if those values have fallen in excess of four percent from the previous year due to circumstances beyond the school board's control.

Allows the taxable values of a school district that does not offer all grade levels to be adjusted by the tuition transferred by the district to another district for the costs of educating students of the resident district.

Changes the rollback tax rate under the Tax Code for a school district to include 6 cents per $100 of taxable value and 3 cents per $100 for the 1999 tax year.

### FACILITIES

Provides a new instructional facility allotment to districts of $250 per student for the first school year in which students attend a newly built or newly renovated school, and $250 per each additional student attending that school in the second school year, with a cap of $25 million per year.

Creates a new school facilities tier which guarantees each district a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds.

Limits school district facilities tax rate to 12 cents per $100 of valuation.

Determines the amount of state funds to go to a district as a facilities tier allotment by a formula based on a guaranteed yield of $35 per ADA.

Reduces a district's wealth per student for determining funds appropriated for new projects if a district has had substantial student enrollment growth in the last five years.

Extends the existing homestead exemption indefinitely, and provides state aid to districts to make up the lost revenue provided that districts reduce their local tax rate accordingly.

Adds an optional homestead exemption for which the commissioner must certify that money is available.

**TEACHER SALARIES**

Raises the annual salary of classroom teachers, full-time librarians, full-time counselors, and full-time school nurses by $3,000.

Provides mechanisms to "hold harmless" school districts that experience increased costs for teacher salaries or benefits after they have spent 80 percent of new state funds on salary increases.

**MISCELLANEOUS**

Requires the LBB study of equalized funding elements to include a determination of the projected cost to the state in the next biennium of ensuring the ability of each district to maintain existing programs without increasing property tax rates.

Prohibits a reduction made under the compensatory education allotment under the Education Code or the General Appropriations Act from affecting the computation of students in weighted average daily attendance (WADA) for purposes of the guaranteed yield.

Requires the commissioner, for the 1999-2000 and 2000-2001 school years, to reduce the guaranteed level of state and local funds per weighted student per cent of tax effort under the guaranteed yield allotment by an amount sufficient to reduce state costs in an amount equal to the increase in state costs due to the above paragraph.

Requires the commissioner to determine the same reduction for both school years and to announce this determination, which is final, as soon as possible after August 1, 1999.

Allows a school board to pledge delinquent taxes for specific past, current, and future school years as security for a loan, the negotiable notes of which must mature in less than 20 years from issuance. Sets forth provisions that funds secured in this manner be used for costs incurred in connection with environmental cleanup and asbestos removal programs, and maintenance, repair, rehabilitation, or replacement of specified building systems.

Provides that loans for the purpose of paying maintenance expenses may be secured by a lien on and pledge of any available funds in the district, including proceeds of a maintenance tax.

Requires a school board to give notice of its decision to terminate employment of a teacher.

Requires a district employee who serves as the head coach or chief sponsor for an extracurricular athletic activity, including cheerleading, sponsored or sanctioned by a district or the UIL, to maintain and submit to the district proof of current certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or another organization that provides equivalent training and certification.

Provides that elementary age students may only be placed in alternative education programs (AEP) with other elementary age students.

- ◊ Prohibits a student younger than age six from being removed from class and placed in an AEP.

Adds an exception so that the commissioner is not required to prohibit a student served by a juvenile justice alternative education program (JJAEP) on the basis of expulsion from receiving Foundation School Program funding if the JJAEP receives funding from the Texas Juvenile Probation Commission under Subchapter A.

Requires TEA to notify JJAEPs of the results of Texas Assessment of Academic Skills (TAAS) tests. Requires TEA to send to a juvenile board that develops a JJAEP, upon request, the results of previous performance on assessment instruments administered for a student enrolled in the JJAEP.

**PRE-K, K, HEAD START, AND 9TH GRADE PROGRAMS**

Authorizes the commissioner to make grants to districts and charter schools to implement or expand kindergarten and prekindergarten programs by operating the programs on a full-day basis or offering prekindergarten on campuses that do not currently have the program. Authorizes a district and charter school to use funds received to employ teachers and other personnel, and acquire materials and equipment for the programs. Sets forth eligibility criteria and application procedures for the grants. Requires the commissioner, in awarding the grants, to give priority to districts and charter schools whose third-grade students perform substantially below average on the TAAS test.

Requires the commissioner to make grants to provide an educational component to federal Head Start programs or similar government-funded early childhood care and education programs.

Authorizes a district to apply to the commissioner for funding of authorized programs that serve ninth graders who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to tenth grade and fail to meet minimum skill levels established by the commissioner. Authorizes a district, with parental consent, to assign a student to a program under this section. Limits the program to 210 instructional days. Sets forth the educational emphasis of program. Allows the program to be provided by an entity contracting with the school. Requires the grants to be awarded through a competitive grant process developed by the commissioner. Allows a grant to be made to a consortium of districts. Sets forth the criteria by which the commissioner awards the grants, and the criteria that must be in an approved program.

**RESIDENTIAL FACILITIES**

Defines "residential facility" to mean a facility operated by a state agency or political subdivision or any person or an entity that contracts with or is funded, licensed, certified, or regulated by a state agency or political subdivision, including a child placement agency, that provides 24-hour custody or care of a person 22 years of age or younger, if the person resides in the facility for detention, treatment, foster care, or any noneducational purpose.

Requires districts to admit people between the ages of 5 and 21 who reside at a residential facility located within the district.

Requires a residential facility, not later than the third day after a person 22 years of age or younger is placed there:

- ◊ if the person is three years of age or older, to notify the district in which the facility is located, unless the facility is an open-enrollment charter school; or
- ◊ if the person is younger than three years of age, to notify a local early intervention program in the area in which the facility is located.

Requires the Texas Department of Human Services, the Texas Department of Health, the Department of Protective and Regulatory Services, the Interagency Council on Early Childhood Intervention, the Texas Commission on Alcohol and Drug Abuse, the Texas Juvenile Probation Commission, and the Texas Youth Commission in addition to TEA and the Texas Department of Mental Health and Mental Retardation, by cooperative effort, to develop and adopt an MOU regarding residential facilities.

**SOCIAL PROMOTION**

Unless exempted under Reading Diagnosis, requires a student to attend an accelerated instruction program to which the student is assigned, or a basic skills program to which the student is assigned.

Requires TEA to ensure that each TAAS test is scored and the results returned to the appropriate district within 10 days of the receipt of the materials by TEA or its test contractor.

Adds the commissioner to the list of people to whom each district superintendent must report the results of the district's reading tests adopted for the reading diagnosis program (reading tests).

Requires the superintendent to report, in writing, to a student's parent or guardian the results of the student's reading test.

Requires a district to notify the parent or guardian of a kindergarten, first grade, or second grade student, who is determined to be below grade level in reading development or comprehension, based on reading test results. Requires the district to develop and implement an accelerated reading instruction program for those students. Requires the admission, review, and dismissal committee of a student in the bilingual and special language education program to determine the way in which the student will participate in the accelerated reading instruction program.

Requires the district to make a good faith effort to give notice as required under this section.

Requires the commissioner to certify, by July 1 of the year or as soon as practicable if later, whether sufficient funds have been appropriated statewide for the purposes of the reading diagnosis program.

Prohibits the commissioner from considering the Foundation School Program funds for certification purposes.

Limits, to 15 percent, the amount of the certified funds that may be spent on indirect costs. Requires the commissioner to evaluate the programs that fail to meet the performance standards, including the number of students provided accelerated instruction due to failing the TAAS test in Academic Excellence Indicators, and authorizes the commissioner to implement accreditation sanctions.

Requires the use of funds under this section to be verified as part of the district's annual fiscal audit.

Allows the provisions relating to parental notification and implementation of an accelerated reading instruction program to be implemented only if the commissioner certifies that specific funds have been appropriated.

Requires each district to begin providing accelerated reading instruction to students who are in kindergarten during the 1999-2000 school year and to those students as they progress through second grade, and to all subsequent classes of kindergartners as they progress through second grade. Provides that these provisions expire on January 1, 2002.

With certain exceptions described below, prohibits a student from being promoted: to the fourth grade if the student fails the third grade TAAS test; to the sixth grade if the student fails the fifth grade math and reading TAAS tests; and to the ninth grade if the student fails the eighth grade math and reading TAAS tests.

Requires a district to provide to a student who initially fails the TAAS test, the opportunity to take the TAAS test at least two more times. Allows a district to administer an alternate assessment instrument to a student who has failed the TAAS on two previous opportunities and allows that student to be promoted if the student performs satisfactorily on an alternate assessment instrument under this subsection that is appropriate for the student's grade level and approved by the commissioner.

Requires the district to provide accelerated instruction in the applicable subject to a student, each time the student fails the TAAS test. After a second TAAS test failure, requires a grade placement committee (committee) to be established to prescribe the accelerated instruction provided by the district. Requires the committee to be composed of the principal or the principal's designee, the student's parent or guardian, and a teacher of the subject of the TAAS test which the student failed. Requires the district to notify the parent or guardian of the purpose of the committee and when it will meet. Limits the student/teacher ratio in an accelerated instruction group administered by a school district to 10 to 1.

Requires parental notification by the district if the student fails the TAAS test, if the student is assigned to an accelerated instruction program, and if there is a possibility that the student might be retained in his or her current grade level.

Requires a student who fails the TAAS test three times to be retained. Allows the parent or guardian to appeal the student's retention by submitting a request to the committee. Requires the district to give notice of the opportunity to appeal. Allows the committee to promote the student only if the committee concludes, based on standards adopted by the school board, that the student, if promoted and given accelerated instruction, is likely to perform at grade level.

Prohibits a student from being promoted by the committee unless the placement decision is unanimous. Provides that the committee's decision is final and may not be appealed.

Requires the commissioner to establish, by rule, a timeline for making the placement decision.

Requires a district to provide, to a student who fails TAAS three times, accelerated instruction during the next school year as prescribed by the educational plan developed by the committee. Requires the instruction to be provided whether the student is promoted or retained. Requires the educational plan to be designed to enable the student to perform at grade level by the end of the school year. Requires the student to be monitored to ensure progress in the plan. Requires the student to take the TAAS test for the grade in which the student is placed.

Provides that these provisions do not preclude a student from being retained who has passed the TAAS test.

Sets forth the district's duties regarding giving notice to a student's parent or guardian.

Requires the admission, review, and dismissal committee of a student in the bilingual and special language education program who fails the TAAS test to determine the way in which the student will participate in the accelerated instruction program and whether the student will be promoted or retained under this section.

Requires a district or an open-enrollment charter school to provide students required to attend accelerated programs under this chapter with transportation to those programs if the programs occur outside of regular school hours.

Requires the commissioner to issue a report to the legislature by December 1, 2000, that reviews student enrollment in accelerated instruction programs, the quality and availability of the programs, and accelerated instruction-related professional development programs.

Requires the commissioner to certify, by July 1 of the year or as soon as practicable if later, whether sufficient funds have been appropriated statewide for the purposes of this section. The determination of the commissioner is final and not appealable. Prohibits the commissioner from considering the Foundation School Program funds for certification purposes. Allows this section to be implemented only if the commissioner certifies that specific funds have been appropriated.

Provides this section applies only to the TAAS tests administered to third graders beginning with the 2002-2003 school year, fifth graders beginning with the 2004-2005 school year, and eighth graders beginning with the 2007-2008 school year. Provides that these provisions expire January 1, 2008.

Includes as an indicator of academic excellence the number of students, aggregated by grade level, who are provided accelerated instruction due to failing the TAAS test and the results of assessments administered to those students; the number of students promoted through the grade placement committee process; the subject of the TAAS test each student failed, and the performance of those students on the TAAS test in the school year following that promotion.

Requires the commissioner to define as exemplary, recognized, or unacceptable the academic indicator related to students who have failed to perform satisfactorily on a required assessment instrument. The commissioner must rate the indicator based on certain student performance in both the current and preceding academic years.

**TROOPS TO TEACHERS**

Requires TEA to establish a program to assist persons who have served in the armed forces to obtain certification as teachers and to help them find employment in areas with teacher shortages.

Provides that to be eligible for the program a person must have served in the U.S. armed forces, received an honorable discharge or be retired with at least six years of service, possess a B.A. or advanced degree from an accredited college or university, and satisfy other criteria to be developed by TEA and the State Board for Educator Certification.

Requires a person selected for the program to agree in writing to obtain certification as a teacher within a certain period and accept an offer of full-time employment as a teacher during the first year after being certified.

Requires TEA to pay each participant a stipend of $5,000.

## EXPANDED TAAS TESTING - S.B. 103

*by Senator Bivins*
*House Sponsors: Representative Grusendorf, et al.*

Expands the state assessment of academic skills system to include:

- ◊ math tests for grades 3 through 7 without the aid of technology and in grades 8 through 11 with the aid of technology on any test that includes algebra;
- ◊ reading tests for grades 3 through 9;
- ◊ writing tests, including spelling and grammar, for grades 4 and 7;
- ◊ science assessments in grades 5 and 10;
- ◊ social studies assessments in grades 8 and 10; and
- ◊ an English language arts assessment for grade 10.

Requires that these tests be administered no later than the 2002-2003 school year, except for the math test in grades 9 and 10, the reading test in grade 9 and the English language arts test in grade 10, which must be administered no later than the 2004-2005 school year.

Requires the Texas Education Agency (TEA), with the assistance of the Texas Higher Education Coordinating Board (board), to develop assessment instruments for a new 11th grade exit test to assess a student's mastery of minimum skills necessary for high school graduation and readiness for higher education in:

- math, including at least Algebra I and geometry with the aid of technology;
- English language arts, including at least English III;
- social studies, including early American and U.S. history;
- science, including at least biology and integrated chemistry and physics; and
- writing.

Changes the statewide assessment program from performance-based to knowledge-and skills-based.

Denies a high school diploma to students not enrolled in special education who cannot pass social studies, science, English language arts and math exit level tests, but does not require a student to demonstrate readiness to enroll in an institution of higher education.

Requires TEA to include the new assessment results, including the progress of students on subsequent tests, in the academic excellence indicators system, the district performance report and the TEA comprehensive biennial report, no later than the 2004-2005 school year for tests that must be administered by 2002-2003, and no later than the 2006-2007 school year for tests that must be administered by 2004-2005.

Exempts a student who performs at or above a level established by the Board on the 11th grade exit level test from the Texas Academic Skills Program (TASP).

Requires the administration of tests in Spanish to students in grades 3 through 6 who have limited English proficiency and whose primary language is Spanish, to be both administered and included in the accountability system no later than the 1999-2000 school year.

Requires tests administered to students in special education to assess essential knowledge and skills.

Requires that an intensive program of instruction for students who did not perform satisfactorily on the tests be designed to enable those students to be performing at grade level at the end of the next regular school term or to attain a standard of annual growth specified by TEA.

Beginning with the 1999-2000 school year, allows exemption from the tests of recent unschooled immigrants enrolled for less than one year.

Requires the TEA commissioner to develop an assessment system to be used for evaluating the academic progress, including reading proficiency in English, of all students of limited English proficiency.

Excludes from the definition of dropout those students who miss school because they are expelled, convicted, or adjudicated as having been engaged in delinquent conduct or needing supervision.

Requires the TEA commissioner to conduct a study, to be reported to the governor and the legislature no later than December 1, 2006, to determine the effectiveness of these changes, including:

- ◊ the performance of minority students and any change in the gap between minority and nonminority students;
- ◊ the performance on these tests compared to performance on national assessments;
- ◊ the availability and utility of data on academic performance of secondary students; and
- ◊ the effect of the additional tests on the dropout rate.

Requires the TEA commissioner to conduct another study, to be reported to the governor and the legislature no later than December 1, 2000, to determine the need to expand the assessment system to include tests in grades 7 and 8 of students who are limited English proficient.

## ACCESS TO SCHOOL CAMPUSES AFTER HOURS - S.B. 104

*by Senator Duncan*
*House Sponsor: Representative Coleman*

Allows school board members to adopt rules to keep school campuses, including school libraries, open after school hours for recreational activities, latchkey programs, and tutoring.

- ◊ Includes latchkey programs conducted on a school campus under an interlocal agreement with the school district in the list of governmental functions for which a municipality is liable for damages arising from them.

## STUDENT EXPULSION FOR ASSAULT OF A SCHOOL EMPLOYEE - S.B. 260

*by Senator Bivins, et al.*
*House Sponsors: Representatives Delisi and Driver*

Includes assault by a student against a school employee or volunteer, regardless of where the prohibited activity occurs, as an offense punishable by expulsion.

## CHANGE IN EDUCATION SERVICE CENTERS - S.B. 476

*by Senator Luna*
*House Sponsor: Representative Lengefeld*

Adds giving assistance which is specifically designed for a school district considered out of compliance with state or federal special education requirements, to the core services of Education Service Centers (ESCs).

Substitutes the term "students in special education programs" for "special needs populations" in the district improvement plan provisions of the Education Code.

## SCHOOL FINANCIAL ACCOUNTABILITY RATING SYSTEM UPDATE - S.B. 875

*by Senator Shapiro*
*House Sponsor: Representative Smith*

The current school district accountability rating system is based entirely upon student performance data. The Texas Education Agency (TEA) and other advocacy groups are studying a "numbers-based" school district financial accountability system. The financial accountability system being discussed at TEA does not use the qualitative findings that local auditors find and put in districts' audited annual financial reports. This bill requires the commissioner of education, in consultation with the comptroller of public accounts, to develop proposals for a school district financial accountability rating system to be presented to the legislature no later than December 15, 2000.

## READY TO READ GRANTS AND HEAD START PROGRAMS- S.B. 955

*by Senator Bivins*
*House Sponsor: Representative Greenberg*

Last session, Governor George W. Bush launched the Texas Reading Initiative. The Ready to Read Initiative complements the Texas Reading Initiative by targeting low-income preschool children and equipping them with pre-reading skills needed for long-term academic success. S.B. 955 establishes a competitive grant program designed to allow a public or private preschool to provide scientific, research-based pre-reading instruction designed to improve a student's pre-reading skills and also to identify cost-effective models for pre-reading instruction.

### READY TO READ GRANTS

Establishes a competitive grant program to support pre-reading instruction.

Requires the commissioner of the Texas Education Agency (commissioner) to distribute grants ranging from $50,000 to $150,000 for:

- staff development in pre-reading instruction;
- pre-reading curriculum and materials;
- pre-reading skills assessment materials; and
- employment of pre-reading instructors.

Requires the commissioner to distribute at least 95 percent of the appropriated funds.

Allows a public school operating a prekindergarten program or an open-enrollment charter school providing a preschool instruction program to apply for a grant if at least 75 percent of the children enrolled in the program are low-income students.

Requires that, in order to receive a grant, an applicant commit public or private funds matching the grant in a percentage ranging between 30 and 75 percent, set by the Commissioner.

Requires the commissioner to develop and implement performance measures to evaluate the effectiveness of the grants.

### HEAD START PROGRAMS

Requires Head Start programs to provide educational services so that each child is prepared to enter school and is ready to learn after completing the program. Specifies components that must be included, designed to enable a child to:

- develop awareness of letters and numbers;
- understand and use language to communicate;
- understand and use an increasingly complex vocabulary;
- develop and demonstrate an appreciation of books; and
- progress toward mastering the English language if that is not the child's primary language.

## FOSTER PARENTS & THE EDUCATION OF DISABLED CHILDREN - S.B. 1141

*by Senator Zaffirini*
*House Sponsor: Representative Naishtat*

Modifies the statewide plan for the delivery of special education services to children with disabilities.

Requires a surrogate parent for a child with a disability to:

- ◊ receive certain minimum training;
- ◊ visit the child and the child's school;
- ◊ consult with persons involved in the child's education such as teachers, caseworkers, guardians ad litem, foster parents, and court-appointed volunteers;
- ◊ review the child's educational records;
- ◊ attend meetings of the child's admission review, and dismissal committee;
- ◊ exercise independent judgment in pursuing the child's interests; and
- ◊ exercise the child's due process rights under applicable state and federal law.

Requires the school district to give preferential consideration to the foster parent of a child with a disability when assigning the surrogate parent for a child with a disability.

Sets forth the circumstances under which a foster parent or a court-certified volunteer advocate may be assigned to act as a surrogate parent for a child with a disability.

## VIOLENCE PREVENTION & INTERVENTION IN SCHOOL REPORT - S.B. 1724

*by Senators Ellis and West*
*House Sponsor: Representative Dukes*

Requires goals and methods for violence prevention and intervention on campus to be included in campus improvement plans.

Requires district annual reports to include:

- ◊ the number, rate, and type of violent or criminal incidents that occurred on each district campus;
- ◊ information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students; and
- ◊ the findings that result from evaluations conducted under the federal Safe and Drug-Free Schools and Communities Act.

## OPEN MEETING & RECORD LAWS APPLY TO CHARTER SCHOOL - H.B. 211

*by Representative Hochberg*
*Senate Sponsor: Senator Sibley*

Requires open-enrollment charter schools to adhere to requirements relating to a school district, school board or school children of the Open Meetings Law and Public Information Law.

Requires open-enrollment charter schools to include the following in a description of the governing structure of the program:

- ◊ the officer positions designated;
- ◊ the manner in which officers are selected and removed from office;
- ◊ the manner in which members of the governing body are selected and removed from office;
- ◊ the manner in which vacancies on the governing board are filled;
- ◊ the term for which members of the governing body serve; and
- ◊ whether the terms are to be staggered.

Requires the entity to which a charter is granted for an open-enrollment charter school to file with the State Board of Education (board):

- ◊ a copy of its bylaws or comparable document;
- ◊ the name, address, and telephone number of each officer and member of the governing board on an annual basis; and
- ◊ the amount of annual compensation the open-enrollment charter school pays to each officer and member of the governing body on an annual basis.

Requires the board to provide the information required to a member of the public for a reasonable fee.

Prohibits a person who has been convicted of a felony or a misdemeanor involving moral turpitude from serving as an officer or member of the governing body of an open-enrollment charter school.

Allows bonds to be issued by a higher education corporation for an authorized charter school in the same manner as for an accredited primary or secondary school.

Creates an exception for the name or information that would reveal the identity of an informer who has furnished a report of another person's possible violation of the law to the school district or regulatory authority from having to be reported publicly, unless the informer consents to the release of the information or if the informer participated in the possible violation.

Requires a school district or open-enrollment charter school that seeks to withhold information from a parent who has requested public information relating to the parent's child and that files suit to challenge a decision by the attorney general to bring the suit no later than the 30th calendar day after the date the school district or open-enrollment charter school receives the decision of the attorney general being challenged, and prohibits the district or school from appealing the court's decision in the matter.

## SCHOOL DISTRICT- AND CAMPUS-LEVEL PLANNING - H.B. 617

*by Representatives Ehrhardt and Madden*
*Senate Sponsor: Senator West*

Vetoed

Section 11.251 (Planning and Decision-Making Process), Education Code, establishes a school district- and campus-level planning and decision-making process that provides for a site-based decision-making committee. This committee is composed of professional staff of the district, parents, and community members to establish and review the district's and campuses' educational plans, goals, performance objectives, and major classroom instructional programs. Under Section 7.056 (Waivers and Exemptions), Education Code, any school campus or district seeking a waiver of a requirement, restriction, or prohibition provided by the Education Code or rule of the school board or the commissioner of education (commissioner) must submit a written application to the commissioner, which must include written comments from the appropriate site-based decision making committee. However, no process exists which verifies that the majority of the committee members have reviewed the waiver before the submission of written comments, on behalf of the committee, to the commissioner.

H.B. 617 requires a written application for a waiver to include the signature of the chairperson of the appropriate campus- or district-level committee to indicate that a majority of the committee members have reviewed the application. This bill provides that the chairperson of the district-level committee, and of each campus-level committee whose campus is affected, must comment on and sign the district's application for a waiver; accordingly, the chairperson of the campus-level committee must comment on and sign the campus' application for a waiver by a campus.

## DISTRICTS TO NOTIFY PARENTS OF UNCERTIFIED TEACHERS - H.B. 618

*by Representative Dukes*
*Senate Sponsor: Senator Bernsen*

Requires a school district to notify the parents of each student in a classroom that their teacher is not certified or is inappropriately certified as a teacher, if the teacher is assigned for more than 30 consecutive days to the classroom. Requires the superintendent to supply the notice by a certain date and to make certain efforts to deliver the notice.

Provides that this Act applies beginning with the 1999-2000 school year.

## CAREER AND TECHNOLOGY CERTIFICATE - H.B. 1418

*by Representative Seaman, et al.*
*Senate Sponsor: Senator Armbrister*

Vetoed

Currently, a school district is not authorized to establish a career and technology certificate for students who pass a career and technology program. Although student enrollment in trade and industrial courses has increased 39 percent over the past five years, many districts are decreasing or eliminating budget for career and technology programs. However, some districts want to establish programs that would emphasize career and technology professions and to establish partnerships with businesses and other agencies in the development of local programs.

H.B. 1418 allows the board of trustees of a school district to establish a career and technology certificate to recognize students who pass a career and technology program established by the districts.

## INDIVIDUALS WITH DISABILITIES EDUCATION ACT - H.B. 1733

*by Representative Luna*
*Senate Sponsor: Senator Zaffirini*

Vetoed

H.B. 1733 requires parent representatives on the federally-mandated continuing advisory panel for special education to be parents of school-aged students currently receiving special education services under the federal Individuals with Disabilities Education Act. This bill also prohibits employees of school districts, programs, or agencies that provide special education or related services from serving as parent representatives on the panel.

## MASTER READING TEACHER CERTIFICATION - H.B. 2307

*by Representative Keffer*
*Senate Sponsor: Senator Sibley*

Requires the commissioner of the Texas Education Agency (commissioner) to establish a master reading teacher grant program to encourage teachers to become certified as master reading teachers and to work with other teachers and with students in order to improve student reading performance.

Requires the commissioner to make grants to districts and charter schools from funds appropriated for the purpose of paying stipends to selected certified master reading teachers who teach at high need campuses, as determined by the commissioner by rank using criteria including performance on the reading TAAS test.

Provides that each grant is in the amount of $5,000 unless reduced proportionately because of a lack of state funds appropriated.

Requires the commissioner to reduce payments to a district or charter school proportionately to the extent a teacher does not meet the requirements for the entire school year.

Requires the commissioner to approve the district or charter school application if the district or school:

- ◊ applies within the period and in the manner required; and
- ◊ agrees to use each grant only for the purpose of paying a year-end stipend to a master reading teacher who holds a certificate and teaches in a position prescribed at a high need campus, whose primary duties include teaching, reading, and serving as a reading teacher mentor, and any other requirements of the commissioner.

Allows a district or school receiving an initial grant to continue to receive the grant for two consecutive school years if it continues to pay a stipend as provided, and notifies the commissioner in writing that the circumstances on which the grant was based have not changed.

Requires the district that employs more certified master reading teachers than the number of grants available to select among qualified teachers employed by the school district to receive the stipend based on a policy adopted by the local school board.

Allows districts to use local money to pay additional stipends.

Provides that Chapter 41 districts are eligible for the grants, and Chapter 42 districts receive the grants in addition to other funding.

Creates no property right, and does not require the state to appropriate funds.

Provides that this stipend is not considered in determining whether districts are paying the minimum teacher salary schedule.

Requires the State Board of Educator Certification (SBEC) to issue a master reading teacher certificate to each eligible person.

Requires a person, to be eligible for such a certificate, to:

- ◊ hold a reading specialist certificate, and satisfactorily complete a knowledge-based and skills-based course of instruction on the science of teaching children to read, including effective reading instruction techniques for both English-speaking students and students whose first language is other than English, identification of dyslexia and other disorders, and effective professional peer mentoring techniques; or

- ◊ hold a teaching certificate and satisfactorily complete the course described above, have at least three years teaching experience, perform satisfactorily on the master reading teacher certification exam prescribed by SBEC, and other requirements of SBEC.

Creates a staff development account in the general revenue fund to consist of gifts, grants, donations, appropriations for the purpose of staff development, and any other money transferred by law to the account.

Allows the commissioner to allocate funds from the account to regional education service centers to provide staff development resources to districts that:

- ◊ are rated academically unacceptable;
- ◊ have one or more campuses rated as low-performing; or
- ◊ are otherwise in need of assistance as indicated by the academic performance of students.

Requires a school district that receives resources under this section to pay to the commissioner for deposit in the account an amount equal to one-half of the cost of the resources provided to the district.

Allows the commissioner to take action to sanction a district if he or she believes the action is necessary to improve any area of a district's performance, including the district's financial accounting practices.

## DAY CARE EMPLOYEE TRAINING STANDARDS - S.B. 558

*by Senator Lucio*
*House Sponsor: Representative Garcia*

Requires that minimum training standards for employees of day-care centers or group day-care homes include eight hours of initial training and 15 hours of annual training, excluding the director. Requires the director to receive 20 hours of annual training.

If the employee takes care of children younger than 24 months, requires the training to include special training on recognizing and preventing shaken baby syndrome, preventing sudden infant death syndrome, and understanding early childhood brain development.

## CHILD CARE ALLOCATION FUNDING FORMULA - S.B. 1391

*by Senator Shapleigh, et al.*
*House Sponsor: Representative Coleman*

Currently, allocation formulas for the disbursement of federal child care funds to Local Workforce Development Areas do not require the inclusion of poverty statistics. Because federal child care money is targeted to help Texas' neediest children, poverty rates should be included with population statistics in child care allocation formulas. This bill addresses these allocation issues.

Requires the Texas Workforce Commission (TWC) to conduct a review of the child care allocation formula comparing TWC's current child care funding system with a system that provides funding based on the greatest need for child care services.

Requires the need for child care to be evaluated on the number of children who:

- ◊ are under 14 and live in poverty;
- ◊ participate in poverty-based programs; and
- ◊ are members of families eligible for Temporary Assistance to Needy Families, food stamps, or Medicaid.

Requires TWC to:

- ◊ determine which Local Workforce Development Areas have the greatest need and how child care resources are currently distributed to those areas;
- ◊ propose alternative methods for allocating federal child care funds; and
- ◊ report findings and alternatives to state leaders by November 1, 2000.

## CHILD-CARE TRAINING SCHOLARSHIPS AND INCENTIVES - H.B. 2609

*by Representative Greenberg, et al.*
*Senate Sponsor: Senator Zaffirini*

Currently, many children attend child care facilities whose employees are often untrained child care workers. A statewide survey by the Texas Workforce Commission (TWC) indicated that from 1993 to 1995, 31 percent of child care workers left their jobs within one year. Providing increased stability in the child care workforce is the goal of this bill, which establishes a scholarship, bonus, and wage supplementation program for child care workers.

Requires TWC to develop and administer a scholarship program for people pursuing professional child care training.

- ◊ Sets the scholarship award at $1,000 to each eligible recipient.
- ◊ Sets forth eligibility requirements.
- ◊ Prohibits a person from receiving more than one scholarship under this program.

Allows TWC to pay a bonus or wage supplementation, in an amount determined by TWC, to a scholarship recipient who works in the child care field.

- ◊ Requires the bonus or wage supplementation to be paid in equal parts by TWC and the employer.

## TYC INFANT CARE AND PARENTING PROGRAM - S.B. 1607

*by Senator Whitmire*
*House Sponsor: Representative Allen*

Currently, a substantial number of youth committed to the Texas Youth Commission (TYC) have children of their own. In 1997, 13 young women had babies while incarcerated in TYC facilities. These babies were then removed from their mothers and placed in the care of a guardian or relative to await the mother's release. One study estimates that children with an incarcerated parent may be almost six times more likely than their counterparts to be incarcerated. This bill enacts the following provisions.

Allows TYC to establish an infant care and parenting program for TYC inmates who are parents.

Allows TYC to permit an inmate, who is the mother of an infant, to keep her infant in a residential program that has an infant care and parenting program until the infant is three years old, if:

- ◊ the infant's father or other relative or guardian agrees, in advance of the infant's placement with the mother, to assume possession of the infant immediately upon notice by TYC;
- ◊ the infant's parents and any other person having a duty to support the infant acknowledge, that by permitting the mother to have the infant while the mother is confined, TYC assumes no responsibility for the infant's care;
- ◊ the infant's parents and any other person having a duty to support the infant agree to indemnify and hold TYC harmless from any claims against TYC for the infant's support; and
- ◊ TYC determines the placement is in the best interest of both the mother and her infant.

## UNIFORM CHILD CUSTODY JURISDICTION & ENFORCEMENT - H.B. 797

*by Representative Thompson, et al.*
*Senate Sponsor: Senator Harris*

Adopts the most recent version of the federal Uniform Child Custody Jurisdiction and Enforcement Act, which governs interstate child custody and jurisdictional issues.

Some primary provisions of the Act provide the following:

- ◊ Requires deference to the child's home state in a custody dispute;
- ◊ Gives a state continuing and exclusive jurisdiction once the state has exercised the jurisdiction, until the state court decides otherwise;

- ◊ Allows for temporary emergency jurisdiction; and
- ◊ Establishes procedures for enforcing out-of-state visitation and custody orders.

Provides that if a provision of the Act conflicts with other Texas law or statute, the Act prevails.

## NO MEDIATION IN SOME DIVORCE & CHILD CUSTODY CASES - H.B. 819

*by Representative Naishtat*
*Senate Sponsor: Senator Moncrief*

Currently, victims of family violence may be required by a court to participate in mediation for a divorce or child custody case. This may cause the victim additional trauma and place the victim at a disadvantage in negotiating resolution of the suit. H.B. 819 protects against family violence in family law cases involving mediation.

Allows a party in a divorce or child custody case to object to the case being referred to mediation, if family violence had been committed against the person objecting to mediation or a child involved in the custody case.

Prohibits a divorce or child custody case from being referred to mediation unless the court determines that, by a preponderance of the evidence, the objection is not supported. If mediation is ordered after an objection, the court must order appropriate measures to be taken to ensure the physical and emotional safety of the objecting party and must provide that no face-to-face meeting between the parties be required.

## PARENT EDUCATION AND FAMILY STABILIZATION COURSE - H.B. 2441

*by Representative Goodman, et al.*
*Senate Sponsor: Senator Ellis*

Currently, courts have the authority to order parties in a divorce action to participate in parenting courses if the parties have children. H.B. 2441 requires parents to participate in a parenting course and counseling in child custody cases.

Allows the court to order the parties to a child custody suit to attend a parent education and family stabilization course if the court determines that attending such a course is in the best interest of the child.

- ◊ Prohibits the court from ordering that the parents attend the course together.
- ◊ Allows the court to order the parties to take the course separately if there is a history of domestic violence.
- ◊ Provides for sanctions, including holding a party in contempt of court, for refusing to take the course.

Sets forth provisions on course curriculum, instruction, and completion timelines.

# HEALTH & HUMAN SERVICES/CHILD SUPPORT

## CHILD SUPPORT PAYMENT CREDIT - S.B. 118

*by Senator Harris*
*House Sponsor: Representative Goodman*

Currently, Texas law requires a person convicted of failing to pay child support to pay restitution directly to the eligible person. If a payment is made directly to a person, rather than through a local registry or the child support division of the Attorney General's Office (OAG), the delinquency will continue to be reflected because there is no record of the payment.

Requires a person who has been convicted of failure to pay child support, to pay restitution directly to a local registry or the child support division.

If a person gives the child support payment to an attorney, requires the attorney to transfer the money to the appropriate registry or the child support division of the OAG.

## MODIFICATION OF CHILD SUPPORT - S.B. 160

*by Senator Carona*
*House Sponsor: Representative Goodman*

For a person who owes child support, makes that person's release from incarceration a material and substantial change in circumstances for the purposes of modifying the child support order.

## CHILD SUPPORT PROGRAM UPDATE - S.B. 368

*by Senator Harris*
*House Sponsors: Representative Bosse, et al.*

Currently, the child support division of the Office of the Attorney General is responsible for enforcing certain child support cases. After experiencing an extensive review process, suggestions were raised for the division regarding ways to update and create an efficient process for collecting and distributing child support payments.

### CHILD SUPPORT MASTER

Expands the powers and duties of a child support master, who is an associate judge appointed to expedite child support cases.

### PATERNITY ISSUES

Provides for the:

- ◊ voluntary acknowledgment of fatherhood which constitutes a legal finding and results in the legal enforcement of the rights and duties of fatherhood; and
- ◊ voluntary denial of paternity.

Sets forth provisions for the rescission or contest of the acknowledgement or denial of paternity. Expands the purpose of the parent locator program to include the establishment of paternity.

### INTERAGENCY COOPERATION

Requires the establishment of a work group consisting of the Office of the Attorney General (OAG), the Department of Protective and Regulatory Services, Department of Human Services, the Texas Department of Health (TDH), the Workforce Commission, and the Office of the Comptroller (comptroller) to:

- ◊ identify methods to improve data exchange between the agencies;
- ◊ develop procedures to coordinate child support enforcement;
- ◊ develop methods to enhance child support collection for children in foster care;
- ◊ increase recovery of Medicaid for OAG and TDH;
- ◊ identify benefits of contracts under which the agencies provide child support services; and
- ◊ examine the benefits of contracts under which the comptroller or a private entity provides for the receipt and payment of child support.

Requires the establishment of a county advisory work group to assist the OAG in developing and changing child support programs.

### COLLECTION AND DISBURSEMENT OF CHILD SUPPORT

Separates the state case registry and the state disbursement unit into two distinct entities. They were formerly a unified registry and disbursement unit.

- ◊ Establishes a registry and unit workgroup to adopt rules and procedures for the operation of the unit in compliance with federal law.
- ◊ Provides that the work group expires December 31, 2000.

Establishes a Registration of Private Child Support Collection Entities program to be administered by the OAG.

- ◊ Defines collection entity as a private business that serves as a child support collection agency by collecting and enforcing child support for a fee.

**MISCELLANEOUS PROVISIONS**

Requires the OAG to:

- ◊ create an information resources steering committee;
- ◊ establish an ombudsman program to process and track child support complaints; and
- ◊ maintain a toll-free number to answer employer questions regarding child support withholding responsibilities.

**SUNSET REVIEW**

Sets the child support division of the OAG for functional review by the Sunset Commission in 2001.

## DOMESTIC RELATIONS OFFICES - S.B. 391

*by Senator Harris*
*House Sponsor: Representative Truitt*

Allows a domestic relations office to provide a forum to negotiate an agreed repayment schedule for delinquent child support.

Entitles a domestic relations office to obtain information from the National Directory of New Hires and the State Case Registry.

## PENALTY FOR NOT WITHHOLDING GARNISHED CHILD SUPPORT - S.B. 581

*by Senator Harris*
*House Sponsor: Representative Phil King*

Currently, an employer in Texas must withhold certain wages for child support and forward the wages to the attorney general, which is the state's Title IV-D agency, or a county-level domestic relations office. Current law also does not specify whether an employer is subject to an interest penalty for not complying with the withholding order.

Makes an employer, who does not comply with a garnishment order, liable not only for the amount withheld from the employee's wages and not paid as required by the writ, but also for an amount equal to the interest that accrues on the amount withheld and not paid.

# HEALTH & HUMAN SERVICES/CHILD SUPPORT

## CHILD SUPPORT COLLECTION BY A PRIVATE ENTITY - H.B. 624

*by Representative Arthur Reyna*
*Senate Sponsor: Senator Harris*

All Texas counties are required to establish local registries to receive and disburse child support payments and maintain official records of those payments. Some counties have also established domestic relations offices that collect and disburse funds and are authorized to enforce orders against persons owing child support payments. Currently, only counties with a population of 1.8 million or more may contract with private entities for the collection of child support payments.

This bill removes the population restriction and allows counties to contract with private entities to assist in the collection of child support payments.

## MONETARY AID FOR COUNTY CHILD SUPPORT ENFORCEMENT - H.B. 2354

*by Representatives Goodman and Naishtat*
*Senate Sponsor: Senator Harris*

Currently, child support enforcement activities at the county level are funded, to varying degrees, by county, state, and federal funds. Due to an increase in the filing of child support cases along with complex state and federal mandates, counties, at times, expend resources to cover the costs of providing child support services, but do not receive federal reimbursement for their costs.

This bill makes the Office of the Attorney General (OAG) liable for the amount spent by the counties that represents the state share, if the federal government disallows a federal share of reimbursement or if the federal share is not otherwise received by the state.

This bill also makes the OAG liable for the county costs incurred in establishing and operating the state case registry and state disbursement unit.

- ◊ The registry and the unit will be used for maintaining and monitoring records of child support orders and obligations administered by the OAG and the counties.

# HEALTH & HUMAN SERVICES/CHILD SUPPORT

## INTERAGENCY COOPERATION FOR CHILD SUPPORT CASES - H.B. 3271

*by Representative Goodman*
*Senate Sponsor: Senator Harris*

This bill is designed to improve the processing and monitoring of child support cases, especially as the process relates to locating parents who owe child support.

Requires the Office of the Attorney General (OAG) to:

- ◊ provide the Department of Protective and Regulatory Services (DPRS) access to all of the OAG's available child support locating resources;
- ◊ allow DPRS to use the OAG's child support enforcement system to track child support payments and management reports that show child support payments;
- ◊ make reports on foster care collections available to DPRS in a timely manner; and
- ◊ work with DPRS to obtain child support payments for foster care children.

Establishes an interagency workgroup to facilitate the sharing of data and resources to locate parents and relatives of children serviced by the OAG and other health and human services agencies.

- ◊ Requires the workgroup to consist of representatives from the OAG, DPRS, the Texas Department of Human Services, the Texas Department of Health, the Texas Workforce Commission, the Texas Department of Public Safety, the Texas Rehabilitation Commission, and the Texas Department of Criminal Justice.

Requires DPRS to:

- ◊ create a division staffed by personnel trained in locating parents and relatives of children throughout the state; and
- ◊ use outside contractors and volunteer resources to the extent feasible to perform DPRS' responsibilities herein outlined.

## UPGRADES IN CHILD SUPPORT ENFORCEMENT AND PAYMENTS - H.B. 3272

*by Representative Goodman, et al.*
*Senate Sponsor: Senator Harris*

Currently, the Office of Court Administration (OCA) administers a system in which 36 court masters, through a contract with the Office of the Attorney General (OAG) hear child support cases for approximately 40 areas of the state. Most of these cases are not monitored after the court hearing to prevent further child support delinquencies. H.B. 3272 authorizes child support monitors, requires a plan for the monitoring and tracking of child support payments, including electronic payments, and authorizes job training for unemployed or underemployed obligors.

Authorizes the employment of a child support court monitor for each child support master to monitor cases in which the obligor is placed on probation for failure to pay child support.

Allows the OAG to require an underemployed, as well as an unemployed obligor, to complete job training, classes, or counseling.

Allows the state disbursement unit to transmit a child support payment to a parent by electronic funds transfer, if such is recommended by a work group convened to study the feasibility of electronic funds transfer and direct deposit.

- ◊ If the electronic transfer procedure is recommended by the work group, the OAG may require direct deposit of the child support payment.

## LOCAL MENTAL HEALTH CARE SYSTEMS FOR MINORS - S.B. 1234

*by Senator Nelson*
*House Sponsor: Representative Coleman*

Currently, the comptroller, according to the Texas Performance Review, recommends that state law should be amended to increase local control of spending for children's mental health services. The Health and Human Services Commission (HHSC) estimates that two-thirds of Texas children with severe emotional and behavioral problems do not receive the appropriate and comprehensive help they need. This is due in part to the fact that such children often need a variety of services, yet services are fragmented among a number of different agencies, programs, and funding sources, each with different regulations and eligibility requirements. This bill creates a mechanism to allow the Texas Integrated Funding Initiative (initiative) to award grants to community-based projects for mental health services among other things.

Requires the HHSC to form a consortium to implement the expansion of the initiative and to develop local mental health care systems for minors who are receiving residential mental health services or who are at risk of residential placement.

- ◊ Provides that the consortium includes the Texas Department of Mental Health and Mental Retardation (TXMHMR), Department of Protective and Regulatory Services (DPRS), Texas Education Agency (TEA), Texas Youth Commission (TYC), Texas Juvenile Probation Commission (TJPC), Texas Commission on Alcohol and Drug Abuse (TCADA), and an equal number of family advocates.

Directs HHSC and the consortium to develop a model and guidelines for the delivery of mental health services and support to a minor, establish a plan to expand the initiative for operation in up to six communities, and identify sources of state and federal funding to finance mental health services.

Requires HHSC to establish a request-for-proposal process to select expansion communities to participate in the initiative.

Requires the expansion communities to serve youth at risk of residential placement, incarceration, or reincarceration because of severe emotional disturbance.

Requires HHSC, the consortium, and the expansion communities to share technical assistance and training resources to aid communities in developing local systems for delivering mental health services to minors.

Requires HHSC and TXMHMR to monitor the progress of the expansion communities.

Requires HHSC to expand the initiative pilot project so that, on or before September 1, 2001, the initiative is able to award grants to community projects for mental health services for youth.

Requires HHSC to develop an evaluation system to measure outcomes of the initiative.

Requires certain agencies (DPRS, TEA, TXMHMR, TCADA, TYC, and TJPC) to each transfer $30,000 in fiscal year 2000, and $70,000 in fiscal year 2001 to HHSC to finance the initiative.

## ADDITIONAL MONEY FOR CARE-GIVING GRANDPARENTS - S.B. 1423

*by Senator West*
*House Sponsors: Representatives Noriega and Naishtat*

Allows the Department of Protective and Regulatory Services (DPRS) to provide supplemental financial assistance to a grandparent who is the primary support and provides the primary residence of a grandchild.

Requires the grandparent to be 50 years of age or older:

- ◊ have income at or below 100 percent of the poverty level; and
- ◊ have limited resources.

The supplemental financial assistance is one or more cash payments, not to exceed a total of $1,000.

Sets forth DPRS' notice and record-keeping responsibilities related to this program.

## ASSOCIATE JUDGE FOR FOSTER CARE & CHILD ABUSE CASES - S.B. 1735

*by Senator Zaffirini*
*House Sponsor: Representative Van de Putte*

In 1995, Congress created the Court Improvement Project (CIP) that required each state court system to conduct an assessment of judicial proceedings regarding foster care and adoption cases. In response to recommendations, Texas legislation was adopted that restricted the duration of temporary foster case forcing courts to consider cases more quickly. This created pressure on an already overburdened court system. The implemented changes focusing on appointing judges to help with cases regarding child welfare have already had an impact in processing child abuse and support cases. This bill makes further changes in the court procedures related to child abuse and neglect cases, and provides a specific procedural framework for an associate judge to hear foster care and child protection cases.

Requires the presiding judge of each administrative region, in consultation with the family law judges of the region, to determine which courts need to have an associate judge appointed to ensure that foster care cases are completed within the time limits of law.

- ◊ If an associate judge is appointed for a court, requires all foster care cases to be referred to the associate judge.
- ◊ Sets forth provisions for such an associate judge, including length of appointment, designation of a host county, and general powers and duties of an associate judge.

Allows the presiding judge of each administrative region to appoint an associate judge for a court handling child protection cases.

Allows the Office of Court Administration to contract for available state and federal monies to fund this associate judge program.

## SCREENING OF NEWBORNS FOR CONGENITAL HEARING LOSS - H.B. 714

*by Representative Naishtat, et al.*
*Senate Sponsor: Senator Moncrief*

Current law requires newborns in this state to be blood-screened for a variety of conditions. However, the law does not require the screening of newborns for congenital loss of hearing. Lack of early detection of hearing loss has social and financial impacts on individuals, families, and this state.

Requires a birthing facility to offer a hearing screening test for newborns.

Allows the Texas Department of Health (TDH) to maintain data and information on each newborn who receives screening services.

Requires TDH to ensure that intervention, managed by state programs operating under the Individuals with Disabilities Education Act, is available to families if a newborn is identified as having hearing loss.

Requires TDH to ensure that intervention is available, through the time the child is 24 months of age, for a newborn identified as having hearing loss.

Requires TDH or a designee to establish certification criteria for implementing a hearing screening program. Outlines criteria for the certification and prohibits the charging of a fee to certify or recertify a program.

Requires a birthing facility that operates a screening program to distribute educational materials on screening results and follow-up care to the parents of each newborn who is screened.

Requires the facility to report screening results to the parents, the newborn's attending physician or health care provider, and TDH.

Requires TDH to provide each birthing facility that provides newborn hearing screening under Medicaid with information management, reporting, and tracking software for the program.

Allows a qualified hearing screening provider, hospital, audiologist, or intervention specialist to access the tracking system to provide information to TDH.

Requires TDH to ensure that the written consent of a parent is obtained before any information individually identifying the newborn or infant is released through the tracking system, and provides that the system must meet confidentiality requirements of state and federal privacy guidelines.

Provides criminal and civil liability for certain facilities or persons for furnishing information in good faith to TDH, except for information gathered and furnished after a parent of a newborn or infant declined screening.

Requires the Health and Human Services Commission, or an agency operating part of the Medicaid program, to provide a screening test for hearing loss and any necessary diagnostic follow-up care to a child younger than 30 days old who receives Medicaid.

Requires health benefit plans that provide benefits for a family member of the insured to provide coverage for each covered child for a screening test for hearing loss from birth through the date the child is 30 days old, and necessary diagnostic follow-up care from birth through the date the child is 24 months old.

Allows the required screening test benefits to be subject to copayment and coinsurance requirements, but not subject to a deductible requirement or dollar limit.

Provides for the phase-in implementation of the newborn hearing screening, based on the number of births handled by a birthing facility.

Provides that this Act takes effect only if a specific appropriation for the implementation of this Act is provided in H.B. No. 1 (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999.

## VISION, HEARING, AND OTHER SCREENING REQUIREMENTS - H.B. 908

*by Representative Coleman, et al.*
*Senate Sponsor: Senator Zaffirini*

Currently, the Special Senses and Communication Disorders Act (Chapter 36, Health and Safety Code) requires each day-care center and group day-care home to screen each child for vision and hearing disorders not later than 120 days after the admission of a child, to maintain screening records for each child in attendance, and to provide the Texas Department of Health (TDH) with an annual report which lists children in attendance, and dates of vision and hearing screenings. However, according to TDH, between 1996 and 1997, only 2,186 out of the 6,237 day-care centers and group day-care homes operating in Texas complied with the reporting requirement.

Requires the Department of Protective and Regulatory Services (DPRS), after consultation with TDH, to adopt rules to ensure that children receiving care at a day-care center or group day-care home are screened for vision, hearing, and any other special senses or communication disorders.

Requires each day-care center or group day-care home to maintain individual screening records for children who are required to be screened, and allows DPRS to inspect those records.

## HEALTH BENEFITS FOR NEWBORNS WITH BIRTH DEFECTS - H.B. 969

*by Representative Van de Putte*
*Senate Sponsor: Senator Carona*

Texas law does not require health benefit plans to cover the treatment of a child for congenital developmental defects or diseases. However, policies that provide maternity or dependent coverage must provide automatic coverage to a newborn child for congenital defects or abnormalities for the initial 31 days of life. H.B. 969 provides that a health benefit plan covering that child must define reconstructive surgery for abnormalities.

Provides that a health benefit plan that provides benefits to a child who is younger than 18 years of age must define reconstructive surgery for craniofacial abnormalities under the plan to mean surgery to improve the function of, or to attempt to create a normal appearance of, an abnormal structure caused by congenital defects, developmental deformities, trauma, tumors, infections, or disease.

## EMERGENCY POSSESSION OF AN ABANDONED CHILD - H.B. 3423

*by Representative Morrison*
*Senate Sponsor: Senator Nelson*

Current law does not allow a provider of emergency medical services (EMS), such as a paramedic, to take possession of an unwanted baby. Under this bill, if a parent of an unwanted baby left the baby with an EMS provider, the baby could receive any necessary medical attention and then be turned over to the Department of Protective and Regulatory Services.

Requires an EMS provider to take possession of a baby who is 30 days old or younger, if the child was voluntarily delivered to the EMS provider by the baby's parent and the parent did not express an intent to return for the baby.

- ◊ Sets forth procedures for taking immediate care of the baby and for transferring the baby to the care and control of the Department of Protective and Regulatory Services.

Expands the grounds upon which termination of parental rights can be granted to include a parent voluntarily leaving a child with an EMS provider without expressing an intent to return.

## PROTECTING CHILDREN FROM ABUSE - H.B. 3838

*by Representatives Goodman and Naishtat*
*Senate Sponsor: Senator Harris*

H.B. 3838 amends Chapters 262 (Emergency Procedures in Suit by Governmental Entity) and 263 (Review of Placement of Children Under Care of Department of Protective and Regulatory Services), Family Code, to ensure compliance with recent federal enactments. Other changes are enacted to improve the effectiveness of child protective services for abused and neglected children as follows:

Allows the Department of Protective and Regulatory Services (DPRS) to detain a child without a court order for up to five days, if a child is discovered by a DPRS worker, a law enforcement officer, or a juvenile probation officer, in a situation of danger when the sole purpose is to return the child to the parent or guardian.

- ◊ If after five days, a parent or guardian does not take possession of the child, DPRS must begin action to take emergency possession.

Requires a DPRS suit to take possession of a child brought by DPRS to be supported by an affidavit sworn to by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution that reasonable efforts have been made to prevent the need to remove the child from the home, and that allowing the child to remain in the home would be contrary to the child's welfare.

If the court determines that, after efforts to return the child to a safe home, the parent subjects the child to aggravating circumstances, the court may waive the DPRS' requirement to make efforts to return the child to the home. Aggravating circumstances are as follows:

- the parent abandoned the child without identification or a means for identifying the child;
- the parent or another person with the parent's consent seriously injures or sexually abuses the child;
- the parent has engaged in conduct against any of his or her children which constitutes murder, capital murder, manslaughter, indecency with a child, any sexual assault or abuse, abuse, abandonment, child endangerment, and possession or promotion of child pornography;
- the parent voluntarily left the child alone or with another person, who is not the parent, for at least six months without expressing intent to return or without providing adequate support for the child; and
- the parent's parental rights with regard to another child have been involuntarily terminated based on child endangerment.

## DOCTORS MUST NOTIFY PARENT BEFORE CHILD HAS ABORTION - S.B. 30

*by Senator Shapiro, et al.*
*House Sponsor: Representative Delisi*

### GENERAL PROVISIONS

Prohibits a physician from performing an abortion on an unemancipated minor unless the physician has given at least 48 hours notice in person or by telephone to the minor's parent, guardian, or managing conservator. If the person to be notified cannot be reached after reasonable effort, the physician may give 48 hours constructive notice by certified mail sent to the person's last known address.

◊ Provides that this notice requirement may be waived by an affidavit of the minor's parent, guardian, or managing conservator.

Permits a physician to perform an abortion on a minor without parental notification if, in the physician's good faith clinical judgment, an immediate abortion is necessary to prevent the minor's death or serious risk of substantial and irreversible impairment of a major bodily function:

◊ Requires the physician to certify this in writing to the Texas Department of Health and in the minor's medical file. (This certification is confidential and privileged); and

◊ Permits a physician charged with a violation to seek a hearing before the Texas State Board of Medical Examiners on whether the procedure was necessary to avert the minor's death or substantial, irreversible impairment of a major bodily function. The board's findings are admissible at the physician's trial.

Makes violation by a physician an offense punishable by a fine not to exceed $10,000. It is an affirmative defense if the minor falsely represented her age to be at least 18 years by displaying an apparently valid governmental identification record.

### JUDICIAL BYPASS

Provides a procedure to allow a minor to seek a court order authorizing the minor to consent to an abortion without notification to a parent, guardian, or managing conservator:

◊ the minor may file an application for such court order in a county court at law, district court, or court having probate jurisdiction;

◊ sets out the requirements of the application;

◊ requires the court to appoint a guardian ad litem for the minor, and sets out who the court may appoint. If the minor does not have an attorney, the court shall also appoint an attorney ad litem;

◊ prohibits the court from notifying the minor's parent, guardian, or managing conservator and requires that the proceeding protect the minor's anonymity;

- ◊ provides that the court, through preponderance of the evidence, shall determine whether the minor is mature and sufficiently well informed to make the decision to have an abortion without notification, notification would not be in the minor's best interest, or notification may lead to physical, sexual, or emotional abuse of the minor. If the court makes such a finding, the court must enter an order authorizing the minor to consent to the abortion without notification; and
- ◊ requires the court to rule on the application not later than 5:00 p.m. on the second business day after the application has been filed. If the court fails to rule, the application is deemed granted.

Provides an appeal procedure for a minor whose application is denied:

- ◊ the minor may appeal to any court of appeals with civil jurisdiction;
- ◊ requires the court of appeals to rule on the appeal not later than 5:00 p.m. of the second business day after notice of appeal is filed with the court that denied the application. If the court fails to rule, the appeal is deemed granted; and
- ◊ provides for an expedited confidential appeal if the court rejects the appeal.

Declares that court records and rulings are confidential and may not be made public. A court order or ruling may be released only to the minor, minor's attorney, guardian ad litem, another person designated by the minor to receive the order, or a government agency or attorney in a criminal or administrative action seeking to protect the minor's interest.

Provides that no filing fee or court costs may be accessed against the minor. The court may issue an order requiring the state to pay court costs and associated fees. The state will pay such amounts from funds appropriated to the Texas Department of Health.

**PROVISIONS FOR THE POSSIBILITY OF RETRIBUTIVE ABUSE**

Requires a physician who has reason to believe that the minor has been or may be physically or sexually abused by a person responsible for the minor's welfare to immediately report the suspected abuse to the Department of Protective and Regulatory Services and refer the minor to that department.

Requires the guardian or attorney ad litem to report sexual assault, aggravated sexual assault, or incest involving the minor to:

- ◊ state or local law enforcement;
- ◊ the Department of Protective and Regulatory Services, if the abuse involves a person responsible for the minor's care;
- ◊ the state agency that licenses, operates, certifies, or registers the facility in which the abuse took place; or
- ◊ an appropriate agency designated by the court.

Provides that information regarding such abuse obtained by the Department of Protective and Regulatory Services or other agency is confidential, except to the extent necessary to prove sexual assault, aggravated sexual assault, or incest.

Authorizes a physician to sign an affidavit for inclusion in the minor's medical record that:

- ◊ to the physician's best information and belief, notice has been provided as required by this Act. Such affidavit creates presumption that the notification requirements have been met; and
- ◊ after reasonable inquiry, the minor has made application or filed a notice of appeal under this Act, the deadline for court action under this Act has passed, and the physician has been notified that the court has not denied the application or appeal.

A physician may rely on such affidavit and perform the abortion as if a court had granted the application or appeal.

Grants immunity to guardians ad litem appointed under this act and acting in good faith in the course and scope of the appointment.

**MISCELLANEOUS**

Requires the Texas Department of Health to distribute informational materials in both English and Spanish explaining a minor's rights under this Act, as well as providing information regarding the health risks of, and alternatives to, abortion.

Requires the Texas Supreme Court to promptly issue rules to ensure that the judicial bypass process is conducted confidentially and takes sufficient precedence over other ending matters.

Requires the clerk of the Texas Supreme Court, by December 15, 1999, to adopt the application form and notice of appeal form to be used in the judicial bypass process.

Provides that this Act takes effect September 1, 1999, and applies only to abortions to be performed on or after January 1, 2000.

## VOLUNTARY HEALTH CARE PROVIDERS' LIMITED LIABILITY - S.B. 215

*by Senator Duncan*
*House Sponsor: Representative Averitt*

This bill extends the protection of the Charitable Immunity and Liability Act of 1987 to cover a volunteer health care provider.

Limits liability for an individual who voluntarily provides health care services without compensation or expectation of compensation.

Requires the volunteer to have: acted in good faith and in the course and scope of the volunteer's organizational duties or functions; committed the act or omission in the course of providing health care services to the patient; provided services within the scope and license of the volunteer; and obtained a signed statement by the patient acknowledging that the volunteer is providing uncompensated care, and acknowledging the limitations on the recovery of damages from the volunteer in exchange for receiving the uncompensated services.

## CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) - S.B. 445

*by Senator Moncrief, et al.*
*House Sponsors: Representative Gray, et al.*

Currently, the largest group of the estimated 1.4 million children in this state who do not have health insurance coverage are those children from low-income working families. Many of these children are not eligible for Medicaid or other public programs, and their parents may not have access to employer-based coverage.

In an effort to increase the number of children with health insurance coverage, Congress has provided $48 billion over the next ten years through the Balanced Budget Act of 1997, under Title XXI of the Social Security Act, for the development of states' children's health insurance programs. In consideration of this provision, the recommendations of the Interim House Committee on Public Health include the implementation of Phase II of a state-designed Children's Health Insurance Program (CHIP) under Title XXI of the Social Security Act.

### DEVELOPMENT AND OVERSIGHT

Establishes a child health plan for certain low-income children (CHIP). Requires the Health and Human Services Commission (HHSC) to develop and oversee the implementation of a state-designed child health plan program for health coverage for children in low-income families, including a review of contracting entities and ensuring that spending does not exceed federal limits.

- ◊ Provides that the child health plan law does not establish an entitlement program and that the program terminates at the time that federal funding terminates.

Requires HHSC to:

- ◊ no later than September 1, 1999, develop the child health plan and submit it for approval to the federal government;
- ◊ conduct a community outreach and education campaign;
- ◊ establish and implement the child health benefits plan coverage program no later than September 1, 2000, with delay until a plan amendment is approved by the federal government;

- ◊ appoint regional advisory committees to provide recommendations on the implementation and operation of the child health plan program;
- ◊ develop and implement rules for the prevention and detection of fraud in the child health plan program;
- ◊ establish eligibility levels, subject to the availability of appropriated money, so that a child younger than 19 years of age and whose net family income is at or below 200 percent of the federal poverty level is eligible for coverage;
- ◊ continue to cover an individual until the earlier of the end of a period, not to exceed 12 months, following the date of the eligibility determination, or the individual's 19th birthday;
- ◊ report to the committees of both houses of the legislature with jurisdiction over the child health plan on the number of individuals referred for Medicaid application who are enrolled in Medicaid, and the number of individuals who are denied coverage under the Medicaid because they failed to complete the application process; and
- ◊ ensure that primary and preventive health benefits do not include reproductive services, other than prenatal care and care related to diseases, illnesses, or abnormalities related to the reproductive system.

Requires the HHSC commissioner (commissioner) to:

- ◊ evaluate enrollment levels and program impact every six months during the year of implementation and at least annually afterward, and to submit a finding of fact to the Legislative Budget Board and the Governor's Office of Budget and Planning on the adequacy of funding and the ability of the program to sustain enrollment at this eligibility level; and
- ◊ suspend enrollment, establish a waiting list, and establish an enrollment process based on the availability of money, if the amount of appropriated money is insufficient to sustain enrollment at the authorized level.

Provides that, at the time the child health plan program is first implemented, the plan must provide a benefits package that is actuarially equivalent to the basic plan for state employees offered through health maintenance organizations.

Requires the child health plan to provide at least the covered benefits described by the recommended benefits package described for a state-designed child health plan by the Texas House of Representatives Committee on Public Health "CHIP" Interim Report to the 76th Texas Legislature and the Senate Interim Committee on Children's Health Insurance Report to the 76th Texas Legislature.

Exempts the plan from meeting specific laws that require coverage or offer of coverage of services, benefits, or services by a particular health care services provider, and from laws that require the use of a particular policy or contract form or of particular language in a policy or contract form.

Provides that the standing or other committees of the House of Representatives and Senate of the 76th Legislature that have jurisdiction over HHSC and other agencies related to the implementation of this Act shall monitor its implementation.

**FUNDING**

Provides that the first money which becomes available to the state each fiscal year as a result of the Comprehensive Settlement Agreement and Release filed in the case styled *The State of Texas v. The American Tobacco Co., et al.*, No. 5-96CV-91, in the United States District Court, Eastern District of Texas, shall be used to fund the child health plan program.

Provides that the program terminates on the date that money obtained by the state as a result of the Tobacco Settlement (as cited above) is no longer available to provide state funding, unless the legislature authorizes the expenditure of other revenue for the program.

Requires HHSC to ensure that the aggregate amount of general revenue spent for administration during the first 24 months of operation of the child health plan program is matched with federal funds.

Allows HHSC to use appropriated funds, in accordance with the General Appropriations Act, to purchase coverage under a health benefit plan provided through the Healthy Kids Corporation for children who are eligible for coverage under the state child health plan and to contract with the corporation for other services.

**CONTRACTS AND PROVIDERS**

Allows HHSC to direct the Texas Department of Health (TDH) to implement contracts with providers, monitor providers and services, and pay for services delivered under the contracts.

Allows HHSC to contract with a third party administrator or another entity, including the Texas Healthy Kids Corporation. Allows the third party administrator to perform tasks otherwise performed by TDH or TDHS.

Requires the selection of health plan providers to be under competitive procurement, and establishes criteria for the providers.

Requires a managed care organization or other entity to seek participation by significant traditional providers, if that organization or entity contracts with HHSC or with another agency or entity to operate a part of the child health plan, and uses a provider network to provide or arrange for health care services under the child health plan.

**ELIGIBILITY AND ENROLLMENT**

Requires the Texas Department of Human Services (TDHS), under the direction of HHSC, to accept applications for coverage and implement the child health plan program eligibility, screening, and enrollment procedures. Requires the Texas Department of Insurance (TDI) to provide necessary assistance with developing the child health plan, at the request of HHSC.

Requires eligibility screening and enrollment procedures to meet federal law and to ensure that Medicaid-eligible children are identified and referred to the Medicaid program. Allows the Texas Integrated Enrollment Services eligibility determination system or a compatible system to be used.

Outlines criteria for the child health plan, including compliance with federal law, consideration of health care needs of healthy children and children with special health care needs, and allowing a child with a chronic, disabling, or life-threatening illness to select an appropriate specialist as a primary care physician.

Requires a child who applies for enrollment in the child health plan, who is denied Medicaid coverage after completion of a Medicaid application but who is eligible for enrollment in the child health plan, to be enrolled in the child health plan without further application or qualification.

Provides for open enrollment in the first year of implementation.

Requires HHSC to:

- ◊ provide coverage under Medicaid program and under the child health plan to a child who is a qualified alien, as defined by specific federal law, if the federal government authorizes the state to provide the coverage; and
- ◊ require enrollees to share the cost of the child health plan.

Requires the plan to include waiting periods, and allows the plan to include copayments and other provisions intended to discourage employers and others from electing to discontinue offering coverage for children under employee or other group health benefit plans.

Outlines circumstances under which a child is not subject to a waiting period and provides that these children may enroll in the plan at any time, without regard to an open enrollment period.

Requires HHSC to develop and implement a program to provide health benefits plan coverage for a child who:

- ◊ is a qualified alien;
- ◊ is younger than 19 years of age;
- ◊ entered the United States after August 22, 1996;
- ◊ has resided in the United States for less than five years; and
- ◊ meets the income eligibility requirement of the child health plan program or Medicaid, but is not eligible for assistance under the programs.

Requires benefits under this program to be comparable to the benefits provided under the child health plan program.

Outlines criteria for:

- ◊ selecting a health plan provider;
- ◊ being a health plan provider in this program; and
- ◊ cost sharing requirements under this program.

## RULES REGARDING ADVANCE DIRECTIVES TO PHYSICIANS - S.B. 1260

*by Senator Moncrief*
*House Sponsors: Representatives Coleman, et al.*

Currently, a person may execute an out-of-hospital do not resuscitate (DNR) order, or advance directive. The regulations governing the execution of a DNR order are spread across Chapters 672 and 674, Health and Safety Code, and Chapter 135, Civil Practice and Remedies Code. Although these three chapters use the same terminology and have repetitive provisions, they maintain inconsistencies that confuse individuals who want to develop advance directives and confuse providers who must carry out the directives. Consolidating the chapters would reduce the confusion while setting forth uniform provisions governing the execution of an advance directive. S.B. 1260 amends current law regarding an advance directive for medical treatment and provides for administrative penalties.

Requires health care providers to maintain written policies regarding the implementation of advance directives, including a precise statement of any procedure the provider is unwillingly or unable to provide or withhold in accordance with an advance directive. Requires the health care provider to provide written notice to an individual of those policies at the earliest moment possible.

Provides that an advance directive or similar instrument executed in another state or jurisdiction is valid in this state.

Provides that the fact that a person has executed an advance directive may not hinder or modify a life insurance policy, be a factor for the purpose of determining, under the life insurance policy, whether benefits are payable, or be considered in any way in establishing insurance premiums.

- ◊ Prohibits a health care provider or service plan from requiring a person to execute an advance directive as a condition for obtaining insurance for health care services or receiving health care services.

Requires two qualified witnesses to be present at the signing of a written directive which is executed by a competent adult. Requires that the existence of a written directive be made known to the attending physician and be made a part of the declarant's medical record.

Allows a competent adult patient to issue a directive by a nonwritten means of communication. Provides for the issuance of a directive on behalf of a patient younger than 18 years of age. Provides procedures when a person has not executed a directive and is incompetent or incapable of communication.

Provides limits of liability for withholding or withdrawing life-sustaining procedures by a health care provider. Sets forth liability and provides procedures and penalties for failing to effectuate a qualified directive. Provides that honoring a directive does not constitute the offense of aiding suicide. Provides a criminal penalty for a person who withholds another person's directive or intends to cause life-sustaining treatment to be withheld or withdrawn from another person contrary to his or her wishes. Prohibits life-sustaining treatment from being withheld or withdrawn from a pregnant patient. Provides that mercy killing is not condoned by this act.

Provides that a competent adult may execute a written out-of-hospital DNR order or written directive, directing health care professionals to withhold life-sustaining treatment in an out-of-hospital setting. Provides that the desire of a competent person, including a competent minor, supersedes the effect of an out-of-hospital DNR.

Provides limits on liability and disciplinary actions for withholding life-sustaining treatment by health care professionals. Provides that honoring an out-of-hospital DNR does not constitute the offense of aiding suicide. Provides criminal penalties for a person who intentionally withholds another person's DNR order. Requires the adoption of a statewide out-of-hospital DNR order protocol that sets out standard procedures for the withholding of life-sustaining treatment, designates life-sustaining treatment that may be included in a DNR order, governs record keeping and reporting procedures, and specifies a distinctive standard design for DNR identification devices.

Provides the scope and authority of as well as procedures for executing the medical power of attorney. Sets forth regulations regarding those who may not exercise the authority of the agent identified in a DNR. Provides for the appointment of a guardian by a probate court in certain circumstances. Provides for the disclosure of a person's medical information to an agent or guardian for the purpose of making a health care decision.

Prohibits discrimination against a person who has executed a medical power of attorney for the purpose of determining insurance coverage, premiums, admittance to health facilities, or health treatment to be provided. Provides for limits on liability for health care decisions made in good faith under the terms of the medical power of attorney. Provides that liability for the cost of health care provided as a result of the agent's decision is the same as if the health care were provided as a result of the principal's decision. Provides a form for a disclosure statement that a principal must read and understand prior to executing a medical power of attorney. Sets forth rules regarding who may not act as a qualified witness to a medical power of attorney. Provides the form of the medical power of attorney.

## INSURANCE FOR CHILDREN OF ELIGIBLE STATE EMPLOYEES - S.B. 1351

*by Senator Barrientos*
*House Sponsors: Representative Greenberg, et al.*

The federal Children's Health Insurance Program (CHIP), which offers health insurance to children in economically disadvantaged families, does not cover children of state employees. The bill provides a comparable plan for children of state employees who are members of the Employees Retirement System and children of employees of certain public university systems. Funding for the program was appropriated from the Tobacco Settlement Receipts.

## COMPETING PHYSICIANS JOINTLY NEGOTIATE TERMS OF CONTRACTS WITH HEALTH PLANS - S.B. 1468

*by Senator Harris*
*House Sponsor: Representative Smithee*

Enunciates the legislative findings that authorizing competing physicians to enter into joint negotiation of fees and other terms of contracts with health plans will generally promote competition.

Sets out the types of health benefit plans to which this chapter applies.

Authorizes competing physicians within the service area of a health benefit plan to meet and communicate for the purpose of jointly negotiating certain enumerated terms and conditions of contracts with the health benefit plan.

Requires any physicians' representative (a person or organization proposing to act or acting as a representative of physicians under this chapter) to submit certain information to the attorney general, who must approve filings or a proposed contract within 30 days.

Prohibits physicians from jointly coordinating any cessation, reduction, or limitation of health care services.

Grants the attorney general and the commissioner of insurance authority to promulgate rules necessary to implement the provisions of this Act.

## STANDARDS FOR ELECTRONIC PROCESSING OF HEALTH CARE AND PAYMENT INFORMATION - S.B. 1591

*by Senator Zaffirini*
*House Sponsor: Representative Maxey*

Requires each health and human services agency and every other state agency that acts as a health care provider or a claims payer for the provision of health care to process information related to health care in compliance with national data interchange standards, or demonstrate to the Health and Human Services Commission (HHSC) the reasons the agency should not be required to comply with the law.

Requires HHSC and the Texas Health Care Information Council to develop a plan to make information about state-paid health care claims and other claims for providing health care that is collected by the state available through the Internet.

Requires HHSC to require that each contract will require contractors that create, maintain, or process information related to the provision of or payment for health care under Medicaid managed care to comply with the national data interchange standards.

Requires the Texas Healthy Kids Corporation to require eligible coverage providers to comply, in connection with the program, with the national data interchange standards.

Establishes the National Data Interchange Standards Task Force to develop a coordinated strategy for the state's implementation of the national data interchange standards.

## HEALTH SERVICES DISTRICTS - S.B. 1615

*by Senator Lucio*
*House Sponsor: Representative Jim Solis*

Allows for the creation of a health services district by a county or hospital district and one or more other counties or hospital districts by adopting concurrent orders. Bars a county or portion of a county that is in the boundaries of a hospital district from being a party to the creation of a health services district or to a contract with a health services district. Allows the hospital district that serves the county or portion of the county to create and contract with the health services district for the boundaries of the hospital district. Provides for the dissolution of a district.

Requires a county or hospital district that creates a health services district to contract with the district to provide, at a minimum, the health care services the county or hospital district is required to provide by law or under the Constitution.

Requires a health services district to provide health care services to indigent residents of the district, manage funds, and plan and coordinate with public and private health care providers and entities providing health care services to residents.

- ◊ Allows a health services district to provide health care services on a sliding-fee scale to residents of the district who do not meet Indigent Health Care and Treatment Act income and resources requirements but who are unable to pay for the full cost of health care services.

Requires each county or hospital district that contracts with the district to contribute funds as specified in the bill to the district for its operation.

- ◊ Allows a county or hospital district that creates the district to transfer property, buildings, operating funds and reserves to the district.

Sets forth the powers and duties of the board of directors of the district.

- ◊ Allows the board to adopt a sliding-fee scale for health care services provided to a patient who can pay for some, but not all, of the care and treatment provided by the district.
- ◊ Requires the board to require reimbursement from a county, municipality, or public hospital located outside the boundaries of the district for the district's care and treatment of a sick, diseased, or injured person of that county, municipality, or public hospital as provided by Chapter 61.
- ◊ Requires the board to require reimbursement from the sheriff or police chief of a county or municipality for the district's care and treatment of a person confined in a jail facility of the county or municipality who is not a resident of the district.
- ◊ Allows the board to contract with a state or federal agency or political subdivision of the state to provide health care services.

- ◊ Allows the board to contract with a municipality, county, special district, or other political subdivision of the state or with a state or federal agency for the district to furnish a mobile emergency medical service or provide for the investigatory or welfare needs of inhabitants of the district.
- ◊ Allows the board to issue revenue bonds for certain purposes.

Provides that, except for construction contracts or as specifically provided, the district is prohibited from:

- ◊ incurring a debt, except for construction contracts, payable from revenues of the district other than the revenues on hand, or to be on hand in the current and immediately following fiscal year of the district;
- ◊ imposing an ad valorem tax; and
- ◊ issuing general obligation bonds.

Allows refunding bonds of the district to be issued to refund an outstanding indebtedness the district has issued or assumed.

- ◊ Sets forth other provisions relating to district bonds and indebtedness.

## LOCAL INDIGENT HEALTH CARE RESPONSIBILITIES - H.B. 1398

*by Representative Coleman, et al.*
*Senate Sponsor: Senator Zaffirini*

Includes a primary teaching hospital of a state medical school in certain counties as a mandated provider under the Indigent Health Care and Treatment Act.

Allows a provider to require a patient to provide any necessary information for establishing that the patient is an eligible resident of the county, hospital district, or public hospital and to authorize the release of information to permit the provider to submit a claim to the entity that is liable for payment for the services provided.

Defines minimum eligibility standards.

Requires other application, documentation, and verification procedures to be consistent with procedures used to determine eligibility in the Temporary Assistance for Needy Families-Medicaid program.

Entitles a state hospital or clinic to payment for services to an eligible resident.

Provides that a county may count services provided to each eligible resident who meets a net income eligibility level that is less than 50 percent of the federal poverty level toward eligibility for certain state assistance.

Adds certain primary and preventative services to the list of services that counties are required to provide.

Adds a list of optional services that counties may provide and count toward eligibility for state assistance, subject to state approval.

Lowers the percentage of the county general revenue levy that a county must spend in order to qualify for state assistance from 10 percent to eight percent.

Allows for a waiver of the minimum expenditure level and the provision of state assistance at a lower level if the county demonstrates, through an actuarial analysis, that the county is unable to satisfy the eight percent expenditure level because health care expenditures have not increased, although the county's general revenue tax levy has increased significantly, or because the county is at the maximum allowable ad valorem tax rate, has a small population, has insufficient taxable property, or because of a similar reason.

Raises the percentage of state funds provided to an eligible county from 80 percent to 90 percent, of the actual payment for health care services for the county's eligible residents, after the county has reached the new expenditure level of eight percent.

Provides that a county is not liable for payments for health care services after the county reaches the eight percent expenditure level if the state fails to provide assistance.

Provides that the total amount of state assistance provided to counties for a fiscal year may not exceed the amount appropriated for that purpose for that fiscal year.

Adds hospital districts to certain eligibility provisions pertaining to public hospitals.

Provides that certain counties with hospitals whose board is jointly appointed by a county and a municipality may credit the services provided to all persons who are eligible under a specific eligibility criteria toward eligibility for state assistance.

Requires public hospitals and hospital districts to try to provide the same basic health care services a county is required to provide, except that hospital districts may have added responsibilities under statute or the Texas Constitution.

Allows the Harris County Hospital District to contract for indigent health care services with at least one hospital that is located in the district, exempt from federal income tax, and substantially devoted to providing hospital services to socially and economically disadvantaged individuals in the geographical area of the district.

Redefines what a rural county and a rural health facility are, for the purposes of certain telemedical consultations.

Adds an analysis of the feasibility of including indigent health care programs in the Texas Integrated Enrollment Services (TIES) and other items to a report to be done on TIES.

Changes the computation of the effective maintenance and operations rate, based on spending for indigent health care.

Requires the Texas Department of Health (TDH) to study the feasibility of requiring or permitting a county, public hospital, and hospital district to issue a uniform identification card for health care assistance under these provisions.

Guarantees certain historical allocations of state funds to counties.

Defines tertiary care facility and tertiary medical services.

Allows the Board of Health to adopt rules to implement a system that encourages hospitals to provide tertiary medical services and stabilization services.

Establishes the tertiary care account as an account in the state treasury and describes how the money in the account is to be allocated.

Requires TDH to certify the cost of unreimbursed tertiary medical services provided to persons who reside outside service areas, and requires TDH to use at least 86 percent of the appropriated money in the tertiary care account to compensate tertiary care facilities for unreimbursed tertiary medical services.

Requires TDH to certify the cost of unreimbursed stabilization services provided to persons who reside outside service areas, and requires TDH to use no more than 4 percent of the appropriated money in the tertiary care account to compensate tertiary care facilities and level IV trauma facilities for unreimbursed stabilization services.

Requires TDH to allocate amounts to each facility based on a certain computed percentage, if the total cost of unreimbursed stabilization services for all tertiary care or level IV trauma facilities exceeds the amount available, as provided.

Provides for the certification and reimbursement of extraordinary emergencies.

Creates the state-owned multi-categorical teaching hospital account as an account in the general revenue fund.

Provides for the dissolution of a hospital district and the use of assets transferred to a county or other governmental entity for paying debts and obligations of the district and furnishing medical and hospital care for indigent persons.

Requires TDH to study the provision of basic health care services by counties, hospital districts, and public hospitals, and the cost of providing those services; replacing the threshold for eligibility for state assistance to a county; and the financing of these basic health care services with local, state, and federal funds and Tobacco Settlement funds.

Requires the commissioner of health and human services to establish a regional health care delivery system pilot program to coordinate the use of health care resources in a region of the state.

## PUBLIC HEALTH SERVICES GRANTS & HEALTH CONSORTIUM - H.B. 1444

*by Representative Delisi, et al.*
*Senate Sponsor: Senator Moncrief*

Currently, public health services are defined as population-based services that are directed to protecting the health of the general public. In a study conducted by the Texas Department of Health (TDH) and other entities, it was found that there is a need to address public health issues at a local level. H.B. 1444 creates a program which provides program based grants and a local public health consortium in an effort to improve local public health services.

Defines "essential public health services."

Requires TDH, subject to the availability of funds, to administer a program under which appropriated money may be granted to counties, municipalities, and other political subdivisions to provide essential public health services. The grants must be distributed equally between urban and rural areas.

Requires the Texas Board of Health to adopt rules governing the allocation formula for such grants, how a political subdivision applies for a grant; the procedures for awarding grants, and the standards for the essential public health services to be provided under the grant.

Requires a political subdivision receiving a grant to develop a plan to evaluate the effectiveness, accessibility, and quality of the essential public health services provided under the grant, and sets out requirements for the plan.

Authorizes the governing body of a municipality, the county commissioners court, or the members of a public health district to appoint, or serve as, a local health board to monitor the use of the grant money.

Authorizes TDH, subject to the availability of funds, to provide essential public health services for a population for which a political subdivision is not receiving a grant to provide those services. Requires TDH to develop a plan to evaluate the effectiveness, accessibility, and quality of essential public health services provided.

Requires TDH, in cooperation with political subdivisions receiving grants, and the health consortium created by this act (see below) to evaluate the effectiveness, accessibility, and quality of essential public health services and the adequacy of funding for those services. Not later than January 1 of each odd-numbered year, TDH must file with the governor and the presiding officer of each legislative house a report detailing the results of this evaluation and making recommendations regarding legislation and appropriate funding.

Provides that the governing body of a municipality or the county commissioners court which has not established a local health department or a public health district must appoint a physician as health authority to administer state and local public health laws. The health authority may serve as the health authority for one or more other jurisdictions under an interlocal contract made under the Government Code.

Creates a public health consortium. Requires TDH, in consultation with the consortium and local health units, local health departments, and public health districts, to:

- ◊ develop a training curricula for public health workers;
- ◊ conduct research on improving and monitoring health status outcomes;
- ◊ develop performance standards for local health units, local health departments, and public health districts;
- ◊ develop competency certification standards for public health workers; and
- ◊ improve the use of the technology infrastructure available to local health units, local health departments, and public health districts and this infrastructure to permit statewide communication relating to public health information.

Authorizes a county with a population of at least 2.8 million to require a trained food manager to be on duty during the operating hours of a food establishment, except for food establishments that handle only prepackaged food.

## ALZHEIMER'S DISEASE CENTERS CONSORTIUM - H.B. 1504

*by Representative Goolsby*
*Senate Sponsor: Senator Harris*

Requires the Texas Council on Alzheimer's Disease and Related Disorders to establish a consortium of Alzheimer's disease centers, setting out which centers are to be included in the initial consortium.

Requires the council to provide funds to consortium participants to assist in developing clinical centers that meet consortium standards.

Requires the consortium to coordinate and direct its programs to provide centralized, uniform services among the consortium participants.

Requires the consortium to:

- ◊ offer clinical services to all patients of the consortium's clinical centers;
- ◊ establish a database which makes data available to each consortium participant, provides a resource index to facilitate research projects, and provides data on patient health outcomes to the appropriate state agencies and researchers in this state; and
- ◊ with the aid of the council and National Alzheimer's Association or its affiliate, develop and distribute to patients, caregivers, and health care professionals educational materials and services and inform patients of research projects and therapeutic trials.

Requires the council to establish a steering committee composed of one representative from each consortium participant.

Requires the council to establish a data coordinating center and appoint a person to administer the center. This center is to create a database and make data available to each consortium participant.

Authorizes the council to receive state appropriated funds for the purpose of supporting the research activities of the consortium, and also authorizes the council to solicit and accept gifts, grants, and donations.

Authorizes the council to restrict access to the data maintained by the consortium or data coordinating center to consortium participants which have contributed data.

Requires the council, with recommendations from the steering committee, to evaluate the performance of the consortium participants and data coordinating center at least every five years.

## THE TEXAS HEALTH CARE INFORMATION COUNCIL - H.B. 1513

*by Representative Maxey*
*Senate Sponsor: Senator Moncrief*

The Texas Health Care Information Council (council) was created by the 73rd Texas Legislature to develop a statewide health care data collection system to collect health care charges, utilization data, provider quality data, and outcome data to facilitate the promotion and accessibility of cost-effective, quality health care. By collecting hospital-based data requiring HMO reporting, the council has been able to provide useful report cards on HMOs. This bill sets forth the powers and duties of the Texas Health Care Information Council, and provides a criminal penalty.

Provides that statutory provisions regarding state advisory committees do not apply to technical advisory committees appointed by the council.

Adds providers and consumers as members of different technical advisory committees.

Requires the council to prescribe a public use data file minimum data set that maintains patient confidentiality and establishes data accuracy and consistency, subject to annual review by the council with the assistance of an advisory committee.

- ◊ Allows the council to release certain data that is not included in the public use data file minimum data set.
- ◊ Prescribes certain circumstances under which the council must release provider quality data in an aggregate form.
- ◊ Prescribes certain circumstances under which the council must release public use data in an aggregate form.
- ◊ Changes prohibitions on the release of certain data by the council.
- ◊ Requires the council to establish a scientific review panel to review and approve requests for information, other than public use data.
- ◊ Establishes a felony offense for a person who knowingly accesses data in violation of these provisions or who, with criminal negligence, releases data.

## TEXAS CENTER FOR INFECTIOUS DISEASE LONG-RANGE PLAN - H.B. 1748

*by Representatives Van de Putte and Uresti*
*Senate Sponsor: Senator Madla*

Currently, the Texas Department of Health operates two hospitals that provide tuberculosis services, the Texas Center for Infectious Diseases in San Antonio and the South Texas Hospital in Harlingen. Both hospitals are at risk of losing accreditation due to aging and deteriorating buildings and lack of adequate operating funds.

### TEXAS CENTER FOR INFECTIOUS DISEASE

Requires the Texas Board of Health to contract for renovating the existing physical facilities of the Texas Center for Infectious Disease or constructing new physical facilities for the center.

- ◊ Allows the Board of Health to contract with the board of regents of the University of Texas System or any other public or private health care provider to provide tuberculosis health care services and communicable infectious disease care services at the Texas Center for Infectious Disease or another health care facility near the center.

Provides for the board of regents of the University of Texas System to manage and operate the mycobacterial-mycology research laboratory if constructed at the University of Texas Health Science Center at San Antonio.

- ◊ Requires the adoption of a joint memorandum of understanding for the transfer of research and lab employees, if this option occurs.

Requires the Board of Health to contract with the board of regents for the coordination of medical management of tuberculosis throughout Texas by the University of Texas Health Science Center at Tyler.

Requires the Texas Department of Health:

- ◊ in cooperation with the office of the governor, to work with the United States Immigration and Naturalization Service (INS) to develop a formal agreement on transporting communicable disease patients through INS checkpoints to the Texas Center for Infectious Disease; and
- ◊ to the extent possible out of available funds appropriated to TDH, to reassign an employee of the Texas Center for Infectious Disease to an open position within TDH for which the employee is qualified, if the employee's position is displaced due to a contract as a result of this Act, or due to the transfer of the lab to the University of Texas Health Science Center at San Antonio, if this option is selected.

Provides that contracts entered into under this Act must require the contracting party to offer an employee of the Texas Center for Infectious Disease, whose position is displaced as a result of the contract, a similar employment position with the contracting party.

Requires the Board of Health, the Texas Department of Health and Mental Retardation and the General Services Commission to collaborate on leasing and other options for potential future uses of existing physical facilities, if new facilities for the Texas Center for Infectious Disease are constructed.

**GENERAL PROVISIONS**

Provides that employees whose positions are eliminated and who separate from state service as a result of these contracts or a transfer of the lab to the University of Texas Health Science Center at San Antonio are eligible for retirement and a retirement annuity if the member's age and service credit, each increased by three years, would meet age and service requirements for state retirement.

- ◊ Provides retirement options for these employees.

Requires TDH to implement this Act only if the legislature appropriates money specifically for this purpose.

## STUDY OF PROGRAMS FOR COMMUNITY HEALTH WORKERS - H.B. 1864

*by Representative Capelo, et al.*
*Senate Sponsor: Senator Shapleigh*

Requires the Texas Department of Health (TDH) to establish a committee to study issues related to the development of outreach and education programs for promotoras or community health workers and to advise TDH, the governor, and the legislature.

Requires the committee to review and assess promotora programs currently in operation around the state; study the feasibility of establishing a standardized curriculum for promotoras; study options for certifying promotoras; assessing methods to evaluate the success of promotora programs; create, oversee, and advise local pilot projects; and evaluate the feasibility of seeking a federal waiver so that promotora services may be reimbursed under Medicaid.

Requires the committee to submit a report no later than December 31, 2000.

Requires the committee to identify and develop a strategic plan to address the barriers to access prenatal and neonatal health care services under the state Medicaid program.

Allows the committee to establish a series of neighborhood-based peer health outreach and education pilot projects to demonstrate the feasibility and benefits of employing promotoras to assist beneficiaries of the Medicaid managed care and children's health insurance (CHIP) programs.

Defines the activities of promotoras in any local pilot projects.

Allows the commissioner of health, with the advice of the committee, to provide grants to local pilot projects in not more than five areas in the state, for partial support for the operation of the pilot program, subject to the availability of appropriations that may be used for this purpose.

Requires TDH to pay for the costs of all activities authorized or required under this article out of money appropriated to the department that may be used for that purpose.

Abolishes the committee and provisions in this article on September 1, 2001.

Requires TDH to establish and operate a certification program for persons who act as promotoras no later than January 1, 2000.

## GRANT GUIDELINES FOR SCHOOL-BASED HEALTH CENTERS - H.B. 2202

*by Representative Tillery, et al.*
*Senate Sponsor: Senator West*

Allows school districts to design a model for and establish or contract for school-based health care centers for delivery of conventional health services and disease prevention for students and their families, coordinated with other public health agencies and health care providers in the area.

Subject to the availability of federal or state appropriated funds, requires the commissioner of public health to administer a program under which grants are awarded to assist districts with the costs of operating school-based health centers.

Limits the amount a district may receive through grants awarded under this section to $250,000 per biennium.

In order to be eligible for grant funds, requires a district to provide matching funds to be obtained from any source available to the district.

Requires the district or contract provider to seek all available sources of funding, including the state Medicaid program, a state children's health plan program, private health insurance, health benefit plans, or the ability of those using the clinic, to pay for the services.

Requires the district or provider to obtain parental consent before providing services to a student.

Includes in the permissible categories of services:

- ◊ family and home support;
- ◊ health care, including immunizations;
- ◊ dental health care;
- ◊ health education; and
- ◊ preventive health strategies.

Prohibits reproductive services, counseling, or referrals from being provided.

Requires written notice to a parent if a student is determined to be in need of referral for mental health services and written consent from a parent if the referral is to be made.

Allows a school board to establish a local health education and health care advisory council to make recommendations on the establishment of school-based health centers and to assist the district in implementation.

Requires that the majority of the members of the council to be parents of students enrolled in the district and requires the other members include at least one person from each of the following groups:

- ◊ teachers, school administrators, licensed health care professionals, the clergy, law enforcement; and
- ◊ the business community, senior citizens, and students.

## REGULATING COVENANTS NOT TO COMPETE BY PHYSICIANS - H.B. 3285

*by Representative Van de Putte*
*Senate Sponsor: Senator Armbrister*

In today's medical practice environment, many physicians have grouped together to form multispecialty clinics, leaving fewer solo practitioners. When a physician leaves a group to enter his or her own practice or another group practice, the ability of the departing physician to treat patients may be hindered due to a covenant not to compete a contractual clause in the work contract. This clause may make it difficult for the patient to have records transferred to the departing physician's new office and to receive continuing care from that physician.

This bill permits covenants not to compete by physicians licensed by the Texas State Board of Medical Examiners if such covenant:

- ◊ allows the physician access to a list of patients seen or treated by the physician within one year of the termination of employment;
- ◊ provides access to the physician's patients' medical records upon patient authorization and any copies of medical records for a reasonable fee established by the board;
- ◊ provides that, after termination of employment, any access to a list of patients or patients' medical records shall not require such list or records be provided in a format different than that by which such records are maintained, except by the mutual consent of the parties to the contract;
- ◊ provides for a buyout of the covenant by the physician at a reasonable price or, at the option of either party, as determined an arbitrator; and
- ◊ provides that the physician will not be prohibited from providing continuing care and treatment to a specific patient or patients during the course of an acute illness, even after the termination of employment.

## NURSING HOME REFORM - S.B. 18

*by Senator Zaffirini, et al.*
*House Sponsor: Representative Naishtat*

Currently, a person who threatens the health and safety of a nursing home resident is liable for a civil penalty from $1,000 to $20,000. The Long-Term Care Legislative Oversight Committee recommends that the attorney general represent the state in an effort to recover such a penalty.

Clarifies provisions of major nursing home reform legislation enacted during the 75th Texas Legislature.

Clarifies the authority of the attorney general, at the request of the Texas Department of Human Services, to represent the state in collecting civil penalties and to enter into arbitration in nursing home cases.

◊ Allows the attorney general to institute actions in district courts.

## NURSING HOME REGULATION - S.B. 19

*by Senator Zaffirini, et al.*
*House Sponsor: Representative Naishtat*

Enhances the Texas Department of Human Services' (DHS) authority and regulation of nursing homes.

Adds a one-year probationary period for nursing facility owners doing business in the state for the first time so that DHS can close facilities that do not provide high-quality care.

◊ Sets up a reduced licensing fee for the probationary license period.

## QUALITY OF LIFE IN ASSISTED LIVING FACILITIES- S.B. 93

*by Senator Moncrief, et al.*
*House Sponsors: Representative Brian McCall, et al.*

Currently, Texas law requires assisted living facilities to be licensed and regulated by the Texas Department of Human Services (DHS). The assisted living industry is the fastest-growing segment of health care today. Assisted living facilities provide support services in a residential setting that maximize a resident's independence, and are an alternative to medical or institutional care.

Ensures that assisted living facilities in Texas deliver the highest quality care by establishing minimum standards of care. Provides that any violation of the minimum standards is a violation of the law. Establishes requirements for DHS to protect residents of assisted living facilities, adopting rules relating to the assessment of the condition and service needs and promoting policies that maximize the dignity, autonomy, privacy, and independence of each resident. Provides that assisted living services should enhance a person's ability to age in a residential setting while receiving increasing or decreasing levels of service as the person's needs change.

Provides that certain facilities are exempt from this chapter, including certain boarding facilities or a facility that provides personal care services only to persons enrolled in a program fully or partially funded and monitored by the Texas Department of Mental Health and Mental Retardation or its local designate.

Changes licensing provisions for assisted living facilities.

- ◊ Allows the state to require information on license applicants and others who have operated in other states;
- ◊ Increases licensing fees; and
- ◊ Increases qualifications for managers of assisted living facilities with 17 beds or more.

Provides for DHS to adopt an early compliance review procedure for proposals to construct or modify facilities.

Provides for inspections by DHS of assisted living facilities annually or at other reasonable times as necessary to assure compliance.

Increases qualifications for managers of assisted living facilities classified to provide services to persons with Alzheimer's Disease.

Requires DHS to develop a classification for facilities that provide only medication supervision.

Adds new reporting requirements for incidents of abuse and neglect.

Allows the OAG to enforce the collection of civil penalties.

Requires the adoption of procedures to monitor the status of unlicensed assisted living facilities, including a quarterly report by the OAG.

Deletes provisions on a pilot program for a personal care facility ombudsman.

Provides for regional training by DHS for other agencies and local governments.

Prohibits retaliation against any person who files a complaint or a grievance relating to personal care services provided by the license holder.

Defines "residential facilities for the elderly" and requires certain information to be in contracts between the facilities and its residents.

Creates a work group on Texas accessibility standards.

Requires DHS to implement a new reimbursement method for personal care services funded through the community-based alternatives program.

## IMPROVING REGULATION OF HOME HEALTH SERVICES - S.B. 94

*by Senator Moncrief, et al.*
*House Sponsors: Representative Brian McCall, et al.*

The purpose of this Act is to ensure that home and community support services agencies in Texas deliver the highest possible quality of care, and establishes minimum standards for acceptable quality of care for home and community support services agencies.

Updates actions the Texas Department of Health (TDH) is authorized to take in relation to a home and community support agency applicant or license holder.

Requires TDH to:

- ◊ provide specialized training to TDH representatives who survey home and community support services agencies; and
- ◊ maintain records or documents relating to complaints by consumers of home health, hospice, or personal assistance services.

Prohibits a person holding a license as a home and community support agency from retaliating against another person for filing a complaint, presenting a grievance, or providing, in good faith, information relating to home health, hospice, or personal assistance services provided by the license holder.

Bars a survey report or other document prepared by TDH that relates to regulation of a home and community support services agency from admission as evidence in a civil action to prove that the agency violated a standard, except as provided in this Act.

Adds definitions of abuse, exploitation, and neglect, and requires a home and community support services agency that has cause to believe that a person receiving services from the agency has been abused, exploited, or neglected by an employee of the agency, to report the information.

Prohibits a physician from referring a patient to a home and community support services agency if the referral violates federal law.

Requires a home and community support services agency that generates special or medical waste while providing home health services to dispose of the waste in the same manner that TDH disposes of special or medical waste generated in the agency's office location.

Requires the Texas Department of Protective and Regulatory Services to notify certain agencies after determining that an elderly or disabled person has been abused, exploited, or neglected by an employee of a home and community support services agency.

## STUDIES AND PLANS FOR LONG TERM CARE - S.B. 95

*by Senator Moncrief, et al.*
*House Sponsors: Representative McCall, et al.*

Currently, people are living longer, and an inevitable increase of the state's elderly population emphasizes the importance for the state to plan for delivery of long term care services. Although the state does not have a strategic plan addressing state policy for the delivery of long-term care, the population of persons age 65 years and older will increase an estimated 155 percent between 1990 and 2025, straining the state's health resources. Work groups created by state health and human service agencies to address long-term care, community services, and health services could develop a strategic plan for the state. S.B. 95 requires appropriate health and human services agencies to develop a strategic plan regarding the delivery of long-term care and health services for the elderly and disabled population, and to submit a report to the 77th Legislature.

Requires the Health and Human Services Commission (HHSC) to determine the number of persons in this state dually eligible for and receiving home health services paid under Medicaid and Medicare; and the relative percentages of the total amount of home health benefits paid on behalf of such persons by Medicaid and by Medicare.

Requires HHSC and other agencies to develop a strategic plan for creating a consolidated intake system for complaints made to a health and human services agency involving the abuse, neglect, or exploitation of a person.

Requires HHSC, certain agencies, and consumers to develop a strategic plan for the creation of a state registry containing the names of health care workers determined to have abused, neglected, or exploited a resident of an assisted living facility or an individual receiving services through a home and community support services agency.

Requires the Texas Rehabilitation Commission (TRC) to form a work group to study national accreditation standards for facilities that provide brain injury rehabilitation services and make recommendations concerning potential state certification of those facilities.

Requires certain agencies, providers, and consumers to review training programs for personal care attendants and develop recommendations for improvement in those programs.

Requires certain agencies to study opportunities for providing home and community support services to residents of affordable housing developments and participants in other affordable housing programs.

## HOME AND COMMUNITY HEALTH CARE SERVICES - S.B. 96

*by Senator Moncrief, et al.*
*House Sponsors: Representative McCall, et al.*

Currently, the Texas Department of Health (TDH) regulates home and community support services agencies and home health medication aides. While most long-term care services in the State of Texas (nursing facilities, personal care facilities) are regulated by Texas Department of Human Services (DHS), TDH still regulates home and health care services. DHS' goals are focused on regulating providers of long-term care services. TDH's regulation of home health, however, is focused on Medicare's Conditions of Participation, which in turn are oriented toward an acute care model of home health. DHS is currently re-engineering its long-term care regulatory system, but is not focused on home health, a significant oversight in the overall regulation of long-term care in Texas.

S.B. 96 transfers the licensing and regulation of home and community support services agencies and home health medication aides, and Medicare certification of home and community support services, from the TDH to the DHS on September 1, 2001, or an earlier date provided by interagency agreement.

Transfers all funds, obligations, contracts, property, records, appropriated funds, and employees to DHS.

Provides that if legislation creating a new state agency to regulate long-term care services becomes law, these functions will be transferred to that agency.

## NURSING HOME TRUSTEES & EMERGENCY ASSISTANCE FUNDS - S.B. 1197

*by Senator Moncrief*
*House Sponsor: Representative Naishtat*

Currently, Texas law does not set guidelines for operating a nursing home in which a trustee is appointed and emergency assistance funds are used. S.B. 1197 excludes a person owning, controlling, or operating a nursing home in which a trustee is appointed and emergency assistance funds are used, from eligibility for issuance or renewal of a license as a nursing home operator, and increases the penalty for occasions when trustees and emergency funds are appropriated.

Outlines qualifications of who can be appointed as a nursing home trustee, and provides for the replacement of a trustee if the person cannot satisfy specific requirements.

Requires a trustee's charges to separately identify personal hours worked for which compensation is claimed, and allows a claim for personal compensation to include only compensation for activities related to the trusteeship and performed on behalf of the nursing home.

Prohibits a trustee from hiring relatives within a certain degree of relationship to work with the trustee in the nursing home.

Requires the courts to consider, as reasonable, a rate for paying trustees that is equal to 150 percent of the maximum allowable rate for an owner-administrator under Medicaid reimbursement. Requires the courts to determine the reasonableness of the trustee's personal compensation for other duties, and requires a court review of the reasonableness, and a reduction of the compensation if the fees are not found to be reasonable.

Allows nursing home license holders or people who control and operate a nursing home to be excluded from eligibility from licensure under two circumstances if their nursing home has had a trustee appointed and has used emergency assistance funds, other than funds used to pay the expenses of a trustee. The two circumstances are:

- ◊ for an original license for a home for which the person has not previously held a license; or
- ◊ for the renewal of a license for the home for which the trustee is appointed.

Increases certain criminal penalties in trials involving loss as a result of conduct that resulted in an appointment of a trustee or the use of emergency assistance funds, other than funds used to pay the expenses of the trustee, for nursing homes.

## MONITORING THE FINANCES OF SOME NURSING FACILITIES - S.B. 1292

*by Senator Zaffirini*
*House Sponsor: Representative Naishtat*

Currently, the Texas Department of Human Services (DHS) lacks the authority to obtain financial information which would provide advance notice of significant changes in a nursing home's financial condition; this could adversely affect the delivery of services essential to the health and safety of residents. Some nursing homes have experienced heavy revenue losses resulting in their inability to meet payroll expenses. S.B. 1292 sets forth provisions regarding the monitoring of the financial condition of certain nursing facilities licensed by DHS and provisions regarding the monitoring of the financial condition of certain nursing facilities licensed by DHS.

Requires institutions to notify DHS of significant changes in their financial position, cash flow, or results of operation that could adversely affect the delivery of essential services to residents of the institution.

Allows DHS to verify the financial condition of an institution in order to identify any risk to the institution's ability to deliver essential services.

Allows a person who knowingly files false information under this section to be prosecuted under the Penal Code.

Outlines confidentiality provisions and exceptions to confidentiality.

Allows DHS to deny, suspend, or revoke a license for failure to comply with these provisions.

## LONG TERM CARE MEDICAID WAIVER PROGRAMS - H.B. 2148

*by Representatives Maxey and Danburg*
*Senate Sponsor: Senator Moncrief*

Currently, under federal law, states are allowed to apply for waivers of certain Medicaid requirements, including Section 1915(c) waiver programs, which allow states to provide home and community based services to individuals who qualify for care in an institution. Texas operates eight Section 1915(c) waivers. This bill would require the Health and Human Services Commission (HHSC) to make uniform the functions relating to the administration and delivery of Section 1915(c) waiver programs, and further require the commission to develop and implement a pilot program to assess the advisability of consolidating the Section 1915(c) waiver program.

Defines a "Section 1915(c) waiver program" as a federally funded state Medicaid program authorized under Section 1915(c) of the federal Social Security Act (such a program allows states to provide home and community based services to individuals who qualify for care in an institution).

Requires HHSC to make uniform those functions relating to the administration and delivery of Section 1915(c) waiver programs regarding long-term care Medicaid programs.

Exempts functions of such waiver programs operated in conjunction with a federally funded Medicaid program of the state authorized under Section 1915(b) of the federal Social Security Act.

Requires HHSC to ensure that information on individuals seeking to obtain services from such waiver programs is maintained in a single computerized database that is accessible to staff of all state agencies administering these programs.

Requires HHSC, by rule, to develop and implement a pilot program to assess the advisability of consolidating the Section 1915(c) waiver programs. This pilot program must be limited to a specific geographic area and serve individuals not currently receiving services under such a waiver program.

Requires HHSC to submit a report to the legislature, not later than January 1, 2004, evaluating the administrative efficiencies and effectiveness of serving individuals eligible for a Section 1915(c) waiver program in a single program.

Requires HHSC, in complying with this Act, to regularly consult with consumers and family members, providers, advocacy groups, state agencies administering a Section 1915(c) waiver program, and other interested persons.

Provides that if, before implementing any provisions of this Act, a state agency determines a waiver or authorization from a federal agency is necessary, the agency shall request the waiver authorization. The agency may delay implementing that provision until the waiver or authorization is granted.

Provides that this Act takes effect only if a specific appropriation for the implementation of the Act is provided in the General Appropriations Act of the 76th Legislature.

## FEES FOR NURSING AND CONVALESCENT HOME TRUST FUND - H.B. 2909

*by Representatives Naishtat and Junell*
*Senate Sponsor: Senator Moncrief*

Currently, the Department of Human Services (DHS) is authorized to collect fees from nursing facilities to maintain the nursing and convalescent home trust fund. The trust fund is limited to $500,000. The amount appears to be inadequate to fulfill the purposes of the fund, which include assisting trustees who are appointed to assume the operations of nursing or convalescent homes which are closed for violation of the laws and rules that govern it.

Increases the amount of the balance in the nursing and convalescent home trust fund that is to be kept in the fund at the end of each fiscal year from $500,000 to $10 million.

Requires DHS to adopt an annual fee if the amount of the nursing and convalescent home trust fund is less than $10 million, rather than $500,000. Allows the fee to be collected more than once a year if necessary to ensure that the amount in the nursing and convalescent home trust fund is sufficient to make certain disbursements.

Requires DHS to set the fee for each nursing and convalescent home at $1 for each licensed unit of capacity or bed space, or in an amount necessary to provide not more than $10 million in the fund. Provides that the total fees assessed in a year may not exceed $20 for each licensed unit of capacity or bed space.

## IMPROVING MEDICAID THIRD PARTY REIMBURSEMENTS - S.B. 1248

*by Senator Nelson*
*House Sponsor: Representative Maxey*

Legislators of the 74th and 75th Regular Sessions changed the structure of the health care industry to ensure that third-party recovery efforts remained effective by passing bills which covered most health insurance plans. The expansion of managed care, the use of claims administrators, increased use of subcontractors, and numerous corporate health care mergers have affected Medicaid third party identification and recovery. State law governing Medicaid data matches does not specify any penalty for noncompliance. Although current law requires insurers to provide Medicaid information, few carriers submit all of the information requested. While this data is enough to conduct data matches to identify and verify policies that cover Medicaid-eligible recipients, it is not sufficient to conduct post-payment, third-party recovery activities. Potential claims against several entities refusing to participate are estimated to total several million dollars in federal and state funds.

S.B. 1248 mandates requirements for health insurers' participation in Medicaid data matches by requiring them to maintain more comprehensive information regarding insured persons and their dependents in their filing system.

Authorizes administrative penalties for failing to provide requested information within 180 days of the request.

Requires the Texas Department of Health to submit a report to the legislature relating to third-party Medicaid recoveries made by the department under these provisions.

## MEDICAID PRESCRIPTION DRUG PROGRAM - S.B. 1585

*by Senator Zaffirini*
*House Sponsor: Representative Isett*

The Texas Department of Health (TDH) spends about 10.6 cents for each transaction related to the processing of pharmaceutical claims. By outsourcing the processing of Medicaid prescription drugs, California is able to spend 9 cents per claim. In 1993, TDH reviewed its claims processing arrangement; however, a competitive bid process has never been initiated. S.B. 1585 requires TDH, with other governmental bodies, to utilize a competitive bidding process for claims processing functions of the vendor drug program.

Requires TDH to seek competitive bids for the claims processing function of the vendor drug program, in consultation and coordination with the State Council on Competitive Government.

Allows TDH and the Texas Department of Human Services to submit a bid proposal in the same manner as a private entity.

Allows TDH to award a contract to another person only if the department and the State Council on Competitive Government determine that the provision of services under that contract would be more cost-effective and the time to process claims under the contract would be the same as or faster than having employees of TDH continue to process claims.

## DETECTION OF MEDICAID FRAUD, WASTE, AND ABUSE - S.B. 1587

*by Senator Zaffirini*
*House Sponsor: Representative Maxey*

The Comptroller of Public Accounts and the State Auditor's Office report possible overpayment of approximately $162 million for Medicaid acute services. The comptroller's Fraud Measurement Study contains recommendations for improvements via random audits, data matches, and investigations of possible fraud by dishonest providers and recipients. S.B. 1587 sets forth procedures for detecting fraud, waste, and abuse in the state Medicaid program.

Requires the verification of an applicant's residential address at the time the application for medical assistance is filed.

Requires the review of eligibility of a recipient of medical assistance who is eligible on the basis of the recipient's eligibility for Supplemental Security Income (SSI) benefits, in order to ensure that only recipients who reside in this state and who continue to be eligible for SSI benefits remain eligible for medical assistance.

Requires the comptroller to conduct a study, in consultation with the state auditor, to determine the need for changes to the eligibility system used under the state Medicaid system.

Requires the Health and Human Services Commission (HHSC) to set specific claims criteria that, when met, require the office to begin an investigation.

Requires HHSC to annually select and review a random, statistically valid sample of all claims for reimbursement under the state Medicaid program, including the vendor drug program, for potential cases of fraud, waste, or abuse.

- ◊ Allows HHSC, in conducting the annual review of claims, to directly contact a recipient by telephone or in person, or both, to verify that the services for which a claim for reimbursement was submitted by a provider were actually provided to the recipient.

Requires HHSC to:

- ◊ determine the types of claims to which commission resources for fraud and abuse detection should be primarily directed, based on the results of the annual review of claims; and
- ◊ conduct electronic data matches under the state Medicaid program at least quarterly to verify the identity, income, employment status, and other factors that affect the eligibility of the recipient.

Allows HHSC to contract with a contractor who specializes in developing technology capable of identifying patterns of fraud exhibited by Medicaid recipients to develop and implement the fraud detection technology, and determine if a pattern of fraud by Medicaid recipients is present in the recipients' eligibility files maintained by the Texas Department of Human Services (DHS).

Requires HHSC, in cooperation with the office of inspector general of DHS, to study and consider for implementation fraud detection technology or any other technology that can identify information in the eligibility file of a Medicaid recipient that indicates potential fraud and the need for further investigation.

Requires the Texas Department of Health (TDH) to:

- ◊ obtain a compliance report from its existing contract to ensure the timely payment and accuracy of claims, and to eliminate inconsistencies in the payment system; and
- ◊ develop a Medicaid eligibility confirmation letter that is not easily duplicated to reduce fraudulent use of duplicate letters, no later than October 1, 2000.

Requires the interagency task force on electronic benefits transfers to conduct a study to identify and consider for implementation, alternative methods, including electronic methods, for use by a recipient to prove eligibility under the state Medicaid program to a provider, with recommendations designed to reduce the potential for fraudulent claims of eligibility.

Requires HHSC to submit a biennial report to the legislature regarding the effectiveness of any alternative methods for proving Medicaid eligibility that is implemented by DHS, in reducing incidences of fraudulent claims of eligibility under the state Medicaid program.

Requires DHS to begin the first review of eligibility for recipients of medical assistance as added by this bill, no later than October 1, 2000.

## FRAUD CONTROL FOR MEDICAID MANAGED CARE PROGRAM - S.B. 1588

*by Senator Zaffirini*
*House Sponsor: Representative Maxey*

Texas expended $7.3 billion in 1997 on its Medicaid program. The 75th Legislature directed the comptroller of public accounts to study the size and nature of fraud and overpayments in the Medicaid program and other state health care programs. S.B. 1588 requires managed care organizations to cooperate with Heath and Human Services Commission investigations.

Requires managed care organizations contracting with the Health and Human Services Commission (HHSC) to submit descriptions of any financial or other business relationship between the managed care organization and any subcontractors, to provide a copy of certain subcontractor contracts, and to describe any subcontractors' fraud control plans.

Requires each managed care organization to submit this information to and cooperate with HHSC's Office of Investigations and Enforcement.

Provides that, regarding a subcontractor who has reenrolled as a provider or modified contract in compliance with state law, a managed care organization is not required to submit, and the provider is not required to provide, fraud control information different than the information submitted in connection with the reenrollment or contract modification.

Provides that information submitted to the commission under this Act is confidential and not subject to disclosure under the Open Records Act.

## PROVISIONS RELATING TO THE HEALTH CARE FRAUD STUDY - S.B. 1589

*by Senator Zaffirini*
*House Sponsor: Representative Maxey*

Texas expended $7.3 billion in 1997 on its Medicaid program, $3.8 billion of which was spent on acute care services. The 75th Texas Legislature directed the comptroller of public accounts (comptroller) to study the size and nature of fraud and overpayments in the Medicaid program and other state health care programs. The comptroller and the State Auditor's Office reported possible overpayments of approximately $162 million for Medicaid acute care services based on 1997 expenditures. The comptroller included recommendations in the Fraud Measurement Study for improving the state's ability to ensure that state health care program funds are properly expended. S.B. 1589 sets forth provisions for conducting a study of fraudulent medical or health care benefit claims submitted under certain state programs.

Requires the comptroller to consult with the Auditor's Office on a biennial study to determine the number and type of fraudulent claims for medical or health care benefits.

◊ Adds the Medicaid managed care program to the fraud study.

Allows the comptroller or, at the request of the comptroller, certain state agencies, to make telephone contact with a person identified as receiving services for which benefits are provided under the program to confirm the delivery of services.

Requires certain state agencies to cooperate with the comptroller and provide any information required in connection with the study, in a format agreed to by the comptroller and the state agency, in order to permit examination of both patient and health care provider histories to identify unusual or suspicious claims or patterns of claims.

Requires certain state agencies, in consultation with the comptroller and the Auditor's Office, to establish performance measures to evaluate the agency's fraud control procedures.

Requires reports to state agencies to indicate whether the level of fraud in each program included in the study has increased, decreased, or remained constant since the last report.

## CHILD'S MEDICAID ELIGIBILITY REVIEW AFTER TANF LOSS - H.B. 820

*by Representative Naishtat, et al.*
*Senate Sponsor: Senator Zaffirini*

Currently, children of families receiving financial assistance under the Temporary Assistance for Needy Families (TANF) program are provided with Medicaid coverage relating to the TANF grant. Upon the termination of TANF benefits, the Medicaid coverage associated with these benefits also expires. Because many families may not be aware that their children may be eligible for insurance coverage under a different Medicaid category, their children go without health insurance or experience gaps in their coverage. H.B. 820 provides for automatic review of a child's eligibility for medical assistance if the child's Medicaid benefits are lost due to the loss of the family's entire TANF grant.

Requires an agency operating the Medicaid program to implement an automatic review of a child's eligibility for medical assistance if the child loses eligibility because eligibility for financial assistance under the TANF ceases.

Allows the agency to provide for one month of provisional eligibility for medical assistance for the child, pending a recertification review, if the review indicates the child may be eligible for medical assistance on another basis.

Requires the agency to promote continued medical assistance for these children by revising client education and notification policies relating to a child's eligibility for medical assistance and providing specific notification of a child's potential eligibility for medical assistance to parents at the time they are notified of an eligibility recertification review or the termination of financial assistance.

Provides that this Act takes effect only if a specific appropriation is provided in H.B. 1 (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999.

## MINORS MUST BE ACCOMPANIED TO DOCTOR FOR MEDICAID - H.B. 1285

*by Representative Janek*
*Senate Sponsor: Senator Nelson*

Current Texas law does not require the presence of a child's parent or guardian during a visit to the child's Medicaid primary care physician. The lack of a witness to treatments allegedly performed on minors sometimes results in disputes as to whether a physician has actually rendered the treatment for which reimbursement is sought.

Requires a child to be accompanied at a medical visit or screening by an adult authorized by the child's parent or guardian if the child is under 15 in order to be reimbursed for the costs of the visit or screening.

## ACCURACY OF MEDICAL ASSISTANCE ELIGIBILITY LISTS - H.B. 1514

*by Representative Maxey*
*Senate Sponsor: Senator Zaffirini*

The comptroller and the State Auditor's Office report possible overpayments of approximately $162 million for Medicaid acute services. The comptroller's Fraud Measurement Study reports that Medicaid claims may be processed for deceased persons after their eligibility ends. A review of Medicaid claims for 1997 indicated that 3,395 persons remained on the Medicaid eligibility files 30 days after they died. This bill requires the implementation of certain procedures to ensure accuracy of medical assistance eligibility lists.

Requires the Health and Human Services Commission (HHSC) to ensure that the database system is used each month to match Bureau of Vital Statistics death records with a list of persons eligible for medical assistance, and that each person who is deceased is promptly removed from the list of persons eligible for medical assistance.

Requires the learning or neural network technology used by HHSC to be used each month to match Bureau of Vital Statistics death records with Medicaid claims filed by a provider.

- ◊ Requires HHSC to refer cases for investigation to the HHSC Office of Investigations and Enforcement if HHSC determines that a provider has filed a claim for services provided to a person after their date of death, as determined by the Bureau of Vital Statistics death records.

Requires HHSC to implement these systems no later than December 31, 2000.

## ADMINISTRATION OF THE STATE MEDICAID PROGRAM - H.B. 2896

*by Representative Coleman, et al.*
*Senate Sponsor: Senator Moncrief*

Requires a contract with an independent auditor to perform annual independent external financial and performance audits of any Medicaid contractor used in the operation of a part of the state Medicaid program.

Requires the Health and Human Services Commission (HHSC) to consider the ability of organizations to process Medicaid claims electronically in awarding contracts to managed care organizations.

Requires HHSC to contract with a certain managed care organization in providing health care services through Medicaid managed care to recipients in a health care service region, with the exception of the Harris service area for the STAR Medicaid managed care program.

Requires HHSC's compliance and readiness review of each managed care organization that contracts with HHSC to include ability of the managed care organization to process claims electronically.

Requires HHSC to develop and implement an expedited process for determining eligibility for and enrolling pregnant women and newborn infants in managed care plans, ensure immediate access to prenatal services and newborn care for pregnant women and newborn infants enrolled in managed care plans, and temporarily assign Medicaid-eligible newborn infants to the traditional fee-for-service component of the state Medicaid program.

Places a moratorium on HHSC's authority to implement Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, or Medicaid Star + Plus pilot programs in specific regions.

Requires HHSC to review any outstanding administrative and financial issues with respect to these Medicaid managed care pilot programs. Allows HHSC to implement the pilot programs if HHSC finds that outstanding issues have been resolved, and implementation of those programs would benefit recipients and providers.

Requires HHSC to consider certain factors in determining premium payment rates paid to certain managed care organizations under a managed care plan. Sets up a process for determining the maximum premium payment rates paid to a managed care organization. Requires the premium payment rates paid to a managed care organization to be established by a competitive bid process, but lower than the maximum premium payment rates established by HHSC.

Requires HHSC to adopt rules regarding the sharing of profits earned by a managed care organization through a managed care plan providing health care services under a contract with HHSC. Requires these funds to be deposited in the general revenue fund for the purpose of funding Medicaid.

Requires HHSC to appoint a state Medicaid managed care advisory committee to provide recommendations on the statewide implementation and operation of Medicaid managed care.

Requires HHSC to study the feasibility of authorizing providers to reenroll in Medicaid online or through other electronic means, and implement it, if feasible.

## PLANNING SPECIAL MEDICAID CHILDREN'S SERVICES - H.B. 2873

*by Representatives Maxey and Danburg*
*Senate Sponsor: Senator Zaffirini*

Requires a Medicaid agency to fully assess a child with disabilities or special health care needs who is participating in a special waiver program to determine all appropriate Medicaid services and to take other actions regarding planning and identifying services.

Requires a Medicaid agency to coordinate these services with the Texas Health Steps Comprehensive Care Program.

Requires the Health and Human Services Commission to establish an advisory committee to provide recommendations on the delivery of these services.

## THE NUMBER OF MEDICAID BEDS IN NURSING FACILITIES - H.B. 3693

*by Representative Hunter*
*Senate Sponsor: Senator Fraser*

Authorizes the Health and Human Services Commission to exempt a nursing facility from rules regarding the number of Medicaid beds in nursing facilities, decertification of unused Medicaid beds in nursing facilities, and reallocation of decertified nursing home beds if the nursing facility is:

- affiliated with a state-supported medical school;
- located on land owned or controlled by such school; and
- serves as a teaching facility for health care professionals.

## REPORTING CONTROLLED SUBSTANCE OVERDOSES - S.B. 43

*by Senator Shapiro, et al.*
*House Sponsor: Representative Hodge*

This bill is designed to create an accurate system to track and identify drug trends and drug use in Texas.

Requires a physician who attends or treats or is requested to attend or treat an overdose of certain controlled substances, or other person in charge of a hospital, sanitarium, or other institution, to report an overdose to the Texas Department of Health.

Requires the report to contain certain information, but not the person's name or address or any other information concerning the person's identity.

## BODY PIERCING - S.B. 61

*by Senator Madla*
*House Sponsors: Representative Clark, et al.*

Currently, Texas law regulating tattoo and ear piercing facilities does not apply to body piercing and those who perform body piercing. Body piercing may cause infection and spread communicable diseases. In 1998, the Texas Department of Health (TDH) received 69 complaints regarding unsanitary conditions, inappropriate touching, and injuries in body piercing facilities. S.B. 61 provides regulation for body piercing studios.

Exempts a person who performs only ear piercing, or a facility in which only ear piercing is performed, from the licensing requirements.

Specifies techniques to prevent the spread of infection in body piercing studios.

Prohibits body piercing on an individual younger than 18 years of age without the written, notarized consent of a parent, managing conservator, or guardian of the individual.

Outlines procedures and requirements for receiving a body piercing studio license. Outlines location requirements for studios, and allows the Board of Health to establish sanitation requirements or other requirements relating to the building in which a studio is located.

Requires reporting of any infection resulting from body piercing. Requires TDH to inspect a body piercing studio.

Requires the Board of Health to adopt rules to implement the law not later than January 1, 2000, with body piercing studios to become regulated after June 1, 2000.

## INTERMEDIATE CARE FACILITIES FOR MENTALLY RETARDED - S.B. 196

*by Senator Madla*
*House Sponsor: Representative Coleman*

Currently, there is an established system for regulating intermediate care facilities for the mentally retarded (ICF-MR) which addresses ICF-MR regulation, governance, and use of administrative penalties. However, the specific provisions for penalties do not address many due process provisions offered in parallel licensing statutes for similar programs. This bill clarifies and creates provisions regarding violations and penalties affecting ICF-MR facilities.

Changes administrative penalties ICF-MR facilities.

Allows the Texas Department of Human Services (DHS) to define criteria on which it may deny initial license applications, renewals, or revocations.

Requires inspectors or surveyors to list specific violations and identify specific law or rule the facility violates. Requires an exit conference to discuss violations, and mandates an additional exit conference if additional violations are discovered later.

Requires the facility to submit a plan to correct violations to the regional director not later than the 10th day after the date the facility receives the final statement of violations.

Limits administrative penalties to no less than $100 or more than $5,000 for each violation, depending on the number of beds in the facility. Defines single violations as each day of a violation that occurs before the day on which the person receives written notice of the violation from DHS. Defines separate violations as each day of a continuing violation after the person receives written notice of the violation from DHS.

Deletes provisions that require DHS to:

- ◊ establish gradations and amounts of penalties, and replaces it with a requirement that DHS specify, by rule, each violation for which an administrative penalty may be assessed;
- ◊ limit the penalty to no more than $5,000 for each violation and consider that each day of a continuing violation constitutes a separate violation; and
- ◊ consider specific items in assessing penalties, and replaces it with a requirement that DHS specify, by rule, a specific and detailed schedule of appropriate and graduated penalties for each violation based on specific items.

Requires DHS to provide the facility with a reasonable period of time, no less than 45 days, to correct a violation before assessing an administrative penalty, if a plan of correction has been implemented.

Prohibits DHS from assessing an administrative penalty:

- ◊ if the violation is corrected later than the 46th day after the date the person receives notice of the violation;
- ◊ for a minor violation if the violation is corrected; and
- ◊ against a state agency.

Requires DHS to establish a system to ensure standard and consistent application of penalties regardless of the facility location.

- ◊ Makes all proceedings for the assessment of an administrative penalty subject to Chapter 2001, Government Code (the Administrative Procedures Act). Outlines when an administrative penalty ceases. Requires DHS to give written notice of a violation, with contents as specified.

Allows the submission of a written request for a hearing on TDHS' determination of a violation or penalty. Provides that if the determination is accepted or if a person fails to respond in a timely manner to the notice, the TDHS commissioner is required to approve the determination and order the payment of the penalty.

Outlines details of DHS procedures on hearings and orders.

Prescribes details on how DHS gives notice of orders under administrative penalties.

Authorizes a petition of judicial review contesting the violation or the penalty.

Allows DHS to file a contest to an affidavit that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedes bond. Allows DHS to refer the case to the attorney general for collection of the penalty if the penalty is not paid and the enforcement of the penalty is not stayed.

Provides that judicial review of the order is instituted by filing a petition under Subchapter G, Chapter 2001, Government Code, and is under the substantial evidence rule.

Allows the court to uphold or reduce the amount of the penalty. Outlines provisions for the payment or refund of penalties.

- ◊ Requires the penalty to be deposited in the state treasury.
- ◊ Allows the attorney general to recover reasonable expenses and costs, as defined, under certain conditions.
- ◊ Allows DHS to require the amount of the penalty to be used to ameliorate the violation or improve services in the facility affected by the violation, instead of ordering payment of an administrative penalty.

## TEXAS INFORMATION AND REFERRAL NETWORK - S.B. 397

*by Senator Zaffirini*
*House Sponsors: Representatives King and Naishtat*

Currently, Texas Law requires health and human services agencies to provide information to the Texas Information and Referral Network (TIRN), but does not specify that public or private entities receiving state-appropriated funds must comply. Some organizations that receive state funds are implementing separate information and referral systems for health and human services.

This bill requires any public or private health and human services organization receiving state-appropriated funds to provide information about the services they offer to the TIRN.

◊ These public and private entities must provide and update such information in a form determined by the commissioner of health and human services.

## PROGRESS NOTES AND THERAPY SESSIONS ARE CONFIDENTIAL - S.B. 569

*by Senator Nelson*
*House Sponsor: Representative Van de Putte*

Currently, health benefit plans maintain reimbursement requirements for an enrollee or a health provider. In a mental health plan, for example, a company may require a representative to observe an enrollee's psychotherapy session or require the mental health provider to submit its progress notes from the session. This bill codifies existing Texas Department of Insurance rules which prohibit utilization review agents from using progress notes or observing therapy sessions.

Prohibits insurance company representatives from observing therapy sessions and prevents providers from being required to submit their notes as a condition of reimbursement.

Prohibits a utilization review agent from requiring the observation of a psychotherapy session or submission of mental health therapist's progress or process notes.

◊ Authorizes the agent to require the submission of a patient's medical record summary.

## IMPROVING HOSPITAL BILLING PRACTICES - S.B. 830

*by Senator Madla*
*House Sponsor: Representative Van de Putte*

On September 18, 1997, Lieutenant Governor Bob Bullock issued a supplemental charge to the Interim Committee on Health and Human Services to study current practices in patient billing by Texas hospitals and providers of health care to evaluate the accuracy, clarity, and timeliness of patient billing. The committee found that current practices in patient billing by hospitals and health care providers is not adequate. S.B. 830 requires specific information to be included in a patient bill.

Requires hospitals to:

- ◊ develop, implement, and enforce written policies for the billing of hospital services and supplies. Outlines what the policies must include;
- ◊ on request of the patient, provide an itemized statement of services no later than 30 days, instead of 10 days, after discharge; and
- ◊ provide itemized statements of service to third party payors who request the statement, no later than 30 days, instead of 10 days, after the date on which the payor has requested the statement.

Requires the statement to contain certain elements, including a list of dates on which services were provided, and information relating to submission of the claim to third party payors (insurers).

Adds administrative penalties to other remedies authorized to enforce these provisions.

## REGULATION OF THE DENTAL PROFESSION - S.B. 964

*by Senators Lucio and Sibley*
*House Sponsor: Representative Gray*

Currently, Texas law provides for certain regulations for dentists and licensure requirements for dentists and dental hygienists and to make technical changes to the law governing those occupations. This bill also establishes regulations for the disclosure of a patient's dental records.

## ADVANCED PRACTICE NURSES & PHYSICIAN ASSISTANTS - S.B. 1131

*by Senator Madla*
*House Sponsor: Representative Capelo*

This bill addresses practice problems of clinical privileging, insurance reimbursement, and prescribing medicine faced by advanced practice nurses (APN) and physician assistants (PA).

Allows the governing body of a hospital to establish policies concerning the granting of clinical privileges to APNs and PAs.

- ◊ Sets forth rights and procedures pursuant to the policies.
- ◊ Provides that Section 241.105, Health and Safety Code, does not apply to an employer-employee relationship between an APN or PA and a hospital.

Allows a person who is a licensed vocational nurse (LVN) or has an education equivalent to or greater than that required for an LVN to be designated by the practitioner to communicate prescriptions of an APN or PA authorized by the practitioner to sign prescription drug orders.

Adds licensed chemical dependency counselors, APNs, and PAs to the list of classes of eligible providers under a health insurance plan.

Allows a health insurance policy to provide for a different amount of payment or reimbursement for scheduled services or procedures when performed by an APN or PA if the reimbursement methodology used to calculate the payment for the service or procedure is the be same used to calculate the payment when the service is provided by a physician.

## REGULATION OF BIRTHING CENTERS - S.B. 1232

*by Senator Nelson*
*House Sponsor: Representative Capelo*

Currently, the Texas Department of Health (TDH) regulates birthing centers, but does not have the authority to issue emergency suspensions, revoke a license, use administrative penalties as an enforcement tool, or place a monitor at the center's expense when compliance issues warrant such action.

Authorizes TDH to:

- ◊ appoint a monitor, at the center's expense, for the birthing center to ensure compliance, if a center creates a serious threat to the health and safety of the public;
- ◊ deny, suspend, or revoke a license for continuing noncompliance; or

◊ issue an emergency order to suspend a license if the TDH has reasonable cause to believe that the license holder's conduct creates an immediate danger to public health and safety.

Allows the public to make complaints against licensed centers to TDH and provides penalties for any person who files a false complaint.

Requires TDH, upon receiving a written request from the licensee, to hold a hearing to determine if the suspension should be rescinded, modified, or upheld. Sets forth notice and hearing provisions.

## ACCREDITATION FOR ENVIRONMENTAL TESTING LABS - S.B. 1238

*by Senator Nelson*
*House Sponsor: Representative Capelo*

Authorizes the Texas Department of Health (TDH) to develop and implement a voluntary accreditation program for environmental testing laboratories consistent with national standards. TDH currently has regulatory authority for the Safe Drinking Water Act, a laboratory assessment program. Other states have comprehensive environmental assessment programs that require formal state accreditation for all laboratories. The lack of uniform standards puts laboratories in Texas at a competitive disadvantage for contracts supported by federal funds.

Authorizes TDH to accredit an environmental testing laboratory (ETL) that complies with requirements established by the bill, and to use its rulemaking authority to accredit an ETL that is already accredited or licensed by another state.

Authorizes the creation of ETL testing standards, and empowers TDH to suspend or revoke the accreditation of an ETL that does not comply with the minimum standards after notice and an opportunity for hearing.

## CLOSING AN UNSANITARY FOOD SERVICE FACILITY - S.B. 1239

*by Senator Nelson*
*House Sponsor: Representative Gray*

Currently, it takes the Texas Department of Health (department) up to 45 days to receive the injunctive relief necessary to close an unsanitary food facility.

◊ Allows the department, counties, and public health districts to immediately close retail food establishments that fail to comply with minimum health standards and which pose an immediate hazard.

## BILLING MEDICAL PATIENTS - S.B. 1294

*by Senator Zaffirini*
*House Sponsor: Representative Maxey*

Lieutenant Governor Bob Bullock required the Health and Human Services Interim Committee to study current practices in patient billing by Texas hospitals and health care providers. The committee recommended addressing improper, unreasonable, or medically unnecessary billing by hospitals or health care professionals.

Prohibits a licensing agency from taking disciplinary action against a hospital, treatment facility, mental health facility, or health care professional for unknowing and isolated billing errors.

Provides that a health care professional may not violate Section 311.0025, Health and Safety Code (Audits of Billing).

◊ Includes violating Section 311.0025, Health and Safety Code (audits of billing) as one of the definitions of unprofessional or dishonorable conduct likely to deceive or defraud the public covered by the Medical Practice Act.

## LICENSED DIETITIAN ACT - S.B. 1525

Vetoed

*by Senator Madla*
*House Sponsor: Representative Uher*

In 1983, under the Licensed Dietitian Act, the profession of dietetics was licensed. This Act is administered by the Texas State Board of Examiners of Dietitians (board), an independent state agency administratively attached to the Texas Department of Health. Licensed dietitians provide services, including nutrition assessments, planning, counseling, care management, and evaluation as part of the health care delivery team, usually upon the order or referral of a physician or other practitioner. An individual wishing to qualify for licensure must have a baccalaureate degree in nutrition, dietetics, or a similar degree program from a regionally approved college or university, a supervised internship under the supervision of a licensed dietitian, and passed a state-administered or approved licensure examination.

S.B. 1525 adds "medical nutrition therapy" to the services provided by a licensed dietitian, and would authorize the board to determine the qualifications of licensees that provide nutrition services.

## VOUCHER PROGRAM FOR SOME SERVICES FOR THE DISABLED - S.B. 1586

*by Senator Zaffirini*
*House Sponsors: Representative Hilderbran, et al.*

Currently, Texas is piloting a voucher program for payment of certain services for persons with disabilities. Such a program has been recommended by the Comptroller's Texas Performance Review.

Requires the Health and Human Services Commission (HHSC) to develop a program in which the use of vouchers is established as a payment option for the delivery of certain state-funded and Medicaid-funded services, such as personal assistance services, respite services, and supported employment services, to persons with disabilities.

Restricts the voucher payment program to programs operated by the Texas Department of Human Services, the Texas Department of Mental Health and Mental Retardation, the Texas Rehabilitation Commission, and the Texas Department of Health.

Creates a voucher payment program work group to assist HHSC in developing and implementing the program.

## STUDY ON FEDERAL REIMBURSEMENTS TO COUNTIES - H.B. 822

*by Representative Maxey, et al.*
*Senate Sponsor: Senator Cain*

Creates the task force on federal reimbursements to counties to study the changes needed to increase federal reimbursements to county governments, identify ways to increase the indirect cost reimbursement from the federal government to counties, and identify methods of training employees on ways to increase federal reimbursements.

## FRAUD IN MEDICAID, FINANCIAL ASSISTANCE, & FOOD STAMP PROGRAMS - H.B. 875

*by Representative Maxey*
*Senate Sponsor: Senator Zaffirini*

The Office of Investigations and Enforcement was created within the Health and Human Services Commission by Senate Bill 30 during the 1997 Texas Legislature to investigate recipient and provider Medicaid fraud. Recipient fraud occurs when an ineligible individual receives Medicaid services or other benefits, and provider fraud occurs when a healthcare provider submits and is compensated for false Medicaid claims. S.B. 30 also required the commission to use learning or network technology to identify and deter fraud in the state's Medicaid program. H.B. 875 sets forth provisions for initiating automated tracking systems for use in investigations of fraud in the Medicaid program.

Requires the Health and Human Services Commission to:

- ◊ use an automated fraud investigation tracking system to monitor the progress of an investigation of suspected fraud, abuse, or insufficient quality of care under the Medicaid program. Outlines criteria for the automated fraud investigation tracking system;
- ◊ implement the automated fraud investigation tracking system, award the contract for the purchase and installation of commercially available accounting software necessary to implement the recovery monitoring system, and begin using the software no later than January 1, 2000; and
- ◊ use an automated recovery monitoring system to monitor the collections process for a settled case of fraud, abuse, or insufficient quality of care under the Medicaid program.

Requires the Department of Human Services to:

- ◊ ensure that the telephone collection program attempts to collect reimbursement for all identified delinquent payments for which 15 days or more have elapsed since the initial notice of delinquency was sent to the recipient;
- ◊ use an automated collections system to monitor the results of the telephone collection program; and
- ◊ implement the system no later than August 1, 2000.

## MULTISTATE LICENSURE COMPACT FOR NURSES - H.B. 1342

*by Representatives Maxey and Solis*
*Senate Sponsor: Senator Moncrief*

Currently, a registered nurse, a licensed practical nurse, or a licensed vocational nurse must obtain a license to practice in each state in which the nurse practices. Licensure requirements are the same from state to state. H.B. 1342 implements a multistate licensure compact for registered nurses, licensed practical nurses, and licensed vocational nurses to allow licensed nurses to practice in other participating states without obtaining an additional license.

Enacts the Nurse Licensure Compact with all other jurisdictions that legally join in the compact.

Provides that a license to practice registered nursing, practical nursing, or vocational nursing will be recognized by each state in the compact. Provides that other states may limit or revoke the multistate licensing privilege of any nurse to practice in their states, and a nurse practicing in those other states must comply with the state practice laws of the state in which the patient is located at the time care is provided.

Requires states in the compact to create a coordinated database of all licensed registered nurses, practical nurses, and vocational nurses to include information on the licensing and disciplinary history of each nurse.

Provides for the expiration of the Nurse Licensure Compact on December 31, 2005, unless repealed or extended.

## INVESTIGATIONS OF ABUSE IN STATE FACILITIES - H.B. 2170

*by Representative Naishtat, et al.*
*Senate Sponsor: Senator Zaffirini*

The 72nd Legislature created the Department of Protective and Regulatory Services (DPRS) and gave it the authority to conduct investigations of maltreatment in Texas Department of Mental Health and Mental Retardation (MHMR) facilities. With constant changes in MHMR service delivery, DPRS' responsibilities continue to evolve and it must continually adjust its response to reports of abuse and neglect. H.B. 2170 clarifies and modifies regulations regarding investigations and protective services for elderly and disabled individuals.

### GUIDELINES FOR STATE FACILITIES

Requires a person who believes that an elderly or disabled person has been abused, neglected, or exploited in a facility operated or licensed by a state agency other than the Texas Department of Mental Health and Mental Retardation (TXMHMR), is required to report the information to the state agency that oversees the facility for investigation by that agency.

Provides that a person who reports his or her own abuse, neglect, or exploitation of another person, or who acts in bad faith or with malicious purpose in reporting abuse, is not immune from civil or criminal liability.

Requires DPRS to send a written report of an investigation of alleged abuse of a disabled adult at a school, to the Texas Education Agency, or schools, or other agencies, to take appropriate actions. Requires DPRS to provide, on request, a copy of the report of the investigation at a school to the person who is alleged to have suffered the abuse, a legal guardian, and to the person alleged to have committed the abuse. Requires this report to be edited to protect the identity of the person who made the report.

Requires investigations to include an interview with the elderly or disabled person, if appropriate, and with persons thought to have knowledge of the circumstances. Allows investigations to include an interview with an alleged juvenile perpetrator.

Requires a copy of investigations to be submitted to appropriate law enforcement agencies if investigations reveal that elderly or disabled persons have been abused, neglected, or exploited in a manner that constitutes a criminal offense.

Provides that DPRS or other agencies are to determine, in an investigation, whether a person needs protective services, what services are needed, or other factors related to the services.

Requires DPRS to receive and investigate reports of abuse of an individual with a disability receiving services in a facility operated by TXMHMR, in or from a community center, a local mental health authority, or a local mental retardation authority, or through a program providing services by contract with a facility operated by TXMHMR, a community center, a local mental health authority, or a local mental retardation authority.

Requires DPRS to initiate a prompt and thorough investigation upon receipt of a report of alleged abuse from one of the TXMHMR or related facilities unless DPRS determines that the report is frivolous or without factual basis.

Outlines new provisions for the operation of investigations between DPRS and TXMHMR.

Mandates a single tracking system to be developed by DPRS and TXMHMR.

Provides that DPRS is required to refer reports of abuse relating to an elderly or disabled person in a facility operated, licensed, certified, or registered by a state agency other than TXMHMR to that agency to be investigated by that agency. Requires the agencies to keep reports of investigations, and to refer complaints about investigations to their governing boards or other review entities.

**GUIDELINES FOR HOME AND COMMUNITY-BASED SERVICES**

Outlines provisions for DPRS to conduct investigations reports of abuse, neglect, or exploitation of an individual receiving home and community-based services under contracts with TXMHMR.

Provides that TXMHMR is responsible for providing services to an individual receiving home and community support services as necessary to alleviate abuse, neglect, or exploitation, if TXMHMR determines that the person needs the services because of the failure of a provider to furnish contracted services. Allows DPRS to provide emergency services necessary to immediately protect the individual from serious physical harm or death and, if necessary, obtain an emergency order for protective services.

Makes DPRS responsible for providing services to an elderly or disabled individual who does not receive home and community-based services, but who lives in a residence owned, operated, or controlled by a provider in which home and community-based services are provided.

Outlines the responsibilities of TXMHMR in providing information to DPRS and in requiring information from home and community based service providers.

Requires DPRS to investigate a report of abuse, neglect, or exploitation of a child receiving services in a facility operated by TXMHMR, from a community center, a local mental health authority, or a local mental retardation authority, or through a program providing services to that child by contract with a facility operated by TXMHMR, a community center, a local mental health authority, or a local mental retardation authority.

## TEXAS BOARD OF CHIROPRACTIC EXAMINERS - H.B. 2175

*by Representative Uher*
*Senate Sponsor: Senator Armbrister*

Vetoed

Currently, under Texas law, the Texas Board of Chiropractic Examiners (board) is required to keep a written record of its proceedings, as well as all information on each applicant, and to file that record with the secretary of the state, rather than to simply keep vital information on each applicant on file. This bill removes the requirement that the board submit a record of its proceedings with certain information about each applicant to the secretary of the state, and deletes the criminal penalty for practicing without a license and instead provides for an injunctive proceeding or civil proceeding.

## CO-LOCATION OF TIES STAFF - H.B. 2877

*by Representative Maxey*
*Senate Sponsor: Senator Ratliff*

H.B. 2877 relates to the co-location of Texas Integrated Enrollment and Services (TIES) staff with other services and provides retirement and health insurance benefits for employees whose positions are eliminated.

Allows a health and human services agency, the Texas Workforce Commission (TWC), or any other state agency that administers employment services programs, to sublease office space to a private service entity, or lease office space from a private service entity that provides publicly funded health, human, or workforce services.

Allows a health and human services agency, TWC, or any other state agency that administers employment services programs, to assume a lease from a TIES contractor or subcontractor for implementing the initiative at one development center, one mail center, or 10 or more call or change centers.

Adds the Texas Department of Health (TDH) to the list of agencies whose employees are eligible for retirement options if their positions are eliminated as a result of contracts with private service providers or other reductions in services.

- ◊ Provides that the retirement option is not available to an employee of TDH or the Texas Department of Human Services (DHS) who receives a cash payment under an incentive program for certain employees whose positions are eliminated because of privatization or other reductions in services.
- ◊ Provides that the retirement provisions only apply to positions eliminated by privatization or other reductions in workforce before September 1, 2003, rather than 1999.

Provides that employees who separate from state service and receive a cash payment under an incentive program implemented by DHS or TDH for positions that are eliminated as a result of privatization or other service reductions are entitled to receive state contributions for health coverage under the Texas Employees Uniform Group Insurance Program for two months after the effective date of the person's separation from state service.

## UNIFORM CRITERIA TO EVALUATE DRUG ABUSE PROGRAMS - H.B. 3126

*by Representative Chisum*
*Senate Sponsor: Senator Zaffirini*

The bill requires the following agencies to establish a uniform set of criteria for evaluating the effectiveness of drug prevention programs that receive grant funding from the state agencies:

- ◊ Texas Commission on Alcohol and Drug Abuse in Texas;
- ◊ Texas Juvenile Probation Commission;
- ◊ Texas Youth Commission; and
- ◊ Department of Protective and Regulatory Services.

The criteria must evaluate whether the program is:

- ◊ targeting problems that are specific to a given community or school;
- ◊ providing social services to children who have a family member with a drug addiction;
- ◊ using strategies that are appropriate for children of different ages; and
- ◊ providing continuity in services and intervention strategies for all grade levels.

Requires a program receiving grant funding to submit to the agency an annual report that describes the program's effectiveness in meeting the established criteria.

## CHILDREN'S TRUST FUND/SUNSET - S.B. 351

*by Senator Zaffirini, et al.*
*House Sponsors: Representatives Gray and Naishtat*

Provides for the continuation of the Children's Trust Fund of Texas Council, after Sunset Commission review.

Defines the executive director, and adds specific qualifications for appointees.

Adds standard Sunset Commission language regarding:

- ◊ the powers and duties, training, reimbursement, and removal of council members;
- ◊ an equal employment opportunity program; and
- ◊ a complaint process.

Provides for the council's Sunset review and abolishment of the agency on September 1, 2011, unless continued in existence.

Adds the council to the list of agencies under the Health and Human Services Commission.

## CENTER FOR RURAL HEALTH INITIATIVES/SUNSET - S.B. 354

*by Senator Madla*
*House Sponsors: Representative McCall, et al.*

Extends the operation of the Center for Rural Health Initiatives (center) from September 1, 1999, as currently provided by the Texas Sunset Act, until September 1, 2011.

Adds standard Sunset Advisory Commission language to the Health and Safety Code provisions creating the center with respect to the following issues: the executive committee, administrative and staff support, conflicts of interest, training for executive members, removal of executive committee member, equal employment opportunity, standards of conduct, and complaints.

Requires the executive committee to:

- ◊ include six pharmacists, physicians, and/or other health care professionals, and three individuals with significant business expertise;
- ◊ hold regular meetings quarterly or more often and to be able to call special meetings upon written request by three members or more; and
- ◊ develop and implement policies that clearly separate the policymaking responsibilities of the executive committee and the management responsibilities of the executive director and staff.

Requires the center to develop, implement, and update a rural health work plan and submit it to the executive committee for approval no later than August 1 of odd-numbered years. The plan must address the center's work with health care providers, rural communities, universities, Texas Department of Health, and all health and human service related agencies. The center must solicit public comment on the rural health work plan. For the current year, the plan must be submitted no later than October 1, 1999.

Requires the center to conduct a study on the establishment of a visiting physician program to provide temporary relief to rural physicians.

Provides that all executive committee membership terms expire on August 31, 1999, and the members continue to hold office until successors are appointed and otherwise qualify for office by completing required training programs.

## DEPT. OF MENTAL HEALTH & MENTAL RETARDATION/SUNSET - S.B. 358

*by Senator Madla*

*House Sponsors: Representative Gray, et al.*

S.B. 358 continues the Texas Department of Mental Health and Mental Retardation (TXMHMR) in existence until September 1, 2011, unless it is abolished as provided by the Texas Sunset Act. Incorporates the standard Sunset Commission language for training for board members and equal employment opportunity policy.

Requires TXMHMR to:

- ◊ enter into an agreement with the Texas Rehabilitation Commission that defines the roles and responsibilities of the department and the commission regarding the agencies' shared client populations;
- ◊ have a long-range plan covering the provision of services in and policies for state-operated institutions and ensuring that the medical needs of the most medically fragile persons the department serves are met;
- ◊ develop a report containing information and recommendations regarding the most efficient long-term use and management of TXMHMR's campus-based facilities;
- ◊ evaluate, in coordination with the Health and Human Services Commission, the cost of serving the inpatient psychiatric needs of persons living in counties now service by at least three state hospitals within 120 miles of each other; and
- ◊ develop model program standards for mental health services for use by each state agency that provides or pays for mental health services.

Requires the Board of Mental Health and Mental Retardation (board) to establish, by rule, criteria regarding the uses of TXMHMR's campus-based facilities to ensure that a full continuum of services is available.

Allows the board to transfer operations and services of Amarillo State Center, Beaumont State Center, and Laredo State Center to a community center.

Requires the board commissioner to establish a nine-member local authority advisory committee to assist the commissioner on technical and administrative issues affecting local authority responsibilities. Outlines the duties of the advisory committee.

Allows the board and the Texas Commission on Alcohol and Drug Abuse (TCADA) to jointly designate a local behavioral health authority in a local service area to provide mental health and chemical dependency services in that area.

- ◊ Allows the delegation of authority and responsibility for planning, policy development, coordination, resource allocation, and resource development for and oversight of mental health and chemical dependency services in that service area.

Allows the disbursement of money to a local behavioral health authority for services, by contract or by a case-rate or capitated arrangement or another method of allocation.

Requires a person with mental retardation seeking residential services to receive a clear explanation of programs and services for which the person is determined to be eligible.

- ◊ If the chosen programs or services are not available, the person or the person's legally authorized representative shall be given assistance in gaining access to alternative services and the selected waiting list.
- ◊ Requires the commissioner to employ an ombudsman to explain and provide information on department and local mental health or mental retardation authority services, facilities, and programs and the rules, procedures, and guidelines if a person has been denied services, and to refer them to other services.

Makes changes, including newly prohibited activities, relating to the boards of trustees of community centers.

Requires TCADA to develop model program standards for substance abuse services for use by each state agency that provides or pays for substance abuse services.

- ◊ Allows TCADA to designate and provide services through local behavioral health authorities.

Makes procedural changes regarding a patient's return to a facility to which the patient was admitted for ordered inpatient health care services. Makes similar changes regarding the return of a patient to a residential care facility.

Requires TXMHMR and the Texas Department of Housing and Community Affairs to implement a program demonstrating the effectiveness of interagency cooperation for providing supported housing services to persons with mental illness who live in personal care facilities.

## CORRECTIONAL MANAGED HEALTH CARE/SUNSET - S.B. 371

*by Senator Brown*
*House Sponsor: Representative Gray*

This bill continues the Correctional Managed Health Care Advisory Committee (committee) for six years, until September 1, 2005.

Sets forth the composition of the nine appointed members of the committee.

Requires the governor to designate a physician member of the committee as presiding officer who serves in that capacity at the will of the governor.

Requires a committee member to participate in a training program before being able to vote, deliberate, or be counted in attendance.

Requires the committee to develop a managed health care plan for all persons confined to the Texas Department of Criminal Justice (TDCJ) that includes: the establishment of a managed health care provider network of physicians and hospitals to serve persons confined by TDCJ; cost containment studies; care case management and utilization management studies; and criteria that hospitals, home health, or hospice providers accept certification by the Medicare program.

Authorizes the University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center, for employees who are entitled to retain salary and benefits applicable to employees of the TDCJ, to administer, offer, and report through their payroll systems participation by those employees in the Texas employees Uniform Group Insurance Benefits Program and the Employees Retirement System of Texas.

Authorizes the committee to enter into a contract on behalf of TDCJ to fully implement the managed health care plan.

Requires the committee, the University of Texas Medical Branch at Galveston, the Texas Tech Health Sciences Center, and TDCJ to review the use of rural hospital contracts for medical care to persons confined by TDCJ.

Requires the committee to establish a procedure for monitoring the quality of care delivered by the health care providers. Requires TDCJ and the medical care providers to cooperate in monitoring quality of care. Requires TDCJ and the medical care providers to communicate the results of their monitoring activities to the committee.

## DEPARTMENT ON AGING/SUNSET - S.B. 374

*by Senator Zaffirini*
*House Sponsors: Representatives Gray and Naishtat*

This bill provides for long-term care services in Texas and the continuation of the Texas Department on Aging (TDOA), with eventual consolidation into a new agency on aging and disability services. Provides for the Sunset Commission review of TDOA and the abolishment of TDOA, unless continued in existence, on September 1, 2004.

Requires the Health and Human Services Commission (HHSC), the Texas Department of Human Services (DHS), and TDOA to assist communities in this state in developing comprehensive, community-based support and service delivery systems for long-term care services.

Requires DHS and the chief administrative law judge of the State Office of Administrative Hearings (SOAH) to adopt a memorandum of understanding under which SOAH conducts all contested case hearings authorized or required by law.

Establishes a work group to assist DHS and the Texas Department of Mental Health and Mental Retardation (TXMHMR) in studying coordination of planning and services between the two agencies in providing long-term care services, and outlines the duties of the work group.

Creates a work group to assist the commissioner of health and human services, DHS, and the Texas Department of Health (TDH) in the creation of a system for families and children to administer long-term care and health programs for children.

Transfers the program for deaf-blind, multi-handicapped persons from Chapter 113, Human Resources Code, to Chapter 22, Human Resources Code, to be administered by DHS instead of the Texas Rehabilitation Commission.

Provides a limited exemption, if a doctor requests it in writing, from getting advance approval for non-emergency ambulance transportation of a Medicaid recipient.

Requires the Texas Board on Aging (board) to include members who are experts in gerontology, a medical professional, a consumer advocate, and three members of the general public.

- ◊ Incorporates the standard Sunset Commission language for grounds for removal of a member, training for board members, designation of a presiding officer, conflicts of interest, and standards of conduct.

Requires TDOA to:

- provide expertise and advice to state agencies and the legislature and other elected officials on aging issues; and
- conduct research and long-range planning regarding long-term care, community care, and other issues that affect elderly individuals and make recommendations to the governor, legislature, and state agencies.

Requires TDOA and DHS to:

- develop standardized assessment procedures to share information on common clients served in a similar service region;
- jointly develop this state's plan on aging, as required by the federal Older Americans Act of 1965; and
- jointly conduct a statewide needs assessment for long-term care services.

Requires the commissioner of health and human services to require the Texas Planning Council for Developmental Disabilities and the Office for the Prevention of Developmental Disabilities to prepare a joint biennial report on the state of services to persons with disabilities in this state.

Requires the DHS board, rather than DHS, to issue a provisional license to a nursing home administrator license applicant currently licensed in another jurisdiction who seeks a license in Texas and who has been licensed in good standing as a nursing facility administrator for at least two years in another jurisdiction and meets other criteria. Changes provisions on the renewal of nursing home administrator licenses.

Transfers the licensing and regulation of home and community support services agencies and home health medication aides and the certification of home and community support services agencies from TDH to DHS on September 1, 1999.

Transfers the blind/deaf/multiple disability waiver program, personal attendant services program and the voucher payment pilot project program from TRC to DHS on September 1, 1999.

Transfers the Waiver Program for Medically Dependent Children from TDH to DHS on September 1, 2001.

Requires HHSC to study the feasibility of a subacute care pilot project.

Requires the commissioner of health and human services to evaluate and report to the lieutenant governor and the speaker of the house of representatives on the results of service coordination between TDOA and DHS.

Requires HHSC to evaluate the feasibility of establishing an integrated local system of access and services for elderly persons and persons with disabilities.

Establishes the Texas Board (and Department) on Aging and Disability to replace the Board of Human Services and abolish TDOA, effective September 1, 2003.

Requires the Department on Aging and Disability (department) to appoint an advisory committee to be known as the Aging Policy Council to advise the department on matters related to elderly persons, including policy, research, and planning.

Incorporates the standard Sunset Commission language for training for board members.

Designates the new department to develop the state's plan on aging, as required by the federal Older Americans Act of 1965.

Requires the new department to conduct a statewide needs assessment for long-term care services.

Changes the name of the Chronically Ill and Disabled Children's Services Act to the Children with Special Health Care Needs Services Act, effective July 1, 2001.

Redefines what services are provided under the Children with Special Health Care Needs Services Act and removes the Board of Health's authority to determine the diseases and conditions covered by the program.

Provides for a waiting list to be established if there are budgetary limitations in the program.

Requires TDH to obtain coverage under a health benefits plan for a child who is eligible for services under the Children with Special Health Care Needs Services Act and is not eligible for assistance under the Children's Health Insurance Program or Medicaid. Requires this coverage to be comparable to the benefits provided under the state child health plan established to implement the Children's Health Insurance Program.

Provides for certain cost sharing provisions.

Prohibits the board from establishing an exclusive list of coverable medical conditions or considering assets legally owned or available to a child's household as a source of support to provide services.

Sets the income eligibility for the program at 200 percent of the federal poverty level and removes the criteria that a physician or dentist has reason to expect that services will improve the child's condition or will extend the child's ability to function independently in order to receive rehabilitation services.

Provides that a child with special health care needs who has a family income that is greater than 200 percent of the federal poverty level and who meets all other eligibility criteria, is eligible for services if TDH determines that the child's family is or will be responsible for medical expenses that are equal to or greater than the amount by which the family's income exceeds 200 percent of the federal poverty level.

Provides for the referral (to a service provider) of a child with special health care needs who has a behavioral or emotional condition.

## TEXAS CANCER COUNCIL/SUNSET - H.B. 1033

*by Representative Bosse, et al.*
*Senate Sponsor: Senator Madla*

H.B. 1033 continues the Texas Cancer Council (council) for 12 years. Changes the composition and number of members appointed to the council.

Incorporates the standard Sunset Commission language for conflicts of interest, grounds for removal of a member, standards of conduct, designation of a presiding officer, training programs for members of the council, policy-making functions, complaints, and equal employment opportunity.

## OFFICE FOR THE PREVENTION OF DEVELOPMENTAL DISABILITIES/SUNSET - H.B. 1151

*by Representative McCall, et al.*
*Senate Sponsor: Senator Zaffirini*

Provides for the Office for the Prevention of Developmental Disabilities (office) to be administratively attached to the Texas Department of Mental Health and Mental Retardation (TXMHMR).

Incorporates the standard Sunset Commission language for requiring that appointments to the executive committee be made without regard to the appointee's race, color, disability, sex, religion, age or national origin; designation of a presiding officer; conflicts of interest; grounds for removal of a member; training program for members of the executive committee; public testimony; standards of conduct; and equal employment opportunity policies.

Provides for the sunset review and termination of the office, unless continued, effective September 1, 2001. Requires the Sunset Commission to specifically address the issue of whether the office should continue to be administratively attached to TXMHMR or whether the functions of the office should be transferred to TXMHMR.

## TEXAS COMMISSION FOR THE BLIND/SUNSET - H.B. 1400

*by Representative Gray, et al.*
*Senate Sponsor: Senator Zaffirini*

H.B.1400 extends the existence of the Commission for the Blind (commission) until September 1, 2011. The bill also incorporates the standard Sunset Commission language for one-third public membership of the commission, conflicts of interest, grounds for removal of a member, standards of conduct, policy-making functions, equal employment opportunity, complaints, and training programs for members of the commission.

Requires five of the commission members to be blind or visually impaired residents of the state; one member to be a family member, relative, or guardian of a blind or visually impaired resident of the state; and three members to be members of the general public.

Allows the commission to obtain criminal history record information that relates to a person applying to become an employee of the commission.

Requires the commission to:

- ◊ post its annual financial report and any other agency performance data required to be reported to this state or the federal government on the Internet;
- ◊ establish guidelines for the delivery of services by the commission, including oversight and monitoring of service delivery, guidance to counselors on service delivery, and other items;
- ◊ establish eligibility and verification criteria for clients applying for Medicaid;
- ◊ adopt rules and standards governing the determination of rates that it will pay for medical services;
- ◊ include certain provisions relating to performance standards, penalties, and accounting, reporting, and auditing requirements in service contracts;
- ◊ monitor a service provider's performance under a contract for service; and
- ◊ include contract provisions that require the supplier to provide training for clients receiving the adaptive technology equipment.

Authorizes the commission to administer:

- ◊ the Business Enterprises Program in accordance with the provisions of the Randolph-Sheppard Act (20 U.S.C. Section 107 et seq.); and
- ◊ a retirement program for individuals licensed to operate vending facilities in accordance with applicable state and federal laws.

Establishes a trust fund for a retirement program for individuals licensed to operate vending facilities under the Business Enterprises Program, and requires all federal vending machine income to be credited to this Business Enterprises Program trust fund.

## COMMISSION FOR THE DEAF AND HARD OF HEARING/SUNSET - H.B. 1401

*by Representative Gray, et al.*
*Senate Sponsor: Senator Harris*

Provides that the Commission for the Deaf and Hard of Hearing (commission) is continued in existence until September 1, 2011. Incorporates the standard Sunset Commission language for conflicts of interest, grounds for removal of a member, training program for members of the commission equal employment opportunity, and complaints.

Requires the commission to adopt guidelines and fees for interpreters, and changes requirements on interpreter certification, including the renewal of a certificate. Allows for the issuance of provisional certificates to interpreters.

Bars the commission from advertising, distributing, or publishing the name or address or other related information about an individual who applies for assistance regarding telecommunications devices.

## TEXAS REHABILITATION COMMISSION/SUNSET - H.B. 1402

*by Representative Gray, et al.*
*Senate Sponsor: Senator Madla*

Provides that the Texas Rehabilitation Commission (TRC) is continued in existence until September 1, 2011. Incorporates the standard Sunset Commission language for grounds for removal of a board member, appointee qualifications, board member training, equal employment opportunity policy, conflicts of interest, and complaints.

Requires TRC, rather than the commissioner of TRC, to:

- ◊ undertake long-range and intermediate planning functions and decide on the allocation of resources; and
- ◊ certify funds for disbursement.

Requires TRC to:

- ◊ post certain reports and information on the Internet;
- ◊ target extended rehabilitation services to individuals who are not eligible to receive similar services from the Texas Department of Mental Health and Mental Retardation (TXMHMR) or another agency;
- ◊ enter into an agreement with TXMHMR to reduce duplication and fragmentation of employment services;
- ◊ establish a formal referral process with the Texas Workforce Commission (TWC) to ensure that appropriate vocational rehabilitation clients are referred to and receive services provided by TWC or local workforce development agencies;

- ◊ meet health care industry standards in the approval of medical services for clients, to adopt a system of quality control that includes medical consultation, to assess whether medical services will benefit a client's ability to return to work, and to conduct risk analysis of funding medical procedures;
- ◊ assess the statewide need for services necessary to prepare students with disabilities for a successful transition to employment and to work with certain school districts;
- ◊ adopt rules and standards, including an annual rate schedule, governing the determination of rates the commission will pay for medical services and health care services;
- ◊ establish criteria for denying a person's application for employment based on criminal history background information and to treat criminal history record information as confidential; and
- ◊ establish and maintain guidelines for providing vocational rehabilitation services that are consistent with state and federal laws and regulations and that include delivering services across the state, establishing eligibility requirements and requirements for the rehabilitation planning process, defining the types of services that may be provided through the vocational rehabilitation program, and requiring clients to participate in the costs of services.

## INTERAGENCY COUNCIL ON EARLY CHILDHOOD INTERVENTION/SUNSET - H.B. 1503

*by Representative Gray, et al.*
*Senate Sponsor: Senator Harris*

Provides that the Interagency Council on Early Childhood Intervention (council) is continued in existence until September 1, 2011. Incorporates the standard Sunset Commission language for designation of a presiding officer, public testimony, training program for members of the council, conflicts of interest, complaints, and separation of policy making functions.

Adds to the council's responsibility the assessing of the performance of funded entities in identifying children under three years of age with developmental delay.

Requires the council to:

- ◊ develop and implement policies applicable to providers of early childhood intervention services in situations involving service recipients who are vulnerable to abuse or neglect, jointly with the Department of Protective and Regulatory Services;
- ◊ ensure that parents continue to be included in all decisions relating to the services provided to the child; and

- ◊ cooperate with the Health and Human Services Commission (HHSC) to select an appropriate automated system or systems currently used by a state agency to plan, manage, and maintain records of client services.

Requires the council to develop and implement a statewide strategy for improving the early identification of children under three years of age with developmental delay in populations at risk of developmental delay.

- ◊ Requires the council's strategy to include plans to provide active leadership in addressing issues affecting the effectiveness of services for children with developmental delay.

Requires the council to review the delivery system of services for children with developmental delay and make recommendations for improving service delivery.

Requires HHSC and the council to review the funding system and make recommendations for maximizing money available for the programs from federal, private, and local sources.

## TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES/SUNSET - H.B. 1610

*by Representative McCall, et al*
*Senate Sponsor: Senator Zaffirini*

This bill changes the name of the Texas Planning Council for Developmental Disabilities to the Texas Council for Developmental Disabilities. Provides that the Texas Council for Developmental Disabilities (council) is continued in existence until September 1, 2011.

Incorporates the standard Sunset Commission language for appointments without regard to race, color, disability, sex, religion, age, or national origin; conflicts of interest, grounds for removal of a member, a training program for members of the council, complaints, and an equal employment opportunity policy.

Requires the governor to designate, by executive order, a state agency to provide administrative support to the council and receive federal and state funds appropriated for the council. Outlines duties for the designated agency.

Adds new powers and duties for the council.

## GOVERNOR'S COMM. ON PEOPLE WITH DISABILITIES/SUNSET - H.B. 1611

*by Representative McCall, et al.*
*Senate Sponsor: Senator Zaffirini*

Currently, the Governor's Committee on People with Disabilities (committee) promotes the development and coordination of statewide public and private policies concerning persons with disabilities, oversees and updates the long-range plan for Texans with disabilities, promotes a demographic survey of persons with disabilities, and promotes the compilation of laws related to persons with disabilities.

This bill provides that the mission of the committee is to further opportunities for persons with disabilities to enjoy full and equal access to lives of independence, productivity, and self-determination.

Provides that the committee is continued in existence until September 1, 2011. Incorporates the standard Sunset Commission language for appointments without regard to race, color, disability, sex, religion, age, or national origin; designation of a presiding officer; training for committee members; grounds for removal of a member; policy making functions; public testimony; standards of conduct; and complaints.

## THE TEXAS DEPARTMENT OF HEALTH/SUNSET - H.B. 2085

*by Representative McCall, et al.*
*Senate Sponsor: Senator Brown*

Currently, the Texas Department of Health (TDH) is responsible for protecting and promoting the health of the citizens of Texas. TDH administers Medicaid acute services as well as other health care plans. TDH has broad regulatory authority over various health professions, health care facilities, and food and drug safety and environmental health matters. Federal funds account for approximately 60 percent of TDH's budget of $6.5 billion. TDH is governed by the six-member Texas Board of Health (board), appointed by the governor, and assisted by 25 advisory committees.

H.B. 2085 continues TDH until September 1, 2011. Incorporates the standard Sunset Commission language for training program for members of the board, conflicts of interest, grounds for removal of a member, and complaints.

Requires the board to develop a comprehensive strategic and operational plan.

Requires the board to require the Texas Department of Health (TDH) to establish a checklist of methods to obtain public opinion in the rulemaking process, and to employ a licensed physician acting as a separate medical director to be the medical director for the children's health insurance program and also for the Medicaid managed care program.

Requires TDH to:

- ◊ integrate the functions of different health care delivery programs to the maximum extent in order to provide for continuity of care for individuals and families by providing a medical home that serves as the primary initial health care provider. Provides for a pilot project on integrating functions of TDH's health care delivery programs, including integrating non-Medicaid functions with Medicaid functions;
- ◊ contract with an independent auditor to perform independent external financial and performance audits of any Medicaid contractor;
- ◊ implement policies encouraging the use of electronic transactions and requiring payment to Medicaid service providers by electronic funds transfer;
- ◊ set rates to ensure that a federally qualified health center and a rural health clinic is reimbursed for 100 percent of reasonable costs for services to Medicaid recipients;
- ◊ comprehensively study the impact of the state's Medicaid managed care program on populations served and on all health care providers; and
- ◊ with the assistance of the state auditor, conduct a comprehensive evaluation of the department's regulatory functions.

Changes licensure and fees for hospital outpatient facilities. Increases annual licensure fees for hospitals and fees for hospital plan reviews.

Authorizes administrative penalties for violations of rules pertaining to ambulatory surgical centers, birthing centers, special care facilities, and for violations of rules about selling glue or aerosol paint in retail stores.

Revises licensing fee structure and hospital plan review fees for private mental hospitals and other mental health facilities.

Provides standard Sunset review provisions for the Radiation Advisory Board, Council on Alzheimer's Disease, Statewide Health Coordinating Council, Texas Diabetes Council, Advisory Board of Athletic Trainers, regulation of respiratory care practitioners, dispensing opticians, medical radiological technologists, Texas Board of Licensure for Professional Medical Physicists (includes administrative penalty changes), and regulation of massage therapists, emergency medical services, asbestos-related activities, and lead-based paint activities.

Requires doctor's offices that perform more than 300 abortions in a year to be licensed as an abortion facility.

Requires materials in AIDS and HIV education programs for minors to include teaching that sexual activity before marriage is likely to have harmful psychological and physical consequences, and other information on the potential consequences of sexual activity.

Creates a Council on Cardiovascular Disease and Stroke to develop a plan to reduce the morbidity, mortality, and economic burden of cardiovascular disease and stroke.

Creates a bloodborne pathogens exposure control plan for governmental units that provide health care-related services in a public or private facility or that have a risk of exposure to blood or other material potentially containing bloodborne pathogens, in order to minimize exposure of employees.

## HEALTH AND HUMAN SERVICES COMMISSION/SUNSET - H.B. 2641

*by Representative Gray, et al.*
*Senate Sponsor: Senator Brown*

This bill continues the Health and Human Services Commission (HHSC) in existence until September 1, 2007, and incorporates the standard Sunset Commission language for equal employment opportunity policy.

Prohibits a health and human services agency from establishing a new facility in a county with a population of less than 200,000 until the agency provides notification to each state representative and state senator that represents all or part of the county, the county judge, and the mayor of any municipality in which the facility would be located.

Requires HHSC to supervise the administration and operation of the Medicaid program, including the Medicaid managed care system; supervise information systems planning and management for health and human services agencies; monitor and ensure the effective use of all federal funds received by a health and human services agency; and implement Texas Integrated Enrollment Services (TIES).

Sets priorities for HHSC's implementation of other programs and duties.

Requires the commissioner of health and human services (commissioner) to manage and direct the operations of each health and human services agency and supervise and direct the activities of each agency director.

Outlines the operational authority of the commissioner to include authority over the management of the daily operations of each health and human services agency, allocation of resources, personnel and employment policies, contracting, purchasing, and related policies, information resources systems, location of agency facilities, and coordination of activities with activities of other state agencies.

Provides that this authority includes the authority to adopt or approve any rate of payment or similar provisions.

Requires the commissioner to implement a program to evaluate and supervise the daily operations of each health and human services agency, including performance objectives for each agency director and adequate reporting requirements.

Allows the commissioner to delegate a specific power or duty given under certain provisions to an agency director.

Requires the commissioner and each health and human services agency director to enter into a memorandum of understanding that clearly defines the responsibilities of the agency director and the commissioner, establishes the evaluation and supervision of daily operations, and describes each delegation of power or duty.

Authorizes a health and human services agency director employed by the commissioner to be employed only with the concurrence of the agency's policymaking body and the approval of the governor.

Requires the commissioner to evaluate the performance of the health and human services agency directors and submit them to the agency's policymaking body and the governor no later than January 1 of each even-numbered year.

Provides that an agency director employed by the commissioner serves at the pleasure of the commissioner but may be discharged only with the concurrence of the agency's policymaking body.

Authorizes a health and human services agency to notify the commissioner before proposing a rule, and voids a rule adopted in violation of this provision. Allows the commissioner to waive this requirement in order to permit emergency rulemaking.

Authorizes the commissioner to fill a position that becomes vacant with the concurrence of the appropriate policymaking body and the approval of the governor.

Provides that HHSC has authority, in each relevant agency statute, over health and human service agencies as granted by this bill, including the provision that the directors or commissioners of the agencies are employed by the commissioner.

Provides that an agency director serving on the effective date of this Act continues to serve in that position until the earlier of the following dates: the date that the term ends as provided by statute, the date that the contract for that person's appointment or employment expires, or the date that the director is removed from the position as provided by law.

Requires HHSC to plan and direct the Medicaid program in each agency that operates a portion of program; adopt rules and standards governing the determination of fees, charges, and rates for Medicaid payments in consultation with the agencies that operate the Medicaid program; and establish requirements for and define the scope of the ongoing evaluation of the Medicaid managed care system conducted in conjunction with the Texas Health Care Information Council.

Allows HHSC to require a health and human services agency, under the direction of the commission, to co-locate employees and programs with another health and human services agency, and consolidate agency support services.

Requires HHSC to:

- ◊ develop and implement an annual business services plan for each health and human services region;
- ◊ assist communities to develop comprehensive, community-based support systems for health and human services; and
- ◊ appoint an advisory committee for local governmental entities to advise HHSC on strategies for blending federal, state, and other available funding sources to meet specified local program needs and service priorities.

Allows HHSC, within the limits established by and subject to the General Appropriations Act, to transfer amounts appropriated to health and human services agencies among the agencies, to enhance the receipt of federal money and achieve administrative support efficiencies.

Makes HHSC responsible for information resources strategic planning and management at each health and human services agency.

Makes HHSC, within the limits established by and subject to the General Appropriations Act, responsible for planning and managing the use of, all federal funds, in a manner that maximizes available federal funding while promoting the delivery of services.

Requires the commissioner to establish a federal money management system to coordinate and monitor the use of federal money that is received by health and human services agencies to ensure that the money is spent efficiently, to establish priorities for use of federal money by all health and human services agencies, and undertake other responsibilities for coordinating and review of federal funding plans and estimates.

Adds a provision requiring HHSC review of health and human service agency rules to ensure that the rules do not discourage marriage or encourage divorce.

Requires HHSC to:

- ◊ develop and implement a plan for the integration of services and functions relating to eligibility determination and service delivery, in coordination with the Texas Integrated Enrollment Services Legislative Oversight Committee;
- ◊ provide a detailed cost-benefit analysis to the committee before awarding a contract;
- ◊ develop a single statewide risk analysis procedure for assessing the risk of fraud, abuse, or waste in selecting health and human services agencies contractors, in contract provisions, and payment and reimbursement rates and methods for health and human services agencies contracts;
- ◊ identify contracts that require enhanced contract monitoring; and to coordinate contract monitoring efforts; and
- ◊ take other actions regarding contracts, such as publishing a contract management handbook, establishing a central contract management database, and coordinating the procurement practices of all health and human services agencies.

Prohibits emergency leases for a health and human services agency unless the lease is entered into under criteria adopted by HHSC.

Requires HHSC to:

- ◊ submit reports on the delivery of mental health and substance abuse services, and on regulatory programs conducted by the Texas Department of Health;
- ◊ assess the benefits of consolidating support services for health and human services agencies in headquarters and regional offices, and to develop a proposed plan and schedule for co-locating offices and consolidating support services;
- ◊ study the feasibility of a subacute care pilot project; and
- ◊ convene a working group composed of representatives of each health and human services agency that may be required to conduct an investigation of abuse, neglect, or exploitation of a client of the agency at a facility operated by or under contract with the agency, and advocates for the affected clients. Requires the working group to develop definitions of "abuse," "neglect," and "exploitation," proposed minimum standards for investigatory techniques, and proposed uniform data collection procedures.

Revises the membership and duties of the guardianship advisory board.

Renames the Transportation and Planning Office as the Office of Community Transportation Services (office) and revises some of its functions.

Requires each health and human services agency that provides or purchases transportation services for clients to comply with the standardized system of reporting and accounting established by the office, make any changes to agency data collection systems, and submit a report relating to transportation services. Allows the office to create an advisory committee.

Requires HHSC and the Texas Department of Transportation to enter into a memorandum of understanding on the functions of each agency that relate to the duties of the office.

Designates the Texas Department of Economic Development as the agency responsible for administering the Empowerment Zone and Enterprise Community grant program, effective September 1, 1999.

Adds the Health Care Information Council (council) to the list of health and human services agencies under the authority of HHSC.

Allows HHSC to direct the council to collect data on Medicaid managed care organizations. Requires each Medicaid managed care organization to provide the data required by the council.

Requires HHSC to analyze this data and use it to evaluate the effectiveness and efficiency of the Medicaid managed care system.

Requires a contract with an independent auditor to perform annual independent external financial and performance audits of any contractor used in the operation of the state Medicaid program.

Requires HHSC to consider the ability of organizations to process Medicaid claims electronically in awarding contracts to managed care organizations.

Requires HHSC to contract with a certain managed care organization in providing health care services through Medicaid managed care to recipients in a health care service region, with the exception of the Harris service area for the STAR Medicaid managed care program.

Requires HHSC to develop and implement an expedited process for determining eligibility for and enrolling pregnant women and newborn infants in managed care plans, ensure immediate access to prenatal services and newborn care for pregnant women and newborn infants enrolled in managed care plans, and temporarily assign Medicaid-eligible newborn infants to the traditional fee-for-service component of the state Medicaid program.

Places a moratorium on HHSC's authority to implement Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, or Medicaid Star + Plus pilot programs in specific regions.

Requires HHSC to review any outstanding administrative and financial issues with respect to these Medicaid managed care pilot programs. Allows HHSC to implement the pilot programs if HHSC finds that outstanding issues have been resolved, and implementation of those programs would benefit recipients and providers.

Requires HHSC to consider certain factors in determining premium payment rates paid to certain managed care organization under a managed care plan. Sets up a process for determining the maximum premium payment rates paid to a managed care organization. Requires the premium payment rates paid to a managed care organization to be established by a competitive bid process, but lower than the maximum premium payment rates established by HHSC.

Requires HHSC to adopt rules regarding the sharing of profits earned by a managed care organization through a managed care plan providing health care services under a contract with HHSC. Provides for these funds to be deposited in the general revenue fund for the purpose of funding Medicaid.

Requires HHSC to appoint a state Medicaid managed care advisory committee to make recommendations on the statewide implementation and operation of Medicaid managed care.

Requires HHSC to study the feasibility of authorizing providers to reenroll in Medicaid online or through other electronic means, and implement it, if feasible.

Designates HHSC as the state agency to coordinate between the Department of Human Services and another state agency providing child care services, Temporary Assistance for Needy Families work programs, and Food Stamp Employment and Training services.

Makes a state agency providing these services subject to statutory provisions regarding HHSC for the purposes of promulgating rules relating to these programs, spending funds relating to them, collecting data, and evaluating services. Requires HHSC and the agency to develop a memorandum of understanding outlining measures to increase the number of individuals receiving Temporary Assistance for Needy Families cash assistance who are using certain job-training programs and to identify specific measures to improve the delivery of services to clients served by these programs.

Provides for legislative oversight of HHSC in specific areas by the standing or other committees of the house of representatives and the senate that have jurisdiction over HHSC and other agencies relating to implementation of this chapter. Requires these committees to report on their evaluation and analysis of the implementation of specific provisions and HHSC's other duties in consolidating and integrating health and human services, and make recommendations for legislative action.

## FAITH BASED ORG. PROVIDE COMMUNITY ASSISTANCE - H.B. 2017

*by Representatives Christian and Davis*
*Senate Sponsor: Senator Carona*

In implementing the federal "Charitable Choice" provision of the Personal Responsibility and Work Reconciliation Act of 1996, and the Welfare to Work reform in Texas, various legislators and state agencies have attempted to identify churches and other faith-based organizations that attempt to help people in need and assist them in gaining independence from governmental assistance programs.

This bill requires the Commissioner of Human Services to designate one Texas Department of Human Services employee in each of the department's administrative regions to serve as a liaison to faith-based organizations in the region with the potential ability to provide community services for the needy.

Requires such designated employee to:

- communicate with faith-based organizations regarding the need for private community services for needy persons who would otherwise require assistance under public programs administered by the department;
- promote the involvement of faith-based organizations in serving community assistance needs; and
- coordinate the department's efforts to promote involvement of faith-based organizations with similar efforts of other state agencies.

Requires a local workforce development board to include charitable organizations and religious organizations when coordinating cooperation among public organizations, consistent with nondiscrimination principles and safeguards under federal law.

## DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS DIRECTOR - S.B. 79

*by Senator Carona*
*House Sponsors: Representative Ehrhardt, et al.*

Currently, the governor has sole authority over the appointment and salary of the executive director of the Texas Department of Housing and Community Affairs (TDHCA). This may inhibit the ability of the board of directors to affect the performance of the executive director or the director's staff. This bill requires the board, rather than the governor, to employ an executive director for TDHCA.

Requires the board, with the approval of the governor, to employ the executive director.

Provides that, after the election of a governor who did not approve the director's employment, that governor may remove the director and require the board to employ a new director in accordance with this statute. The governor must act on this within 90 days of taking office.

## ALLOCATION OF COMMUNITY DEVELOPMENT BLOCK GRANT - S.B. 1112

*by Senator Shapleigh, et al.*
*House Sponsor: Representative Gallego*

Currently, funds are allocated from the federal Community Development Block grant program on a regional basis to ensure equitable distribution of those funds to communities throughout the state. The allocation of funds in the state housing program, however, is currently left to the Texas Department of Housing and Community Affairs (TDHCA). As a result, many of the housing developments financed through the department are concentrated in urban areas, leaving smaller cities and rural areas unfunded.

Requires TDHCA to:

- ◊ allocate housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act, housing trust funds, and commitments issued under federal low-income housing tax credit programs to each uniform state region based on a formula identifying the need for housing assistance;
- ◊ include the following items in its annual low-income housing plan: the formula developed by TDHCA and the allocation targets established under the formula for each uniform state service region; and
- ◊ include in its annual low-income housing report the amounts of funds and credits allocated to each uniform state service region in the preceding year for each federal and state program affected by the requirements.

## HOUSING LOANS FOR LOW-INCOME FAMILIES - S.B. 1287

*by Senator Lucio, et al.*
*House Sponsors: Representative Oliveira, et al.*

Currently, housing loans are difficult to obtain for low-income families. S.B. 1287 allows the Texas Department of Housing and Community Affairs (TDHCA) to provide housing loans to residents of low-income families.

Requires TDHCA, through colonia self-help centers, to make loans for owner-builders to enable them to purchase or refinance real property, build new residential housing, or improve existing housing.

Requires TDHCA to establish eligibility requirements for an owner-builder to receive a loan. Sets forth eligibility requirements.

- ◊ Authorizes TDHCA to select housing programs to certify eligibility of owner-builders to receive a loan, using those eligibility requirements.
- ◊ Authorizes TDHCA to certify nonprofit housing programs to qualify potential owner-builders for loans, provide owner-builder education classes, assist owner-builders in building housing, and administer loans made by TDHCA.

Requires TDHCA to:

- ◊ give priority to loans to owner-builders who will reside in counties or municipalities that agree to waive capital recovery fees, building fees, inspection fees, or other fees related to the building of housing;
- ◊ solicit gifts and grants, granting authority to use these funds to make loans;
- ◊ prepare a report on the progress of this loan program; and
- ◊ establish the minimum amount of a loan but establishes a maximum loan limit of $25,000. Sets forth loan terms.

## LOAN ASSISTANCE TO LOW-INCOME TEXANS FOR HOUSING - S.B. 1703

Vetoed

*by Senator Ellis*
*House Sponsors: Representatives Cuellar and Hodge*

Owner-built houses can result in substandard housing for persons who lack the financing or skills to produce an adequate structure. The most significant barrier to quality owner-construction is financing. S.B.1703 provides loan assistance to low-income families.

Requires the Texas Department of Housing and Community Affairs (TDHCA) to establish a program in which TDHCA cooperates with construction supply companies or nonprofit housing assistance organizations to provide interim construction loans for owner-builders.

- ◊ Authorizes an interim construction loan under this program to provide resources to build new residential housing, or develop, renovate, or otherwise make improvements to existing residential housing.

Requires TDHCA to establish eligibility requirements for owner-builders to participate in the program, including priority for applicants who are individuals or families of low, very low, or extremely low income.

- ◊ Authorizes TDHCA to select nonprofit housing assistance organizations to certify the eligibility of owner-builders to participate in the interim construction loan program, using the eligibility requirements.

Sets forth duties for construction supply companies or nonprofit housing assistance organizations that participate in the program.

Requires TDHCA to accomplish the following:

- ◊ assist program participants to refinance the loan to pay the balance of the interim construction loan and other debts on the property;
- ◊ obtain a mortgage loan on the improved property; identify private lenders to provide market-rate mortgages for the participants; and
- ◊ identify nonprofit housing assistance organizations to aid those individuals who do not qualify for private market-rate mortgages.

Prohibits TDHCA from spending state money to fund a loan guarantee.

The Texas Department of Housing and Community Affairs shall select an economically distressed area, as defined by Section 16.341, Water Code, or a census tract delineated by the United States Bureau of the Census in which the median family income as reported by the bureau is less than 80 percent of the area median family income in which to implement the pilot program.

## UNUSED STATE PROPERTY CAN BE AFFORDABLE HOUSING - H.B. 2147

*by Representative Flores*
*Senate Sponsor: Senator Shapleigh*

According to the publication "Bordering the Future" produced by the Comptroller of Public Accounts in July, 1998, Texas does not have adequate affordable housing. The General Land Office is in charge of managing state-owned property.

H.B. 2147 requires the identification of real property owned by the state that is suitable for the development of affordable housing.

Amends Section 31.156, Natural Resources Code, by adding Subsection (e), to require the asset management division of the General Land Office to furnish an appraisal to the Department of Housing and Community Affairs (department) of properties that have been identified as unused or substantially underused.

Amends Section 31.157, Natural Resources Code, by amending Subsection (b), to require the draft report to be submitted to the department. Authorizes the department to comment on any findings or recommendations made by the commissioner of the General Land Office and to make additional recommendations regarding the suitability of the property for affordable housing.

## INCENTIVE FOR BUILDERS TO BUILD AFFORDABLE HOMES - H.B. 2281

*by Representatives Garcia and Naishtat*
*Senate Sponsor: Senator Lucio*

Although Texas has loans available to help working families purchase homes, builders generally do not build the types of homes that workers who earn lower incomes can afford. H.B. 2281 creates a builder incentive partnership program which calls for the Texas Department of Housing and Community Affairs (TDHCA) to guarantee each participating builder a share of the purchase price for a certain number of homes built that do not exceed $70,000.

The incentive program will feature a cost plus profit structure that will offer builders a flat fee for each completed home, rather than a percentage-based profit based on the home's sale price. This will provide incentives for builders to work in the lowest end of the market, while the guaranteed purchase arrangement would minimize the risk for the builder. The program allows builders to market their product directly to qualified buyers and requires that homes built under this program meet housing and design standards developed by TDHCA.

## TEXAS STATE AFFORDABLE HOUSING CORPORATION - H.B. 3059

*by Representatives Hill and Ehrhardt*
*Senate Sponsor: Senator Lucio*

Currently, the Texas State Affordable Housing Corporation (TSAHC) is granted powers above and beyond those granted to the Texas Department of Housing and Community Affairs (TDHCA) in order to produce financing support for affordable housing initiatives in Texas, and to allow TSAHC to leverage limited state and federal funds by partnering with private lenders and accessing secondary market capital, possibly conflicting with the non-compete provision of the law.

Under current law, TSAHC must remit all excess net revenue to the housing trust fund. If TSAHC were allowed to retain some part of its annual net revenue, it would be able to build equity to sustain operations and potentially access a larger pool of financing. The law currently creates conflicts with regard to the hiring and appointment of the executive director and board members who serve on the board of directors of TSAHC.

H.B. 3059 clarifies TSAHC's purpose, allows competition with private entities, allows for the use of excess earnings in new and existing affordable housing initiatives, and resolves board membership issues.

Authorizes the TSAHC to make mortgage loans for single dwellings to individuals and families of low, very low, and extremely low income and who fall within the area median family income standards, as established by the U.S. Department of Housing and Urban Development. Prohibits TSAHC from actively competing with private lenders. Deletes the requirement that TSAHC rely on private mortgage companies, banks, savings banks, thrifts, savings and loan associations, or other similar entities to originate loans. Requires TSAHC to use excess earnings, remaining after payment of expenses and establishment of reserves, to further the corporation's new or existing affordable housing initiatives. Deletes the requirement that excess earnings be deposited to the credit of the housing trust fund. Allows the governor to appoint the TSAHC's board.

## PILOT HOUSING PROGRAM FOR LOW-INCOME ELDERLY - H.B. 3340

*by Representative Naishtat, et al.*
*Senate Sponsor: Senator Lucio*

There are few affordable housing options for the elderly outside of nursing homes. Many older citizens live on small, fixed incomes and are often unable to afford the expenses of maintaining their own homes or of keeping of keeping up with increasing rents. H.B.3340 creates a rental housing pilot program to expand long-term care options for elderly persons.

Requires the Texas Department of Housing and Community Affairs (TDHCA), in coordination with the Department of Human Services (DHS), nonprofit organizations, public housing authorities, and any other entity with an interest in housing issues to develop and implement a rental housing pilot program (pilot program) to expand long-term care options for elderly residents of this state.

Requires the pilot program to provide subsidized multifamily rental housing for elderly residents with low, very low, or extremely low income and to coordinate services needed by those residents. Requires TDHCA, to the greatest extent possible, to coordinate the program with the funding sources of DHS and other interested entities.

Sets forth the eligibility requirements for participating in the pilot program. Requires an entity, in order to participate in the pilot program, to demonstrate that the entity uses certain sources of low-income housing funds to offer multifamily housing at rental rates that are at or below the applicable fair market rent prescribed by the United States Department of Housing and Urban Development.

Requires TDHCA to require a participating elderly resident of the state to pay from the participant's financial resources a certain amount as rent.

Requires TDHCA, by December 15, 2000, to submit a report on the effectiveness of the pilot.

Provides that the pilot program ends and this Act expires September 1, 2001.

## INSURANCE BREAK FOR STOVETOP FIRE SUPPRESSION DEVICES - S.B. 139

*by Senator Moncrief, et al.*
*House Sponsor: Representative Glenn Lewis*

Currently, state law provides an insurance premium discount to a homeowner who uses certain fire alarms or sprinkler systems. A less costly fire suppression system, known as a stovetop fire suppression device, is not eligible for existing premium discounts.

Entitles a policyholder to a reduction in homeowners insurance premiums if the policyholder has installed on the premises a stovetop fire suppression device that has been approved by the State Fire Marshall through the commissioner of the Department of Insurance.

Requires the commissioner of insurance to establish, by rule, the amount of premium reduction applicable and adopt other rules to implement the reduction.

## ATTORNEY FEE RECOVERY IN SOME INSURANCE CONTRACTS - S.B. 321

Vetoed

*by Senator Ellis*
*House Sponsor: Representative Smithee*

Texas law specifies that a person is authorized to recover reasonable attorney's fees from an individual or corporation, in addition to the amount of a valid claim and costs, but only if the person files a claim for rendered services, performed labor, furnished material, freight or express overcharges, lost or damaged freight or express, killed or injured stock, a sworn account, or an oral or written contract. Under the statute, a person may not recover reasonable attorney's fees based on a contract issued by an insurer that is subject to the provisions of certain articles of the Insurance Code.

S.B. 321 includes Article 21.55 (Prompt Payment of Claims), Insurance Code, among the provisions under which recovery of reasonable attorney's fees is precluded to the extent fees are recovered under that article.

## TREATING ANNUITIES AS CHARITABLE GIFT ANNUITIES - S.B. 333

*by Senator Sibley*
*House Sponsor: Representative Smithee*

Charitable annuities have been used for over 50 years in Texas. However, a federal court ruled that current Texas law is unclear as to whether H.B. 3104, 74th Legislature, was intended to apply to those charitable gift annuities whose status was being challenged in pending lawsuits. This bill clarifies that H.B. 3104 applies to all charitable gift annuities, and that certain annuities are treated as charitable gift annuities.

Provides immunity from suit for a claim brought by or on behalf of the donor, or the donor's heirs or distributees alleging that the issuance of a charitable gift annuity constitutes engaging in the business of insurance.

Requires an annuity that the donor has treated as a charitable gift annuity in an Internal Revenue Service filing to be considered a qualified charitable gift annuity issued by a charitable organization, in any litigation or other proceeding brought by or on behalf of a donor or the donor's heirs.

## LIFE INSURANCE FOR STATE EMPLOYEES' FAMILIES - S.B. 405

*by Senator Madla*
*House Sponsors: Representatives Averitt and Janek*

Currently, the Texas Insurance Code limits the amount of group life insurance coverage that may be provided to State of Texas employees' spouses or children under a group life insurance policy to an amount not to exceed one-half of the amount of insurance to be covered on the employee's life. This limits the options of Texas consumers under group life insurance plans.

Authorizes state employee group life insurance coverage, rather than group life term insurance, to be extended to cover the spouses and children of state employees.

Limits the coverage to an amount equal to the amount for which the state employee is eligible.

## COMPETITIVE BIDDING PROCESS FOR INSURANCE CONTRACTS - S.B. 507

*by Senator Duncan*
*House Sponsor: Representative West*

Current state law requires municipalities with fewer than 100,000 residents to comply with specified procedures for competitive sealed bidding before entering into an insurance contract requiring the expenditure of more than $5,000. State law also restricts a municipality's use of competitive sealed proposal procedures except for high technology procurement or for insurance purchases when the city is populated by more than 100,000 residents. Recently, insurance plans, such as health insurance plans, have become more complex and sophisticated, thus making it important for cities to consider certain additional technical factors in addition to a plan's cost.

This bill enables municipalities to use the competitive sealed bid proposal procedure for high technology procurement, and reduces the minimum population requirement from 100,000 to 75,000 for municipalities eligible to solicit insurance contracts through competitive sealed bid proposal procedures.

## THE WINDSTORM BUILDING CODE ADVISORY COMMITTEE - S.B. 677

*by Senator Jackson, et al.*
*House Sponsors: Representative Seaman, et al.*

On September 1, 1998, a new coastal building code approved by the Texas Department of Insurance (TDI) became effective. The new code applies to 14 coastal counties and designated catastrophic areas in Harris County. To qualify for coverage through the Texas Windstorm Insurance Association, coastal residents whose homes are contracted, repaired, or to which additions are made on and after September 1, 1998, must comply with the new building code. However, since its implementation, builders have had problems under the new code.

In response to these problems, S.B. 677 replaces the current advisory committee to TDI with a new committee to be called the Windstorm Building Code Advisory Committee on Specifications and Maintenance (committee). The bill specifies a minimum number of meetings per year, sets time limits for meeting notifications, establishes procedures for addressing changes to the code, and sets a time limit for TDI's commissioner to accept or reject a committee recommendation.

## REGULATION OF DELEGATED NETWORKS WITHIN AN HMO - S.B. 890

*by Senator Harris*
*House Sponsor: Representative Smithee*

As the health care industry has evolved and moved to managed care, the delivery of health care now involves a myriad of organizational structures and integrated delivery systems. These different groups within the industry have formed competitive networks of insurers, hospitals, and physician organizations in an attempt to lower costs, improve efficiency, and increase bargaining power. Within these networks, organizations contract with each other to supply different services, involving both physicians and administrators. These contracts usually involve some sharing or delegation of management, utilization review, billing, and claim payment services.

This bill requires a health maintenance organization (HMO) that enters into an agreement with a delegated network to execute a written contract with the network.

- ◊ Requires the written agreement to include a monitoring plan and other detailed provisions relating to the responsibilities of the delegated network.
- ◊ Provides that, if the delegated network fails to meet monitoring standards to ensure compliance, the HMO may cancel delegation of any or all delegated functions.

The bill also contains a detailed list of the information and data an HMO must provide to each delegated network.

- ◊ Requires the HMO to work with the delegated network to correct deficiencies, and to notify the Department of Insurance (department) if the two entities are not able to come to an agreement.
- ◊ Authorizes the department to intervene, conduct financial audits, and revoke a third party administrator license if necessary.

## TEXAS INSURANCE AGENT LICENSING LAW - S.B. 956

*by Senator Madla*

*House Sponsors: Representatives Eiland and Seaman*

Vetoed

Currently, Article 21.15-7, Insurance Code, requires the commissioner of insurance to review and evaluate the current agents' licensing statute and make recommendations to the legislature to reduce the number and type of agents' licenses, determine which statutory provisions should apply uniformly to all insurance licenses, address new marketing methods, and to address any other problems which may exist. S.B. 956 consolidates agents' licenses and promotes uniformity in the regulation of agents.

## INSURANCE CARRIERS MUST TELL WHY COVERAGE DECLINED - S.B. 984

*by Senator Madla*

*House Sponsor: Representative Van de Putte*

Under Article 21.49-2 (Declination, Cancellation, and Nonrenewal of Certain Policies), Insurance Code, the State Board of Insurance (board) must require an insurer to give the policyholder or applicant, upon request, a written statement of the reason or reasons for declination, cancellation, or nonrenewal of all insurance policies. Because the Insurance Code does not prescribe the type of information that needs to be disclosed, the statements provided by the insurers may be general and may not provide enough information. S.B. 984 expands the types of insurance policies for which an insurer's statement informing a person of a decision to cancel, decline, or renew any of these policies is required to fully explain a decision which adversely affects an applicant or policyholder by denying the applicant or policyholder coverage or continued coverage.

Requires an insurer's statement informing a person of a decision to cancel, decline, or renew an insurance policy to fully explain a decision which adversely affects an applicant or policyholder by denying the applicant or policyholder coverage or continued coverage.

Requires the statement to:

- refer to a specific underwriting guideline or guidelines on file with or available to the Texas Department of Insurance and the Office of Public Insurance Counsel;
- state the precise risk factor or factors of the applicant or policyholder that violate the guideline or guidelines;
- state the source of information the insurer relied on regarding the risk factor or factors; and
- specify any other information deemed relevant by the commissioner of insurance.

## IMPROPER USE OF PHYSICIANS' DEA NUMBERS RESTRICTED - S.B. 1235

*by Senator Nelson*
*House Sponsor: Representative Janek*

Currently, Texas physicians licensed to practice in the state have a Federal Drug Enforcement Administration (DEA) number. The sole purpose for these numbers, according to the DEA, is to provide certification of registration in transactions involving controlled substances. Insurance companies currently require these numbers for the purpose of reimbursement under insurance plans. S.B. 1235 prohibits anyone in this state, including any individual regulated by the Texas Department of Insurance (TDI), from using a practitioner's DEA number for any purpose other than a purpose described by a federal law.

Prohibits a person in this state, including a person regulated by TDI under the Insurance Code or any other insurance law of this state, from using the practitioner's DEA number for a purpose other than that described by federal law. Provides that a person who violates this rule commits a Class C misdemeanor.

## REGULATING CERTAIN SERVICE CONTRACTS - S.B. 1775

*by Senator Sibley*
*House Sponsor: Representative Brimer*

A service contract is an agreement a consumer obtains for additional cost and for an additional period of time to cover the repair, replacement, or maintenance of goods for failure due to a defect or normal wear and tear. Such contracts are currently unregulated in the state of Texas, exposing consumers to unscrupulous contract providers and leaving them without reasonable remedies to receive the benefits of the contract.

S.B. 1775 creates a regulatory system under which service contracts may be sold in this state, giving consumers who purchase service contracts for home electronics, automobiles, computers, and other goods protection of a uniform, structured system under which contract providers must operate.

Defines a:

- ◊ "service contract" as an agreement, entered into for a separately stated consideration and for a specified term, under which a provider agrees to repair, replace, or maintain a product, or provide indemnification for the repair, replacement, or maintenance of a product, for defects in materials or workmanship or by normal wear; and
- ◊ “reimbursement insurance policy" as an insurance policy issued to a provider of a service contract that either reimburses the provider under the terms of the contracts issued by the provider, or, in the event of the provider’s nonperformance, pays on behalf of the provider all contractual obligations under the terms of the service contract.

Exempts from this Act certain contracts and agreements, such as warranties, agreements providing for scheduled maintenance, service contracts sold to persons other than consumers, residential service contracts sold by entities licensed by the Texas Real Estate Commission, agreements issued by automobile service clubs under the Transportation Code; and service contracts sold by certain motor vehicle dealers licensed pursuant to the Texas Motor Vehicle Commission Code.

Authorizes the commissioner of the Texas Department of Licensing and Regulation (commissioner) to adopt rules and conduct investigations as necessary to enforce this Act.

Creates the six-member service contract providers advisory board as an advisory body to aid the commissioner in enforcing and administering this act.

Requires a provider of service contracts sold in this state to register with the Texas Department of Licensing and Regulation, and provides for a registration fee.

Exempts service contracts from state laws regulating the business of insurance, the Residential Service Company Act, and Transportation Code.

Grants the holder of a service contract the right to void the contract within a set amount of time after the contract is mailed or delivered to the holder.

Bars a provider under a service contract from using in its name certain terms descriptive of insurance, casualty, or surety business.

Prohibits a provider from making false or misleading statements.

Prohibits any person from requiring the purchase of a service contract as a condition of a loan or the sale of any property.

Grants the commissioner enforcement powers to:

- ◊ impose appropriate administrative sanctions, including an administrative penalty not to exceed $500 per violation or $10,000 in the aggregate for all violations of a similar nature;
- ◊ bring an action for injunctive proceedings for a threatened or existing violation of this Act or orders or rules adopted under this Act; and
- ◊ bring an action for civil penalties not to exceed $2,500 per violation or $50,000 in the aggregate for all violations of a similar nature.

Provides that service contracts sold by a retail seller of a motor vehicle to a retail buyer and certain contracts with local exchange telephone companies for inside telephone wiring are not subject to provisions of the Insurance Code regarding unauthorized insurance.

## HEALTHY SENIORS ABLE TO CHOOSE VIATICAL SETTLEMENTS - H.B. 792

*by Representative Maxey*
*Senate Sponsor: Senator Carona*

The Texas Department of Insurance regulates the viatical settlement industry, an industry which turns over privately-owned life insurance policies to registered companies for a lesser-than-face-value cash payment to pay for the health care of the elderly.

Since the enactment of the regulating legislation, the industry has shifted its original focus on serving the terminally ill and now offers viatical settlements to healthy seniors. The original legislation defined a viatical settlement to apply to the sale of a policy of an individual with a terminal illness, and did not include healthy seniors. H.B. 792 amends regulations governing viatical settlement agreements and life settlement agreements.

Requires the commissioner of insurance (commissioner) to adopt reasonable rules to implement this article. Provides that such rules include rules governing the following:

- ◊ registration of a person engaged in the business of life settlements; and
- ◊ the responsibility of a registrant to ensure compliance with this article and rules relating to viatical settlements or life settlements after the registration is revoked, suspended, or otherwise lapses.

Prohibits the commissioner from establishing prices for the sale or purchase of life settlements, while allowing the commissioner to adopt rules addressing unjust prices or fees for the sale or purchase of life settlements.

Authorizes the commissioner to suspend or revoke the registration of a registrant or deny an application and to take any appropriate action against a person who violates this article.

## NEW COVERAGE TO INSURE AGAINST AD VALOREM TAXES - H.B. 1453

*by Representative Smith*
*Senate Sponsor: Senator Madla*

Many times, new homeowners and title companies are unaware of any improprieties concerning erroneous claims for homestead exemptions. If a person purchases a residential homestead encumbered with delinquent taxes, penalties, and interest due to an invalid exemption, that person, rather than the former owner, must pay. This bill would allow the commissioner of insurance to adopt coverages that insure against ad valorem taxes.

Authorizes the commissioner of insurance, for an owner policy on residential real property that is issued to a person, to adopt coverages that insure against ad valorem taxes, including penalties and interest, to be paid with respect to the property for a previous tax year and that are delinquent on the effective date of the policy because of sale, diversion, or change of use, unless excluded because the insured has actual knowledge of the delinquent taxes; and because of an exemption granted to a previous owner of the property under Section 11.13, Tax Code, or because of improvements not assessed for a previous tax year.

## NEW STATE MANDATED BENEFITS FOR HMO ENROLLEES - H.B. 1498

*by Representative Janek*
*Senate Sponsor: Senator Sibley*

Employees who are provided health care coverage through a health maintenance organization (HMO) paid for by their employer must select a primary care physician within the plan's network and use the services and specialists within that network.

H.B.1498 requires HMOs to offer other benefit options and sets forth guidelines for fee schedules. Requires each HMO offering coverage under the employer's health benefit plan to offer to all eligible employees the opportunity to obtain health benefit coverage through a non-network plan at the time of enrollment and at least annually. Authorizes the coverage to be provided through a point-of-service contract, a preferred provider benefit plan, or any coverage arrangement that allows an enrollee to access services outside an HMO or limited provider network's delivery network. Provides that any additional costs for the non-network plan are the responsibility of the employee who chooses the non-network plan, and the employer may impose a reasonable administrative cost for providing the non-network plan option.

Authorizes an insurance carrier to contract with an HMO to provide benefits under a point-of-service plan, including optional coverage for out-of-area services or out-of-network care. Authorizes an insurance carrier and an HMO to offer a blended contract if indemnity benefits are combined with HMO benefits. Provides that the use of a blended contract is limited to point-of-service arrangements between an insurance carrier and an HMO. Provides that a blended contract delivered, issued, or used in this state is subject to and must be filed with the Texas Department of Insurance (department) for approval. Authorizes indemnity benefits and services provided under a point-of-service plan to be limited to those services as defined by the blended contract and to be subject to different cost-sharing provisions. Authorizes the cost-sharing provisions for the indemnity benefits to be higher than cost-sharing provisions for in-network HMO coverage. Authorizes higher cost sharing to be imposed only when obtaining benefits or services outside the HMO delivery network, for enrollees in limited provider networks.

Sets forth the guidelines for and provides the authorization for an HMO to offer a point-of-service rider for out-of-network coverage without obtaining a separate insurance carrier license. Authorizes indemnity benefits and services provided under a point-of-service rider to be limited to those services defined in the evidence of coverage and to be subject to different cost-sharing provisions. Requires an HMO that issues a point-of-service rider to meet the net worth requirements promulgated by the department based on the actuarial relation of the amount of insurance risk assumed through the issuance of the point-of-service rider in relation to the amount of solvency and reserve requirements already required of the HMO.

## STANDARDS FOR LONG-TERM CARE INSURANCE - H.B. 1586

*by Representative Naishtat*
*Senate Sponsor: Senator Zaffirini*

Under Texas law, a long-term care insurance policy is defined as a policy issued by a health maintenance organization (HMO) that provides a daily benefit to cover the costs of long-term care for a person who needs medical or personal care services in a setting other than an acute care unit of a hospital, such as a nursing home or a patient's own home. Responsibility has been delegated to the State Board of Insurance to establish specific standards for provisions of long-term care insurance. Because long-term care coverage is relatively new, industry-wide standards regarding policy language have yet to materialize. Prior to the 76th Legislature, there were no standards relating to the coverage by long-term care insurance policies of the parents of an insured or the parents of the spouse of an insured.

This bill adds a provision regarding long-term care insurance standards so that coverage of parents of the insured person and parents of the spouse of the insured person must be addressed in standards to be developed by the commissioner of insurance.

Requires the commissioner of insurance to establish long-term care insurance standards no later than March 1, 2000.

## HEALTH INSURERS MUST ABIDE BY BIDS - H.B. 1627

*by Representative Maxey*
*Senate Sponsor: Senator Cain*

Currently, some insurers "qualify" their bids to a city or municipality, which means that such insurers can modify their rates or limit coverage to certain employees or dependants after the city accepts the bid. H.B. 1627 requires bids by insurers to not contain qualifications that would permit the insurers to modify or limit terms of insurance after the contract is made.

Prohibits an insurer who bids on a contract subject to the competitive bidding and competitive proposal requirements of the Local Government Code from submitting a bid for a contract, subject to any qualification imposed by the insurer, and that permits the insurer to modify or limit the terms of insurance coverage to be provided after the contract has been made. Prohibits an insurer who provides stop-loss or other insurance coverage for health benefits under a contract from excluding an individual who is otherwise eligible from coverage or assigning a higher deductible, based on the individual's prior medical history.

## AUTO DEALERS RELIEVED OF ROLE AS "INSURANCE POLICE" - H.B. 1707

*by Representative Uher*
*Senate Sponsor: Senator Armbrister*

Prior to the enactment of H.B. 1707, 76th Legislature, a person had to demonstrate proof of insurance at the time of application for a motor vehicle title or registration. A person who sells motor vehicles acts as the "owner's representative" prior to sale of the vehicle when applying for title or registration. Requiring proof of insurance placed some burden on state commerce in motor vehicles. Allowing the dealer to apply for title and registration on behalf of the purchaser without having to show proof of insurance to the county tax assessor-collector may reduce the burden on commerce. The dealer would be required to remit the motor vehicle sales tax in a timely manner. Subsequent renewals of registration by the owner will still be subject to the proof of financial responsibility requirement. This Act does not change the requirement that every driver be able to demonstrate financial responsibility.

## STUDY OF STATE-MANDATED HEALTH CARE BENEFITS - H.B. 1919

*by Representative Gallego, et al,*
*Senate Sponsor: Senator Harris*

Texas leads the nation in the number of health insurance mandates issued, driving up health costs. For every one percent increase in premiums, 16,000 Texans lose health insurance coverage.

Requires the lieutenant governor and the speaker of the house of representatives to appoint a joint interim committee, with the assistance of the Texas Department of Insurance, to study and report on health care benefits mandated by law to be provided by health benefit plans.

## "OFF-LABEL" USES OF CERTAIN PRESCRIPTION DRUGS - H.B. 2061

*by Representatives Averitt and Van de Putte*
*Senate Sponsor: Senator Sibley*

Currently, Texas does not require health plans to cover "off-label" uses of certain drugs. An "off-label" use involves using a federal Food and Drug Administration (FDA) approved drug that is already deemed safe and effective for one medical condition to treat another medical condition. This bill allows certain prescription drugs to be available for health benefit plan enrollees that suffer certain illnesses, as long as the drug has been approved by the FDA, and is supported by clinical research for the medical condition, or is supported or accepted in one of the standard reference compendia.

Requires certain health benefit plans that provide coverage for drugs to provide coverage for any drug prescribed to treat an enrollee for a covered chronic, disabling, or life-threatening illness, if the drug has been approved by the FDA for at least one indication, and is recognized in certain scientific publications for treatment of the indication for which the drug is prescribed.

- ◊ Indication means any symptom, cause, or occurrence in a disease that points out the cause, diagnosis, course of treatment, or prognosis of the disease.

Provides that this provision does not require coverage for experimental drugs not otherwise approved for any indication by the FDA, or for any disease or condition that is excluded from coverage under the plan.

Provides that a health plan is not required to cover a drug the FDA has determined to be contraindicated for treatment of the current indication.

## WITHDRAWAL PLAN STATUTE TO APPLY TO HMOS - H.B. 3020

*by Representative Smithee*
*Senate Sponsor: Senator Sibley*

Health maintenance organizations (HMOs) are not subject to an existing Texas law which requires insurance companies to file withdrawal plans with the Texas Department of Insurance before exiting the Texas market. The statute related to withdrawal plans helps to stabilize the Texas insurance industry by protecting against abrupt market disruptions which may result if insurers haphazardly leave the state. The exclusion of HMOs from the withdrawal plan statute is a concern because the Texas HMO industry has been suffering substantial financial losses. In addition, no protection currently exists to pay the claims of an HMO that goes into receivership. H.B. 3020 sets forth provisions regarding the withdrawal of a health maintenance organization from operations in this state.

Amends Section 26(i), Article 20A.26, Insurance Code (Texas Health Maintenance Organization Act), to provide that a health maintenance organization authorized under this Act is subject to, rather than shall be subject to, Article 21.49-2C, Insurance Code, and is an authorized insurer for the purposes of that article.

## CONSUMER GET HELP WITH COMPLAINTS AGAINST HMOS - H.B. 3021

*by Representative Smithee*
*Senate Sponsor: Senator Sibley*

In 1975, the 64th Texas Legislature enacted the Texas Health Maintenance Organization Act (Article 20A, Insurance Code) to regulate the health maintenance organization (HMO) industry. H.B. 3021 establishes provisions regarding complaint and appeals procedures of HMOs.

Requires every HMO to implement, rather than establish, and maintain a complaint system to provide reasonable procedures for the resolution of oral and written complaints initiated by enrollees or providers concerning health care services. Establishes requirements for a written request for appeal.

Sets forth requirements regarding the implementation and maintenance of an internal appeal system and the procedures for notification within that system. Authorizes the HMO to integrate its appeal procedures related to adverse determinations with the complaint and appeal procedures established.

Establishes the independent consumer assistance program for HMOs. Requires the Office of Public Insurance Counsel to contract with a nonprofit organization to operate the program. Sets forth requirements for the nonprofit organization and the program.

## HMOS REQUIRED TO PROVE FINANCIAL SOLVENCY - H.B. 3023

*by Representative Smithee*
*Senate Sponsor: Senator Sibley*

Currently, a health maintenance organization (HMO) must maintain a surplus level of up to $1.5 million, depending on the type of health care services being offered by the HMO. However, the HMO's surplus does not necessarily mean that the HMO is actually solvent. Under current law, an HMO's covered liabilities must exceed their uncovered liabilities. A covered liability is a cost borne by the HMO for services which are under the enrollee's contract, such as an enrollee visiting an enrollee's primary care physician for an annual exam. An uncovered liability is a cost which the health plan did not anticipate, such as an enrollee seeing an emergency room physician at an out-of-network facility.

HMOs with positive surpluses while having negative net worths have continued to operate legally in Texas as long as they have had enough physicians to provide care to the enrollees. H.B.3023 sets forth provisions regarding minimum net worth requirements for HMOs.

The following net worth requirements are phased in under this bill.

- ◊ Requires an HMO authorized to provide basic health care services to maintain a minimum net worth of $1.5 million.
- ◊ Requires an HMO authorized to provide limited health care services to maintain a minimum net worth of $1 million.
- ◊ Requires an HMO authorized to offer a single health care service plan to maintain a minimum net worth of $500,000.

## JURY INSTRUCTION AND CHARGE FOR LIFE IMPRISONMENT - S.B. 39

*by Senator Lucio*
*House Sponsors: Representatives Naishtat and Hinojosa*

This bill requires the court to instruct the jury of certain requirements of a defendant's life sentence.

Requires the court on written request by the defendant's attorney to instruct the jury that a sentence of life imprisonment will make the defendant eligible for release on parole, but not until the actual time served by the defendant equals 40 years, without consideration of any good conduct time.

## JUDICIAL COMPENSATION COMMISSION CREATED - S.B. 71

*by Senator Brown*
*House Sponsor: Representative Thompson*

After evaluating the judicial system in Texas, the Commission on Judicial Efficiency recommended the establishment of a commission responsible for making judicial salary recommendations, as there is currently no such review system. S.B. 71 establishes the Judicial Compensation Commission (commission) to make recommendations to the legislature on certain judicial salaries, and provides that commission recommendations are binding if accepted by a certain date.

Provides that the commission consists of nine members, appointed by the governor with the senate's advice and consent.

- ◊ Sets out the terms and qualifications of such members, as well as provisions regarding compensation, reimbursement for expenses, vacancies on the commission, and the removal of members.

Requires the Office of Court Administration of the Texas Judicial System to provide administrative support for the commission, such as staff support, meeting facilities, temporary work facilities, and other resources.

Requires the commission, not later than December 1 of each even-numbered year, to biennially report to the legislature recommendations regarding salaries for the justices and judges of the supreme court, court of criminal appeals, courts of appeals, and the district courts.

- ◊ Sets out what factors the commission must consider in forming these recommendations.

Provides that the commission's recommendations in its biennial report are binding and have full force of law on the September 1 following the delivery of the report to the lieutenant governor, the speaker of the house of representatives, and the legislative members and members-elect, unless either the senate or house of representatives, by majority vote, rejects the recommendations before the enactment of the General Appropriations Act for the subsequent biennium.

Provides that this Act takes effect on the date on which the constitutional amendment proposed by S.J.R. 10, 76th Legislature, Regular Session, 1999, takes effect. If that amendment is not approved by the voters, this Act has no effect.

## JUDICIAL COMPENSATION COMMISSION CONSTIT. AMEND. - S.J.R. 10

*by Senator Brown*
*House Sponsor: Representative Thompson*

Authorizes the legislature to create a judicial compensation commission to make recommendations for judicial salaries for the justices and judges of the supreme court, court of criminal appeals, courts of appeals, and district courts.

Provides that such recommendations become law if neither the senate nor the house of representatives, by majority vote, rejects the recommendations.

Requires this proposed constitutional amendment to be submitted to the voters at an election to be held November 2, 1999.

## THIEVES BANNED FROM SERVING ON A GRAND JURY - S.B. 216

*by Senator Duncan*
*House Sponsor: Representative Walker*

Adds a conviction of theft as a disqualification for grand jury service.

Prohibits disclosure of information collected during the grand jury selection process.

Requires the court, on showing of good cause, to permit disclosure of the information sought to a party to the proceeding.

## CREATING A UNIFORM JURY SUMMONS AND QUESTIONNAIRE - S.B. 230

*by Senator Ellis*
*House Sponsor: Representative Crabb*

Requires the Office of Court Administration (office) to develop and maintain:

- ◊ a uniform written jury summons, which must include information relating to exemptions and restrictions governing jury service and the duties of an employer to an employee who is summoned for jury service; and
- ◊ a questionnaire to accompany the summons, which must require biographical and demographic information relevant to jury service, including name, sex, race, and age, residence address and mailing address, education level, occupation and place of employment, marital status and the name, occupation, and place of employment of the person's spouse, and citizenship status and county of residence.

Requires the office, in developing and maintaining the summons and questionnaire, to solicit and consider the opinions of the judiciary, district clerks, and attorneys.

Requires a person receiving a written jury summons and questionnaire to complete and submit the questionnaire when reporting for jury duty.

Provides that the information contained in a completed questionnaire is confidential and not subject to open records laws. However, information contained in a completed questionnaire may be disclosed to:

- ◊ a judge assigned to hear a cause of action in which the respondent to the questionnaire is a potential juror, and to a litigant and a litigant's attorney in that action; and
- ◊ court personnel.

Requires the office to complete the model for the summons and questionnaire not later than October 1, 2000, and distribute the model and questionnaire to each county not later than November 1, 2000.

Requires a county to conform its written jury summons to the model and include the questionnaire developed with its summons not later than January 1, 2001.

## INDIGENT DEFENSE STANDARDS - S.B. 247

*by Senators Ellis and West*
*House Sponsor: Representative Hinojosa*

Vetoed

This bill establishes defense and pretrial information gathering standards for indigent people who are accused of a crime.

Requires the court to appoint counsel for an indigent defendant not later than the 20th day after the date on which the defendant requests counsel if the indigent defendant remains incarcerated pending trial.

- ◊ Failure to appoint counsel within the 20-day period may result in a required release of the defendant.

Requires the magistrate to inform the indigent person orally and in writing of the procedures used in the county to appoint counsel for indigent defendants.

Allows the county, if counsel is not appointed within 20 days and the indigent defendant is released, to detain the indigent defendant at any time after counsel is appointed and the defendant is provided an opportunity to confer with appointed counsel.

Requires the county commissioners to:

- ◊ establish procedures to govern the provision of legal services to an indigent person accused of having committed a criminal offense in the county; and
- ◊ designate the appointing authority for the county.

## PROSECUTOR'S FEE FOR BAD CHECKS - S.B. 284

*by Senator Brown*
*House Sponsor: Representative Luna*

This bill is designed to offset the increased costs of pursuing people who write bad checks.

Increases, from $10 to $15, the fees charged for collecting and processing a dishonored or forged check or similar sight order, if the face amount is greater than $10, but does not exceed $100.

## CONVICTED FELONS ELIGIBILITY FOR BAIL - S.B. 306

*by Senator Lucio*
*House Sponsors: Representative Keel, et al.*

This bill is designed to eliminate appellate bonds for violent criminals who are convicted at the trial court level.

Requires a defendant convicted of a felony in which the punishment equals or exceeds 10 years to be held without bail pending appeal of the conviction.

Requires a defendant convicted of murder, capital murder, indecency with a child, aggravated kidnapping, aggravated sexual assault, sexual assault, or certain crimes involving use of a deadly weapon to be held without bail pending appeal of the conviction.

## WITNESS DISCLOSURE BY THE DEFENSE IN A CRIMINAL TRIAL - S.B. 557

*by Senators Lucio and Haywood*
*House Sponsor: Representative Keel*

This bill is designed to place prosecutors on equal footing with defense attorneys by allowing prosecutors to discover expert witnesses.

Allows prosecutors to discover the names and addresses of persons presenting evidence for the defense in a criminal trial.

Requires the court to specify in the order the time and manner in which the other party must make the disclosure to the requesting party.

- ◊ Requires the court to specify that the disclosure be made not later than the 20th day before the date the trial begins.

## CREATING A MUNICIPAL COURT TECHNOLOGY FUND - S.B. 601

*by Senator Moncrief*
*House Sponsor: Representative Goodman*

In 1995, the Texas Legislature passed a law that allowed municipal courts to use computer technology to conduct court business in a more efficient manner. Cities require new computer hardware, software, and a court management system to implement this technology. The approximate cost to implement computer imaging in a major city court system may cost between $1.5 to $2.5 million or more. Other technological improvements such as hand held ticket writers and other related items may increase the total cost to exceed $3.5 million, depending on the size of the court system.

S.B. 601 allows a municipality's governing body, by ordinance, to create a municipal court technology fund and require a defendant convicted of a misdemeanor offense in a municipal court to pay a technology fee, not to exceed $4, as a cost of court.

Defines a person as convicted if:

- ◊ a sentence is imposed;
- ◊ the person is placed on community supervision, including deferred adjudication community supervision; or
- ◊ the court defers final disposition of the person's case.

Requires the municipal court clerk to collect and pay the funds for deposit in the municipal court technology fund.

Provides that such fund may be used only to finance the purchase of technological enhancements for a municipal court, including:

- ◊ computer systems, networks, hardware, and software;
- ◊ imaging systems;
- ◊ electronic kiosks and ticket writers; and
- ◊ docket management systems.

Provides that the municipal court technology fund is administered by the governing body of the municipality.

Provides that this Act expires September 1, 2005.

## AUTOMATIC EXPUNCTION OF CERTAIN ARREST RECORDS - S.B. 840

*by Senator West*
*House Sponsor: Representative Hinojosa*

This bill is designed to provide for automatic expunction of certain arrest records if a person is acquitted.

A person who has been arrested for the commission of a felony or a misdemeanor is entitled to have all records and files relating to the arrest expunged if the person is acquitted by the trial court and certain conditions exist.

A person is not entitled to have all records and files relating to the arrest expunged, if the offense for which the person was acquitted arose out of the same criminal episode, and the person was convicted of or remains subject to prosecution for at least one other offense occurring during the criminal episode.

Requires the court at the request of the defendant and after notice to the state and a hearing, to enter an order of expunction not later than the 30th day after the date of the acquittal.

## TWENTY TWO NEW DISTRICT COURTS CREATED IN TEXAS - H.B. 400

*by Representative Thompson, et al.*
*Senate Sponsor: Senator Ellis*

With the exception of El Paso County, no new district courts have been created in urban counties since 1989, while voting rights cases challenging the at-large election of district judges in Texas' large urban counties were being heard in the courts. The 75th Texas Legislature passed legislation creating 15 new courts, nearly all in urban areas, but the bill was vetoed by the governor. H.B. 400 creates new district courts, all located in counties with a caseload in excess of the statewide average.

Creates new judicial districts for the following counties, as well as requiring them to give preference to specific matters, such as criminal, family violence, or juvenile:

- ◊ Bexar (5 courts), Cameron, Collin, Denton, El Paso (2 courts), Fort Bend (2 courts) Galveston, Hidalgo (2 courts), Tarrant, Tom Green, Travis (2 courts), Webb, Williamson, and Wood.

## SPOUSES MAY CONVERT SEPARATE PROPERTY TO COMMUNITY PROPERTY - H.B. 734

*by Representative Goodman*
*Senate Sponsor: Senator Harris*

H.B. 734 is the enabling legislation to accompany H.J.R. 36. H.B. 734 authorizes spouses to agree to convert separate property to community property. This bill also establishes that the enhancement in value during a marriage of separate property owned by a spouse due to a financial contribution made with community property creates an equitable interest of the community estate in the separate property.

Provides that if the community estate of the spouses and the separate estate of a spouse have an ownership interest in property, the respective ownership interests of the marital estates are determined by the rule of inception of title. Establishes that an equitable interest created by Subchapter E, Family Code does not create an ownership interest in a spouse's separate property and does create a claim against the spouse who owns the property that matures on termination of the marriage.

Establishes that the enhancement in value during a marriage of separate property owned by a spouse due to a financial contribution made with community property creates an equitable interest of the community estate in the separate property. Provides that the equitable interest is measured by the net amount of the enhancement in value of the separate property during the marriage due to the financial contribution made with community property.

Provides that the use of community property to discharge all or part of a debt on separate property owned by a spouse during a marriage creates an equitable interest of the community estate in the separate property. Sets forth the computation for the equitable interest. Establishes that for purposes of this section, the cost of any improvements made to the separate property paid for by either the separate or community estate is included as part of the principal of the debt.

Provides that Subchapter E does not affect the rule of inception of title under which the character of property is determined at the time the right to the property is acquired. Establishes that the equitable interest created under this subchapter does not create an ownership interest in property.

- ◊ Establishes that the separate estate of a spouse has an equitable interest in the enhanced value of the separate estate of the other spouse or in the enhanced value of the community estate for a financial contribution made to the other separate estate or to the community estate and the discharge of all or part of a debt of the other separate estate or of the community estate. Sets forth the manner of measurement for the equitable interest.

Provides that the use and enjoyment of property during a marriage does not create a claim of offsetting benefits to the equitable interest created by this subchapter.

Requires a court, on termination of a marriage, to impose an equitable lien on community or separate property to secure a claim arising by reason of an equitable interest as provided by this subchapter.

Authorizes spouses to agree at any time that all or part of the separate property owned by either or both spouses is converted to community property.

Establishes that an agreement to convert separate property to community property is enforceable without consideration and must identify the converted property, specify that the property is being converted to community property, and be in writing and signed by both spouses. Provides that the mere transfer of a spouse's separate property to the name of another spouse or to the name of both spouses is not sufficient to convert the property to community property.

Provides that property converted to community property under this subchapter is subject to the sole management, control, and disposition of the spouse in whose name the property is held or the spouse who transferred the property if the property is not subject to evidence of ownership, or the joint management, control, and disposition of the spouses, if the property is held in the name of both spouses or is not subject to evidence of ownership and was owned by both spouses before the property was converted to community property. Provides exceptions to this section if the agreement to convert the property specifies otherwise and as provided by Subchapter B, Chapter 3 (Management, Control, and Disposition of Marital Property), and other law.

Establishes that an agreement to convert property to community property is not enforceable if the spouse against whom enforcement is sought proves that the spouse did not execute the agreement voluntarily or did not receive a fair and reasonable disclosure of the legal effect of converting the property to community property. Provides the wording for a statement which, if it contains the same words or similar words and is prominently displayed in bold-face type, capital letters, or underlined, is rebuttably presumed to provide a fair and reasonable disclosure of the legal effect of converting the property to community property. The wording of the statement includes paragraphs regarding exposure to creditors, loss of management rights, and loss of property ownership.

Establishes that a conversion of separate property to community property does not affect the rights of a preexisting creditor of the spouse whose separate property is being converted. Authorizes a property conversion to be recorded in the deed records of the county in which a spouse resides and of the county in which any real property is located.

Provides that a conversion of separate property to community property is constructive notice to a good faith purchaser for value or a creditor without actual notice only if the agreement to convert the property is acknowledged and recorded in the deed records of the county in which the real property is located.

Requires a court, in a decree of divorce or annulment, to order a division of the equitable interest of the community estate in the separate estate of a spouse, separate property of a spouse in the separate property of the other spouse, and separate estate of a spouse in the community estate.

## SPOUSES MAY CONVERT SEPARATE PROPERTY TO COMMUNITY PROPERTY - H.J.R. 36

*by Representative Goodman*
*Senate Sponsor: Senator Harris*

Currently, a person who is married or about to marry is authorized to enter into a marital agreement converting community property to separate property, but spouses cannot convert separate property to community property. Upon death, separate property is taxed more heavily by the federal government than community property.

H.J.R. 36 requires the submission to the voters of a constitutional amendment authorizing spouses to agree in writing that all or part of the separate property owned by either or both of them shall be the spouses' community property.

Requires this proposed constitutional amendment to be submitted to the voters at an election to be held on November 2, 1999. Sets forth the required language for the ballot.

## LEGAL SELF-HELP PRODUCTS - H.B. 1507

*by Representative Wolens*
*Senate Sponsor: Senator Duncan*

Currently, Texas law prohibits the unauthorized practice of law. A federal court in Dallas has held that the sale of a software product constituted the unauthorized practice of law, as defined in the Government Code. This bill defines the practice of law.

Excludes from the definition of the "practice of law" the design, creation, publication, distribution, display, or sale, including on an Internet web site, of written materials, books, forms, computer software, or similar products, if the products clearly and conspicuously state that the products are not a substitute for the advice of an attorney.

Provides that this Act does not permit the use of the products for the unauthorized practice of law.

## APPOINTMENT OF VISITING JUDGES - H.B. 1606

*by Representative Thompson*
*Senate Sponsor: Senator Wentworth*

H.B. 1606 provides for the appointment or assignment of visiting, rather than special, judges to fill vacancies on county courts caused by absence, disqualification, or disablement. Visiting judges are appointed by a procedure less susceptible to abuse or controversy than the procedure that governed the appointment of special judges.

## PROBATE CODE UPDATE - H.B. 1851

*by Representative Thompson*
*Senate Sponsor: Senator Harris*

Vetoed

Historically, periodic updates are needed in the Probate Code to conform to new revisions. H.B. 1851 codifies and updates a certain number of suggested revisions to guardianships and other related matters regarding incapacitated persons.

## SUMMARY JUDGEMENT PROCEEDINGS - H.B. 2186

*by Representative Dutton*
*Senate Sponsor: Senator Ellis*

Voted

The purpose of a summary judgment proceeding is to provide for the disposition of controversies that do not present fact issues, but present only questions of law. Under the Texas Rules of Civil Procedure, summary judgment is appropriate if a movant establishes that there are no genuine issues of material fact and that the movant is entitled to judgment as a matter of law. H.B. 2186 establishes conditions regarding summary judgments issued by a court.

## TELECONFERENCING TECHNOLOGY BY APPELLATE COURTS - H.B. 3418

*by Representative Gallego*
*Senate Sponsor: Senator Harris*

Strikes provisions requiring consent of the parties or their attorneys if the chief justice or presiding judge or the supreme court, the court of criminal appeals, or a court of appeals decides to hear oral argument through the use of teleconferencing technology.

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Provides that the actual and necessary expenses of an appellate court hearing an oral argument through the use of teleconferencing technology following the transfer of the case to that appellate court from another shall be paid by the state from funds appropriated for the actual and necessary traveling and living expenses of the justices arising from the transfer of cases.

## WAGE WITHHOLDING FOR ALIMONY - H.J.R. 16

*by Representatives Thompson and Hill*
*Senate Sponsor: Senator Harris*

Prior to 1995, child support was the only type of family support that could be ordered in Texas and the only type of family support for which wages could be garnished. The 1995 welfare reform bill included a provision for limited alimony in an attempt to keep a spouse with limited job skills and financial resources off government assistance. However, alimony has been difficult to enforce without a garnishment provision.

This bill requires the submission to the voters of a constitutional amendment allowing a person's wages to be garnished to pay court-ordered alimony.

## CREATING JUSTICES OF THE PEACE & CONSTABLES PRECINCTS – H.J.R. 71

*by Representative Homer, et al.*
*Senate Sponsor: Senator Ratliff*

Amends the Texas Constitution raising the population needed to create additional precincts in certain counties for justices of the peace and constables.

Increases reference to counties of population of 30,000 or more to 50,000 or more.

Increases reference to counties with a population cap of less than 30,000 to less than 50,000.

Provides that notwithstanding these constitutional population requirements:

- ◊ Randall County shall be divided into not less than two and not more than six precincts; and
- ◊ any county that is divided into four or more precincts on November 2, 1990, shall continue to be divided into not less than four precincts.

Requires this proposed constitutional amendment to be submitted to the voters at an election to be held November 2, 1999. Sets forth the required language of the ballot.

## COMPREHENSIVE CHANGES TO MUNICIPAL ANNEXATION - S.B. 89

*by Senator Madla*
*House Sponsor: Representative Bosse*

Under current Texas law, municipalities have a unilateral right to annex unincorporated areas within their extraterritorial jurisdictions. This bill revises the municipal annexation process outlined in the Local Government Code, requiring cities to implement such changes as advance annexation planning procedures and more prompt provision of services to the annexed areas. The bill also provides residents of unincorporated areas with a great deal more input regarding whether, and on what terms, they will be annexed. Some of the major areas of annexation law changed by this bill are as follows:

### EXTRATERRITORIAL JURISDICTION

Provides that the annexation of an area expands the extraterritorial jurisdiction of a municipality only to include the area located within one mile of the boundaries of the annexed area, and that such an annexation does not expand the extraterritorial jurisdiction at all if certain conditions exist.

### CONTINUATION OF LAND USES

Prohibits an annexing municipality from imposing land use restrictions on a residence or business that would prevent the property from being used as it was on the date of annexation, or before the 90th day of the effective date of annexation, except for the purpose of imposing specific types of regulations, such as those that pertain to the storage and use of hazardous substances, the sale and use of fireworks, and the discharge of firearms.

### ANNEXATION PLAN

Requires a municipality to prepare an annexation plan that specifically identifies any annexations which may occur within a prospective three-year period. Authorizes a municipality to amend the plan to specifically identify annexations which may occur within a prospective three-year period from the date of the annexation plan amendment. Prohibits another political subdivision, including certain districts and excluding a county, independent school district, or an emergency service district, from reducing an area's tax rate, voluntarily transferring an asset without consideration, entering into a contract for services beyond the three-year annexation plan period, or incurring a debt for which payments would extend beyond the three-year period, while an area is included in a municipality's annexation plan.

Authorizes a municipality to amend the annexation plan at any time to remove an area from annexation. Prohibits a municipality from amending an annexation plan to reinstate an area once removed from the annexation plan until the first anniversary of the date the area was first removed from the annexation plan, before the end of the 18th month after the month an area is included in the three-year annexation cycle.

Prohibits a municipality from amending an annexation plan to reinstate an area once removed from the annexation plan until the second anniversary of the date the area was first removed from the annexation plan, during or after the 18 months after the month an area is included in the three-year annexation cycle. Requires the municipality to give written notice within 90 days after the adoption or amendment of an annexation plan to all property owners within the affected area, as indicated by certain records, to be included or removed from the municipality's annexation plan; all public and private entities that provide services for the area proposed for annexation; and certain railroad companies.

Provides that, if the requirements for a municipal annexation plan apply, a petitioner may require the appointment of an arbitrator to resolve a disputed annexation that allegedly violates one of these conditions.

Provides that the requirements for a municipal annexation plan do not apply to certain areas proposed for annexation, in such instances as follow:

- ◊ a residential area has expressed its desire to be annexed by a petition signed by more than 50 percent of the real property owners in the area, or by vote or petition of qualified voters in the area;
- ◊ a special purpose district is contained within the area proposed for annexation, and the district's governing board requested annexation in the year prior to which the municipality adopted its ordinance to annex the area;
- ◊ the area is the subject of an industrial district contract or under a strategic partnership agreement;
- ◊ the area is a colonia, as defined by the Government Code;
- ◊ the area is located completely inside a closed military installation; or
- ◊ the area has been determined to contain conditions or uses of land that constitute a public nuisance or an imminent threat of property destruction or personal injury.

Requires a municipality to post its annexation plan and any amendments thereto on the municipality's Internet website, if a such a website exists.

**REQUIRED INVENTORY OF SERVICES AND FACILITIES**

Defines "public entity" and requires a municipality to compile a comprehensive inventory, which must include all services and facilities the municipality is required to provide or maintain following the annexation, of services and facilities provided by public and private entities in each area proposed for annexation. Requires the municipality to request information from each entity that provides services or facilities in each area proposed for annexation, and requires the fulfillment of the request by the various entities within 90 days.

Requires the information to include the type of service provided, the method of service delivery, and other relevant information specified. Authorizes a municipality to impose a certain administrative penalty of $200 for each day of violation within the 90-day period. Requires the municipality to prescribe procedures ensuring due process in the imposition of administrative penalties. Requires the information to be based on the services and facilities provided during the year preceding the date of adoption or amendment of an annexation plan. Requires entities to include a certain engineer's report and a summary of certain expenditures for utility facilities, roads, drainage structures, and other infrastructures provided. Requires the inventory to include certain information for police, fire, and emergency medical services provided by various entities.

Requires the municipality to complete the inventory and allow for public inspection within 60 days after the municipality receives the required information.

**ANNEXATION OF CERTAIN ADJACENT AREAS**

Prohibits a municipality from annexing an area located in the municipality's extraterritorial jurisdiction if the only reason for annexation is that the area is contiguous to the municipal territory, which is less than 1,000 feet in width at its narrowest point. Prohibits a municipality from annexing an area located in the municipality's extraterritorial jurisdiction only because the area is contiguous to certain municipal territory; this prohibition does not apply if the minimum width of the narrow territory described is no longer less than 1,000 feet in width at its narrowest point after the annexation. Provides that roads, highways, rivers, lakes, or other bodies of water are not included in computing the 1,000 foot distance unless the area annexed includes such features.

Exempts from this limitation municipalities with populations of 350,000 or less that border the Gulf of Mexico where the area being annexed includes land in addition to a road, highway, river, lake, or other body of water.

**PROVISION OF SERVICES TO ANNEXED AREAS**

Requires a governing body proposing an annexation to certain departments to prepare a service plan before the first day of the 10th month after the month in which the above-referenced inventory is prepared. Requires the municipality to provide the services by any of the methods by which it extends the services to any other area of the municipality.

Requires the service plan to provide full municipal services in the annexed area no later than 2.5 years, rather than 4.5 years, after the effective date of annexation, unless certain services cannot reasonably be provided within that period and the municipality proposes a schedule providing for those services. Requires the schedule to provide for full municipal services no later than 4.5 years after the annexation's effective date, if the municipality proposes an extension to the schedule to provide certain services.

Requires the municipality to provide certain critical services, with the addition of emergency medical services, on the effective date of annexation, rather than within 60 days after.

Requires the service plan to include a program under which the municipality will initiate, after the effective date of annexation, the acquisition or construction of capital improvements. Requires the construction to be completed within the period provided in the service plan. Authorizes the service plan to be amended to extend the period for construction provided that the construction is proceeding with all deliberate speed.

Prohibits a municipality from providing services under a service plan in a manner that would have the effect of lowering fire and police protection services previously provided within the municipality before annexation.

Requires a service plan to provide services in the annexed area at the same level as provided in the municipality, if the level of services in the annexed area was at or below the level of services in the municipality. Requires a service plan to provide to an annexed area a level of services available in other parts of the municipality with similar land use and population densities to those reasonably contemplated or projected for the annexed area, if the services in that area are superior to that provided in the municipality. Requires a service plan to maintain and operate the infrastructure of the annexed area at a level of services that is equal or superior to the prior level of services for maintaining the infrastructure in the annexed area, if there was a superior level prior to annexation.

Requires the service plan to be made available and explained in public hearings.

Authorizes a person owning land in an annexed area to apply for a writ of mandamus within two years of knowing that the municipality was not complying with the service plan. Establishes that if a writ of mandamus is applied for, the municipality has the burden of proof to establish that the provided services meet the service plan as required.

Specifies that the governing body of the municipality determines the different levels of service necessary for each area of the municipality. Provides that nothing in this subsection modifies the requirement for a service plan to provide a level of services in an annexed area that is equal or superior to the level of services provided prior to annexation.

Requires the municipality to conduct two public hearings on annexation prior to instituting annexation proceedings. Requires the hearings to be conducted by a certain date. Requires at least one of the hearings to be held in the proposed annexation area if a written protest is filed by permanent area residents within 10 days after the notice of publication date. Specifies certain information required on the protest concerning the protesters.

Requires the municipality to publish notice of the hearings with certain requirements concerning when, where, and to whom the notice must be published. Enables a person living in a municipality with a population of 1.6 million or greater to enforce a service plan by petition to the municipality and request for arbitration.

Does not require a uniform level of municipal services to all areas of a municipality if different characteristics of topography, land use, and population constitute a sufficient basis for providing different levels of service. Differences in levels of service based upon such variations cannot violate the principle that a municipality's service plan must provide services to annexed areas that are equal or superior to the services already provided inside the municipal boundaries.

Forbids a municipality, prior to the third anniversary after an area is annexed, from prohibiting the use of privately-owned waste collection and waste management services by the residents of an area.

**REQUIRED NEGOTIATIONS WITH UNINCORPORATED AREA**

Requires the municipality and the property owners of the area proposed for annexation to negotiate the provision of services. Requires the commissioners court of the county in which the area proposed for annexation is located to select five representatives to negotiate with the municipality for the provision of services. Requires a court to select two representatives to negotiate with the municipality, in cases where the area proposed for annexation is located in multiple counties, with the county with the largest population sending three representatives to negotiate. Requires the governing body of the district to negotiate with the municipality for the provision of services. Sets forth procedures for selecting representation for counties involved in negotiations with a municipality proposing annexation of an area which includes multiple counties.

Provides that, if a municipality and the representatives of an unincorporated area cannot agree on a service plan, either party by majority vote of its representatives may request binding arbitration. During the pendency of the arbitration and appeal therefrom, the city may not annex the area in question.

In situations involving disannexation, empowers a district court to: require compliance with a service plan sooner than originally planned if the municipality fails to disannex an area on a timely basis; require the municipality to refund fees collected for services that were not provided; assess a civil penalty against a municipality for the period the municipality fails to comply with the service plan; require the parties to participate in mediation; require the municipality to pay the attorney's fees of an individual who brings a writ of mandamus against the municipality for failure to comply with the service plan.

Prohibits an area which has been disannexed from being reannexed for 10 years, rather than five years.

**CONTRACTS FOR PROVISION OF SERVICES IN LIEU OF ANNEXATION**

Authorizes the municipality to negotiate and enter into a written agreement with designated representatives from the unincorporated area for the provision and funding of services. Authorizes the agreement to include agreements related to land uses and compliance with municipal ordinances. Provides that an agreement under this section is in lieu of annexation by the municipality of the area. Authorizes the parties to agree to certain terms.

**ARBITRATION REQUIREMENT**

Permits representatives of the area proposed for annexation by a majority vote to request the appointment of an arbitrator to resolve specified types of disputes with the annexing municipality. Requires the request to be made in writing by a certain date.

- ◊ Prohibits a municipality from annexing an area under another section of this chapter pending an arbitration proceeding or appeal from an arbitrator's decision.
- ◊ Authorizes the parties to the dispute to agree on the appointment of an arbitrator.

Requires the chief administrative judge in the county with jurisdiction to appoint a qualified person who is not a resident or property owner of the municipality or area proposed for annexation to serve as arbitrator, if the parties cannot agree on an arbitrator before the 31st day after the date arbitration was requested. Establishes that the arbitrator is limited to issuing a decision relating to the service plan issues in dispute.

Authorizes the arbitrator to receive certain evidence the arbitrator considers relevant, administer oaths, and issue subpoenas to require the attendance and testimony of witnesses and the production of certain materials. Requires the arbitrator to complete the hearing within one day.

Authorizes the arbitrator to schedule an additional hearing within one week of the conclusion of the first. Requires the arbitrator to issue a decision in writing and deliver a copy to the parties within two weeks of the day of the final decision, unless otherwise agreed to by the parties involved.

Authorizes either party to appeal any provision of an arbitrator's decision that exceeds the authority granted under the bill to a district court in a county in which the area proposed for annexation is located.

Prohibits a municipality from annexing an area before the fifth anniversary of the date of the arbitrator's decision, if the municipality does not agree with the terms of the decision.

Requires the municipality to pay the cost of the arbitration unless the arbitrator concludes that the request for arbitration submitted by the representatives of the area proposed for annexation was groundless or requested in bad faith or for the purpose of harassment, the arbitrator may require the area proposed for annexation to pay all or part of the cost of arbitration.

Provides that, in the event of a decision unfavorable to the municipality, the area proposed for annexation may not be annexed prior to the fifth anniversary of the date of the arbitrator's decision.

Provides that, if an arbitrator has allegedly exceeded the authority conferred upon him or her, either party may appeal any provision of an arbitrator's decision to a district court in a county in which the area proposed for annexation is located.

**JUDICIAL INVALIDATION OF ANNEXATION**

Provides that, if an annexation is invalidated by final judgment of a court, the annexing municipality is required to disannex the area in question and refund to the taxpayers of the area any amount collected while the area was considered to be inside the corporate boundaries of the municipality minus any amount already spent for the provision of services. The refunds shall be paid within 180 days after the final judgment of the court. Failure to provide the refunds according to the terms of the statute triggers a penalty provision. An area disannexed by court order may not be annexed before the tenth anniversary of the order invalidating the original annexation attempt.

**ANNEXATION PROCEDURE FOR AREAS EXEMPTED FROM MUNICIPAL ANNEXATION PLAN**

Applies to an area proposed for annexation that is not otherwise required to be included in a municipal annexation plan under the bill. Requires the governing body to conduct two public hearings, during a certain time period, giving persons interested in an annexation the opportunity to be heard. Requires at least one of the hearings to be held in an area proposed for annexation if a site is available and more than 10 percent of the permanent residents of the area file a written protest with the secretary of the municipality within 10 days after the date of the required publication of notice. Requires the protest to include certain information about the protestors.

Requires a municipality to publish a notice of hearings on the Internet, in the newspaper, and by mail to all affected public entities and service providers, as well as railroads whose right-of-way would be affected by the annexation. Allows hearings concerning a proposed annexation to be held either in the proposed area for annexation, or, if none is available in the area proposed for annexation, in the nearest available public facility.

**PERIOD FOR COMPLETION OF ANNEXATION**

Requires the annexation proceedings to be completed within 90 days of the annexation proceeding being instituted, or those proceedings are void. Provides that the time during which a municipality is restrained or enjoined by a court of competent jurisdiction from annexing an area, is not included in the 90-day time limit. Authorizes a governing body of a municipality with a population of more than 1.5 million or more to provide that an annexation take effect on any date within 90 days after the adoption of the ordinance providing annexation.

**PARTNERSHIPS WITH MUNICIPAL UTILITY DISTRICTS**

Authorizes, rather than requires, municipalities and municipal utility districts (MUDs) to negotiate and enter into a written strategic partnership agreement for the MUD or other special purpose district by mutual consent. Requires the governing body of a municipality to negotiate and enter into a written strategic partnership agreement with the MUD or improvement district (ID), on a written request from a MUD or an ID included in the municipality's annexation plan. Authorizes either party to seek binding arbitration of the issues relating to the disputed agreement if either party fails to agree on the terms of a strategic partnership agreement and makes a written request by a certain date.

Prohibits the governing body of a municipality from annexing the MUD or the ID pending negotiations of the strategic partnership agreement, the arbitration proceeding, or any appeal from the arbitration award.

Provides that, if more than one MUD is located in an area proposed for annexation, the governing boards of the districts may together select five representatives to negotiate with the municipality.

**TAXES AND FEES**

Limits the municipal taxes that may be imposed on an annexed area if certain conditions exist. Requires a municipality disannexing an area to refund to the area landowners any taxes or fees collected that were not spent for the direct benefit of the area. Requires the municipality to proportionately refund the amount to each landowner.

**EFFECT OF ANNEXATION ON SCHOOL DISTRICT**

Requires a municipality that proposes to annex an area to provide a written notice of the proposed annexation to each public school district located in the area within the time period prescribed for publishing the notice of the first hearing. Requires a notice to a public school to contain certain descriptions. Prohibits a municipality from proceeding with the annexation unless a city provides the required notice. Requires a municipality that has annexed an area between December 1, 1996 and September 1, 1999 in which a school district has a facility, to grant a variance from the municipality's building code, if needed.

Requires a municipality to notify the governing board of the school district in writing of a variance granted by a municipality under this subsection. Requires the governing board of the school district to notify the municipality in writing of the proposed actions to be taken in regard to the granted variance.

**SELLER'S DISCLOSURE REGARDING POTENTIAL ANNEXATION**

Requires a seller of an interest in real property in this state to provide a written notice regarding possible annexation as prescribed in this section to the purchaser of the property. Sets forth notice requirements.

- ◊ Provides that a seller has no duty to provide additional information regarding the possible annexation of the property by a municipality, if a notice is delivered as provided.
- ◊ Authorizes the purchaser to terminate the contract for any reason within the earlier of seven days of receiving the notice or the date the transfer occurs, if a notice was not provided as required by this section.

Requires each municipality to adopt an annexation plan on or before December 31, 1999, which becomes effective on that date.

**MISCELLANEOUS RELEVANT PROVISIONS**

Deletes the requirement that prohibits a home-rule municipality with more than 225,000 inhabitants from annexing in its extraterritorial jurisdiction unless authorized to do so in its home-rule charter.

## NOTICE REGARDING POSSIBLE ANNEXATION - S.B. 167

*by Senator Carona*
*House Sponsor: Representative Goolsby*

Currently, a seller of real property is not required to deliver notice to purchasers regarding possible annexation of the property. A buyer of real estate located outside a city's limits may not be aware that the property lies within the city's extraterritorial jurisdiction and is subject to future annexation.

Requires a seller of real property in an unincorporated area to provide a potential buyer with written notice concerning the possibility of the property's annexation in the future.

## PRE-ANNEXATION PAYMENTS FOR DEVELOPERS - S.B. 262

*by Senator Brown*
*House Sponsor: Representative Bosse*

Requires an annexing municipality to pay utility reimbursements to developers prior to the annexation of a special purpose water district, as well as penalties and interest on reimbursement payments that are delinquent on the effective date of the bill.

Currently, a municipality with fewer than 1.5 million inhabitants that annexes a special purpose water district (district) must pay any amounts owed to developers who invested in the district's water and wastewater systems. Upon annexation, the city becomes the owner of the utility system; therefore, the city must make reimbursement payments to developers. S.B. 262 requires such municipalities to make such reimbursements *prior to* annexation.

Requires a municipality to pay the landowner or developer of the district a sum in cash equal to all actual costs and expenses incurred by the landowner or developer in connection with the district that adheres to provisions specified in the bill. For an annexation that is subject to preclearance by a federal authority, the bill provides that a payment will be considered timely if payment is placed in escrow prior to annexation and is released to the developer within five days of receiving notice of federal preclearance.

Creates a procedure to follow in the event that a city cannot complete annexation of a district prior to the effective date as a result of the developer's failure to provide information to the municipality which cannot be obtained from other sources. In such a case, the municipality shall obtain from the district the estimated costs of each project previously undertaken by a developer which are eligible for reimbursement. The amount of such costs, as estimated by the district, shall be escrowed by the municipality for the benefit of the developer.

Requires the municipality to initiate and complete for each developer a report conducted in accordance with the format approved by the Texas Natural Resource Conservation Commission.

Requires all interest accrued on the escrowed funds to be paid to the developer whether or not the annexation is valid to compensate the developer for the municipality's use of the infrastructure facilities pending the determination of the reimbursement amount or federal preclearance. Upon placement of the funds in the escrow account, the annexation may become effective.

Imposes penalties and interest on reimbursement payments that are delinquent on the effective date of this bill.

## VOTING RIGHTS FOR ANNEXED RESIDENTS - S.B. 752

*by Senator Sibley*
*House Sponsors: Representatives Dunnam and Averitt*

Expands municipal voting rights for annexed residents. In a municipal election held on or after the 90th day subsequent to annexation by a home-rule city with 110,000 or fewer inhabitants, this bill enables all qualified voters in the annexed area to vote in a municipal election. Currently, the ordinance adopting the boundary change must be adopted more than five months before election day for a single-member city council district.

Declares that, in a municipal election held on or after the 90th day subsequent to annexation by a home-rule city with 110,000 or fewer inhabitants, any otherwise qualified resident of an annexed area is eligible to run for municipal office.

## POSSIBLE HOMEOWNER MUST BE TOLD OF ANNEXATION - H.B. 641

*by Representative Howard*
*Senate Sponsor: Senator Lindsay*

Texas law does not require a prospective purchaser of residential property to be notified that the property may be subject to future annexation because it is located within a city's extraterritorial jurisdiction. This bill would require a municipal utility district to disclose to the purchaser of residential real property that the district is located in the extraterritorial jurisdiction of a municipality and may be annexed by the municipality, or that the district is located within the corporate boundaries of a municipality.

Requires a municipal utility district to disclose to the purchaser of residential property that the district is located in the extraterritorial jurisdiction of a municipality or within the corporate boundaries of a municipality, and prescribes the statutory language that is required to be used for such notice.

## ANNEXATION OF FRESH WATER SUPPLY DISTRICTS BY CITIES - H.B. 1291

*by Representative Brimer*
*Senate Sponsor: Senator Harris*

Currently, Texas law authorizes a city to take over a nonprofit water supply or sewer service corporation and special utility districts within its boundaries for single certification process. However, a city is prohibited from annexing fresh water supply districts that provide similar services. H.B. 1291 allows a municipality to annex a fresh water supply district and to apply for a certificate of public convenience from the Texas Natural Resource Conservation Commission (TNRCC) to operate such a district.

Provides that all retail public utilities certified to provide service or operate facilities before the annexation may continue and extend service in their areas of public convenience and necessity.

Provides that a utility owned or operated by the municipality is not required to obtain a certificate of public convenience and necessity to provide retail water or sewer service in territory within its boundaries if: (1) the territory or customers in the territory are not receiving service from the retail public utility that holds a certificate for the territory at the time the territory is first included in the municipality; (2) such retail public utility has no facilities located within the territory at the time the territory is first included in the municipality; and (3) such retail public utility has held the certificate of convenience and necessity which includes the territory for at least ten years.

Shields an annexing municipality from the obligation to compensate the retail public utility for any property in the territory for the loss of service area of the retail public utility.

## RESOLVING DISPUTES OVER AN APPRAISER'S QUALIFICATIONS - H.B. 1362

*by Representative Clark*
*Senate Sponsor: Senator Ogden*

The Water Code currently allows municipalities to receive a single certificate to provide water and sewer service for areas within their corporate limits when the certificate of convenience and necessity for those areas was previously held by another retail public utility, usually in an unincorporated area that was recently annexed. The municipality compensates the retail public utility for the transferred service area and infrastructure. An appraiser selected by the retail utility determines the value of the service area and infrastructure, and the municipality compensates the appraiser, whose decision is binding on the Texas Natural Resource Conservation Commission (TNRCC). If either the city or the retail utility in an unincorporated area disputes an appraiser's qualifications, H.B. 1362 allows for the equitable resolution of the dispute, either by the parties or by TNRCC.

Requires the city and the retail utility to appoint an independent appraiser who evaluates the compensation proposed for the utility. If the utility and municipality cannot agree on a single independent appraiser, the bill requires the municipality and the utility each to appoint independent appraisers. The bill then authorizes the utility or city to petition TNRCC for the appointment of a *third* independent appraiser to *reconcile* the appraisals.

The bill prohibits this reconciling appraisal from being less than the lowest, or more than the greatest, of the other appraisals.

## CRIMINAL NUISANCES IN MULTIUNIT RESIDENTIAL PROPERTY - S.B. 56

*by Senator Harris*
*House Sponsor: Representative Goodman*

Currently, under S.B. 642, 75th Legislature, the common nuisance statute applies to a person maintaining a multiunit residential property, which a person habitually goes to commit several serious offenses. S.B. 642 was written for a particular neighborhood in Fort Worth, and carries a population cap of 440,000. S.B. 56 allows the common nuisance statute to apply to any municipality.

Redefines the circumstances under which a person creates a common nuisance by eliminating the minimum population requirement for common nuisances arising in multiunit residential properties.

## CONTRACTING POWER FOR NAVIGATION DISTRICTS - S.B. 201

*by Senator Truan*
*House Sponsor: Representative Seaman*

Currently, Texas law does not authorize ports to contract with foreign entities to facilitate waterborne trade. Texas ports are centers for international trade and have no explicit authority to contract with foreign individuals, corporations, or units of government to conduct their business. Navigation districts are only granted certain specific powers by the Texas Constitution.

S.B. 201 confers upon navigation districts the power to contract with any person, foreign or domestic, for any purpose necessary or convenient to the operation or development of ports or waterways.

## PUBLIC SAFETY INSPECTIONS OF SITES FOR MASS GATHERINGS - S.B. 339

*by Senator Madla*
*House Sponsor: Representative Uresti*

The Texas Mass Gathering Act currently requires a promoter who holds a gathering, which is expected to attract more than 5,000 persons who will remain at the gathering for more than 12 continuous hours, in an unincorporated area of a county to file a permit application with the county judge where the gathering will be held. The county judge must send a copy of the application for the gathering to the county health authority and the sheriff.

Under this bill, the fire marshal or other designee is then required to submit to the county judge a report stating whether the minimum standards for ensuring state and local fire safety laws, rules, and orders will be maintained.

Officials including the county health authority, the county fire marshal, and the sheriff are also authorized by the bill to conduct inspections *during* a mass gathering to ensure that minimum health and safety standards are being maintained, and to order the promoter of the gathering to correct any violations.

## HOUSTON METRO. TRANSPORTATION AUTHORITY EMPLOYEES - S.B. 621

*by Senator Gallegos*
*House Sponsor: Representative Farrar*

Vetoed

Currently, most employees of the Houston Metropolitan Transportation Authority (HMTA) are covered by a collective bargaining agreement; however, police officers employed by HMTA are unable to negotiate an employment agreement with management. The legislature has enacted several statutes that allow political subdivisions to negotiate employment agreements with police officers. In 1973, the legislature enacted the Fire and Police Labor Relations Act (codified in 1993 as the Fire and Police Employee Relations Act, Chapter 174, Local Government Code), to create a structured bargaining process that could be adopted by public referendum. In 1993, 1995, and 1997, the legislature amended the Municipal Civil Service Act, Chapter 143, Local Government Code, to allow police associations in certain municipalities to meet and confer with employees over employment matters.

S.B. 621 creates a statute to allow police officers employed by the HMTA to meet and confer, and to negotiate over wages and other employment conditions.

## DEVELOPERS MUST FILE PLATS WITH COUNTY OFFICIALS - S.B. 710

*by Senator Wentworth*
*House Sponsors: Representative Bob Turner, et al.*

The *Elgin Bank v. Travis County* court decision created a loophole in the county subdivision authority that allows developers to bypass the subdivision platting process. Under *Elgin Bank*, a plat has to be filed with the county *only if* the owner subdivided land and dedicated land for public use, such as roads or streets. Currently, a developer who subdivides property, but does not dedicate land for public roads or other infrastructure is not required to file a plat, which means a project can be completed without notifying a public entity.

S.B. 710 creates procedural protections for landowners submitting plats to county authorities for approval, and requires a plat to be filed when land is subdivided whether or not land is set aside for public use.

- ◊ Exempts various kinds of land uses from county platting requirements, including but not limited to (1) land to be used primarily for farming, timber production, wildlife management, or ranching; (2) land to be divided into four or fewer plots and transferred to people related to the landowner, as defined by the bill; (3) land divided into plots of ten acres or greater; (4) land belonging to a state agency, except under specific circumstances; and (5) land subdivided for sale to veterans through the Veterans' Land Board program.

## WATER/UTILITY SYSTEM SERVING UNINCORPORATED AREAS - S.B. 821

*by Senator Armbrister*
*House Sponsor: Representative Olivo*

Some residents of unincorporated areas have limited access to adequate purified water supplies and sanitary sewer facilities. This bill authorizes a county to issue bonds payable solely from the revenue generated by the water or sewer utility system in order to finance the water or sewer utility system. However, the bill does not authorize the issuance of general obligation bonds payable from ad valorem taxes to finance a water or sewer utility system. S.B. 821 also authorizes a county to acquire any interest in property necessary to operate a water or sewer system, including through the exercise of eminent domain, unless the property is located in a municipality.

Authorizes a county to acquire, own, or operate a water or sewer utility system to serve an unincorporated area of the county in the same manner and under the same regulations as a municipality.

Authorizes a county with a population of 2.8 million or more and any adjoining counties to issue general obligation bonds and/or to exercise the power of eminent domain *if* qualified voters in the county approve of the plan.

## REIMBURSEMENT OF CONTRACTORS' COSTS FOR PROJECTS - S.B. 896

*by Senator Brown*
*House Sponsor: Representative Carter*

Under current law, a municipality is limited to reimbursing up to 30 percent of the total contract price for public improvements. When a developer plans for and constructs water and waste water facilities, the developer usually installs only such facilities necessary to meet the capacity of the area. The municipality often then requires the oversizing of these facilities to meet future capacity in anticipation of development in the area. S.B. 896 provides that the contract must establish the limit of participation by the municipality at a level not to exceed 30 percent of the total contract price, but, in addition, allows participation by the municipality at a level not to exceed *100 percent* of the total cost for any oversizing of improvements required by the municipality. The bill makes the municipality liable only for the agreed payment of its share, which will be determined in advance either as a lump sum or as a factor or percentage of the total actual cost, as determined by municipal ordinance.

## COUNTIES CAN USE REAL ESTATE BROKERS TO SELL LAND - S.B. 1896

*by Senator Jackson*
*House Sponsor: Representative Gray*

Under current law, the provisions allowing a county to engage the services of a real estate broker may be ambiguous as to whether or not the county can avoid the competitive bid statute by using the services of the real estate broker. The use of such a process might be an alternative to a public auction.

S.B. 1896 authorizes the sale of county land to a ready, willing, and able buyer produced by any real estate broker using the multiple-listing service who submits the highest cash offer. If the sale is conducted in this fashion, the bill requires a real estate broker to list the tract of real property for sale for 30 days with a multiple-listing service used by other real estate brokers in the county.

Authorizes a county commissioners court to contract with a real estate broker, rather than a person licensed under the Real Estate License Act, to sell a tract of real property that is owned by the county.

Also authorizes a commissioners court to sell a tract of real property under this section without complying with the requirements for conducting a public auction. Under current law, the provisions allowing a county to engage the services of a real estate broker may be ambiguous as to whether or not the county can avoid the competitive bid statute by using the services of the real estate broker.

## APPEAL OF DECISION OF MUNICIPAL BOARD OF ADJUSTMENT - H.B. 116

*by Representative Smith*
*Senate Sponsor: Senator Harris*

H.B. 116 provides that a taxpayer, officer of municipal government, or other person aggrieved by the decision of a municipal board of adjustment may seek judicial review by filing a petition with a district court, county court, or county court at law. The petition is required to state the decision of the board of adjustment is illegal and to specify the grounds of the illegality.

## NEIGHBORHOOD GROUPS ENFORCE HEALTH AND SAFETY CODE - H.B. 247

*by Representative Puente*
*Senate Sponsor: Senator Wentworth*

Vetoed

Citizens' sole recourse in response to violations of safety and health code ordinances in their neighborhoods now consists of contacting their city's code compliance department; unfortunately, considerable time can elapse before city officials respond. H.B. 247 enables local governments to use neighborhood associations to assist in the enforcement of certain municipal health and safety ordinances.

## BRANCH LOCATIONS FOR COUNTY CLERKS - H.B. 1138

*by Senator Ellis*
*House Sponsor: Representative Thompson*

County clerks now operate branch offices and use clerk deputies for the purpose of issuing marriage licenses. H.B. 1138 seeks to make county clerks more accessible to their constituents by making all clerk services available at branch offices. Allows a county clerk to use branch offices and clerk deputies for services other than issuing marriage licenses.

## DOUBLE PARKING IN A CENTRAL BUSINESS DISTRICT - H.B. 1575

*by Representative Maxey*
*Senate Sponsor: Senator Barrientos*

Prior to the 76th Legislature, state law prohibited "double parking." Activities such as valet parking and loading and unloading goods sometimes required double parking. The result has been that police had to make judgment calls when they see these activities, and employees were unsure whether and how to carry out their job duties. Since many activities relating to downtown businesses required double parking, police often were placed in the position of having to enforce the law on a case-by-case basis.

H.B. 1575 promotes uniform application of the law and helps downtown economies by allowing municipalities to regulate double parking in their downtown areas.

Authorizes municipalities to pass ordinances regulating standing, stopping, or parking a commercial vehicle in a central business district, other than on a road or highway that forms part of the state highway system, and further provides that any conflict between such an ordinance and pertinent parts of the Transportation Code shall be resolved in favor of the local ordinance.

## REINSTATING PERMITTING REQUIREMENTS FOR LOCAL GOV. - H.B. 1704

*by Representative Kuempel, et al.*
*Senate Sponsor: Senator Shapiro*

Subchapter I, Chapter 481, Government Code, was repealed by the 75th Legislature. As a result, current law allows a political subdivision to apply changes in its regulations and permit requirements retroactively. This bill reinstates certain provisions that prohibit governmental permitting units from acting retroactively.

Requires each regulatory agency of a political subdivision of the state, including a county, school district, or municipality, to consider the approval, disapproval, or conditional approval of an application for a permit solely on the basis of any orders, regulations, ordinances, rules, expirations dates, or other properly adopted requirements in effect at the time the original application for the permit is filed.

If a series of permits is required for a project, the application for the first permit in that series that is filed shall be the sole basis for consideration of all subsequent permits required for the project. Provides that all permits required for the project are considered to be a single series of permits. Provides that preliminary plans and related subdivision plats, site plans, all other development permits for land covered by the preliminary plans are considered collectively to be one series of permits.

Prohibits a regulatory agency from shortening the duration of any permit after an application for a project is filed.

Allows a permit holder to take advantage of recorded subdivision plat notes, recorded restrictive covenants required by a regulatory agency, or a change to the laws, rules, regulations, or ordinances of a regulatory agency that enhance or protect the project, including lengthening the effective life of the permit after the date the application was made, without forfeiting any rights under this chapter.

Provides that this chapter applies only to a project in progress or commenced after September 1, 1997, and lays out conditions under which a project is considered to have commenced.

Provides that a regulatory agency may enact an ordinance, rule, or resolution that places an expiration date on a permit one year after the effective date of this chapter if the permit does not have an expiration date and no progress has been made on the project. Defines what constitutes progress toward completion of a project.

Provides that this chapter may only be enforced through mandamus or declaratory or injunctive relief.

Provides that any actions taken by a regulatory agency for the issuance of a permit after the repeal of Subchapter I, Chapter 481, Government Code and before the effective date of this Act, shall not cause or require the expiration or termination of a project.

Prohibits anything in this Act from being construed to apply to a condition or provision of an ordinance, rule, or regulation that is enacted by a regulatory agency which is specifically required by uniformly applicable regulations adopted by a state agency after the effective date of this Act.

Prohibits anything in this Act from limiting or otherwise affecting the authority of certain political entities with respect to the implementation of the federal Coastal Zone Management Act or Subtitle E of the Natural Resources Code, or from applying to a permit, order, rule, or regulation adopted in connection with the Coastal Zone Management Act or Subtitle E, Natural Resources Code.

## ACTIONS OF SOME GOVERNMENTAL BODIES VALIDATED - H.B. 1847

*by Representative Hill*
*Senate Sponsor: Senator Madla*

Vetoed

From 1934 to 1997, the Texas Legislature regularly passed statutes that validated certain actions taken by cities. Some validation statutes have been very specific and validated particular actions of cities, such as bond elections or incorporations, while most are general validating statutes pertaining to all cities. The purpose of this type of legislation is to provide some defense to governmental actions that are valid and within the entity's authority to act, but that were enacted incorrectly from a procedural or clerical standpoint.

H.B. 1847 provides this same type of protection to districts operating under Chapters 36 or 49 of the Water Code such as groundwater conservation districts, municipal utility districts, irrigation districts, river authorities, or drainage districts.

## IMPACT FEES IN POLITICAL SUBDIVISIONS - H.B. 2045

*by Representative Brimer*
*Senate Sponsor: Senator Harris*

Vetoed

Current law authorizes certain political subdivisions of this state to impose impact fees on new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions attributable to the new development. However, taxes and fees generated by new development may exceed the additional cost to a political subdivision necessitated by the development.

H.B. 2045 provides that a service unit, the basis of impact fees, is established based on historical data and trends applicable to the political subdivision in which the individual unit of development was located during the previous ten years. This bill also modifies the imposition and use of impact fees.

## TECHNICAL CORRECTIONS TO H.B. 2045 - H.C.R. 310

*by Representative Brimer*
*Senate Sponsor: Senator Harris*

Vetoed

This resolution makes numerous technical corrections to H.B. 2045, 76th Legislature, which addresses impact fees charged to developers by political subdivisions.

## RURAL VOLUNTEER FIRE DEPT. ASSISTANCE PROGRAM - H.B. 2107

*by Representative Cook, et al.*
*Senate Sponsor: Senator Armbrister*

The bill defines a volunteer fire department as one that is operated by its members on a not-for-profit basis, including a department that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986.

- ◊ No fire department is eligible for assistance under the Rural Volunteer Fire Department Assistance Program (program) if any of its members receive compensation for his or her fire fighting services from any political entity.
- ◊ Provides the Forest Service will decide whether a volunteer fire department is eligible for funds based on whether it already receives adequate funding from other sources; further, the Forest Service will submit an annual financial report to the state comptroller, lieutenant governor, and speaker of the house.

Empowers the Director of the Texas Forest Service (director), part of the Texas A&M University System, to administer the Rural Volunteer Fire Department Assistance Fund.

Provides for the creation of an advisory committee to advise the director in the administration of the program.

Creates the Rural Volunteer Fire Department Assistance Fund in the general revenue fund and is composed of money collected primarily from a retail fireworks sales tax created by the bill, as well as from other sources.

## COMPETITIVE BIDDING FOR EMERGENCY DISTRICTS - H.B. 2122

*by Representative Kuempel*
*Senate Sponsor: Senator Wentworth*

The law currently distinguishes between counties with populations greater than 125,000, which must comply with competitive bidding requirements for bids above $25,000, and counties with populations less than 125,000, which must comply with such requirements for any bid above $15,000. H.B. 2122 establishes $25,000 as the minimum bid amount for compliance with competitive bidding requirements for emergency service districts, regardless of the size of the county.

Requires the board of emergency commissioners (board) to comply with competitive bidding requirements for any expenditure of more than $25,000, whether the proposed expenditure involves a purchase, lease, or service to be performed. The bill also requires the board to notify certain entities with written notice by mail of the intended purchase, and for the advertisement for bids to comply with provisions set out in the Local Government Code. The bill also sets forth conditions for written notification to bidders and for the preparation of restrictive bid specifications, along with other procedural requirements.

## SELLING COUNTY PROPERTY - H.B. 2388

*by Representative Jim Solis*
*Senate Sponsor: Senator Madla*

Vetoed

Currently, Section 381.004(c)(3), Local Government Code, provides that the commissioners court may use county employees or funds for a program designed to stimulate economic development in a county. The statute does not specifically address the use of a county's real property as an incentive for the location of businesses. Article 725d (County Acquisition of Land and Facilities for Lease to Public or Private Entities), V.T.C.S., allows for the leasing of real property for economic development purposes but does not address the purchase of property. A site for establishing a business is an important element of a package offered to encourage a business to locate within a jurisdiction. Various sale statutes applicable to counties make the negotiation of development incentive packages difficult to achieve, particularly laws requiring that real property be sold under an auction or sealed bid procedure. There is no exemption in the applicable statutes for real property used for economic development purposes. For that reason, counties are often unable to directly negotiate with any degree of certainty the terms of the sale.

H.B. 2388 authorizes counties to sell property for economic development purposes without going through the competitive bid process.

## DALLAS COUNTY JUDGES' ANNUAL SALARY - H.B. 2536

*by Representative Yvonne Davis*
*Senate Sponsor: Senator West*

Vetoed

Section 152 of the Local Government Code regulates the salary of county judges. This bill requires the commissioners court of Dallas County to set the annual salary of the county judge at an amount that is not less than $1,000 more than the total annual salary received by a county criminal court at law judge in the county.

## COLLECTION OF MONEY BY COMMISSIONERS COURTS - H.B. 2725

*by Representatives Pickett and Hinojosa*
*Senate Sponsor: Senator Lucio*

Vetoed

Currently, certain elected officials are authorized to collect money payable under Title 2, Code of Criminal Procedure. H.B. 2725 authorizes the commissioners court of a county to contract with public and private entities to collect funds due and owing to the county.

## ALDINE COMMUNITY IMPROVEMENT DISTRICT - H.B. 2891

*by Representative Bailey*
*Senate Sponsor: Senator Gallegos*

Vetoed

Surrounded by the City of Houston but excluded from its corporate limits, Aldine has experienced rapid population growth along with economic decline and social change, all of which have combined to create public needs that state law does not empower a county government to serve. H.B. 2891 creates the Aldine Community Improvement District as a governmental body politic and corporate, and political subdivision of the state.

## COUNTY ATTORNEYS IN CARSON COUNTY - H.B. 3120

*by Representative Chisum*
*Senate Sponsor: Senator Haywood*

Vetoed

Currently, there is concern that travel time burdens the district attorney serving in Carson County because the far north end of the district served is over 100 miles from the farthest county seat in the same district. H.B. 3120 divides duties between certain attorneys, and sets forth provisions regarding compensation to reflect the new duties of the county attorney.

## NOTICE TO RESIDENTS ABOUT CONTROVERSIAL BUSINESSES - H.B. 3598

*by Representative McClendon*
*Senate Sponsor: Senator Cain*

Amends the current notification process for specific proposed business establishments in communities: certain applicants for licenses or permits issued under the Alcoholic Beverage Code, for licenses or permits for a sexually oriented business, or for certain people who propose to construct correctional or rehabilitation facilities. When notifications for such proposed business establishments or development projects are posted in a timely manner, a neighborhood organization can contest and raise concerns regarding the proposal before construction of the proposed business establishments or development projects begin.

However, Texas law does not presently provide for a uniform procedure for notifying local authorities and residents of proposals for changes in the use of commercial property; under the current notification process, some communities have not discovered the existence of new development projects or businesses until projects were well underway.

Applies to a person or entity who: (1) applies for an alcohol permit for a location not previously licensed for on-premises alcohol consumption, (2) intends to operate a sexually oriented business in a jurisdiction that does not require a license or permit for such an enterprise, or (3) proposes to locate a correctional or rehabilitation facility at a given location. H.B. 3598 requires a proposed business in any of these three categories to post a prominent outdoor sign, at least 24 by 36 inches in size, which provides the community with pertinent information regarding the proposed land use on a timely basis, in English, as well as in a language other than English if necessary for the residents of a given community.

## TRAVIS COUNTY PROBATE COURTS - H.B. 3635

*by Representative Naishtat*
*Senate Sponsor: Senator Wentworth*

Vetoed

Currently, the Travis County probate courts' enabling statute includes jurisdiction that was added at a time when a probate court did not include mental retardation commitment jurisdiction with the probate court. The Probate Code was amended several years ago and gave probate courts jurisdiction over mental retardation commitments. The transfer provision affecting a third-party cause of action is different from those provisions of the other statutory probate courts. H.B. 3635 sets forth provisions related to Probate Court No. 1 of Travis County.

## FOR SMALL CITIES, NO ETJ BEYOND A NAVIGABLE STREAM - H.B. 3809

*by Representative Ron Lewis*
*Senate Sponsor: Senator Bernsen*

Requires a small home rule city to release unincorporated area from its extraterritorial jurisdiction (ETJ) if certain conditions are present. For unincorporated areas that are: (1) in the extraterritorial jurisdiction of a home-rule city with 60,000 or fewer inhabitants, (2) in a county with 240,000 or fewer inhabitants, and (3) separated from the home rule city's corporate boundaries by a navigable stream, as defined by Texas law, this bill requires the home rule city either to adopt an ordinance removing the unincorporated area on the other side of the stream from its ETJ, or to enter an agreement to cede the unincorporated area to the ETJ of a city on the same side of the stream as the unincorporated area. If the home rule city takes no action, the city automatically loses its ETJ on the other side of the stream as of January 1, 2000.

## REMOVAL OF GENERAL LAW MUNICIPAL OFFICIALS - H.B. 3836

*by Representative Truitt*
*Senate Sponsor: Senator Ellis*

Ambiguities present in the Local Government Code have resulted in questionable removal proceedings; city council members have put their colleagues "on trial" and allowed themselves to act as judges, juries, and witnesses. H.B. 3836 seeks to create procedures whereby general law city officials can be removed from office by a process which is less political in nature and which protects the rights of the accused. H.B. 3836 clarifies the procedure for removing officials from office in general-law municipalities.

The bill provides that, in order to commence removal proceedings against a municipal official, one must swear to and file a written petition in a district court that specifies the grounds alleged for the removal of the officer in plain and intelligible language, and to cite the time and place of the occurrence of each act alleged as a ground for removal. The bill confers upon the district court judge discretion to decide whether an order should be issued to require a citation and certified copy of the petition to be served on the official accused of wrongdoing.

Requires the person who files the petition to execute a bond in an amount and with conditions fixed by the judge; the bond will be used to pay damages and costs to the officer if the grounds for removal are found at trial to be insufficient or untrue.

Prohibits an officer from being removed for an act the officer committed before election to office.

Authorizes an officer to be removed from office for incompetency, official misconduct, or intoxication, whether on or off duty.

Requires an officer to have the right to trial by jury Requires the trial for the removal and proceedings connected with the trial to be conducted as much as possible in accordance with the rules and practice of the court in other civil cases. The district attorney must represent the state in a proceeding for the removal of an officer.

Authorizes either party to a removal action to appeal the final judgment to the court of appeals in the manner provided for in other civil cases.

Provides that the conviction of an official by a petit jury for any felony or for a misdemeanor involving official misconduct operates as an immediate removal from office. The trial court must suspend the removed official if it finds that the public interest requires this measure.

Provides that an officer removed is not eligible for reelection to the same office before the second anniversary of the date of the removal.

## BOLL-WEEVIL ERADICATION COST-SHARING - S.B. 448

*by Senators Duncan, et al.*
*House Sponsors: Representatives Hawley and Walker*

Currently, boll weevil eradication programs in Texas have been financed primarily by cotton growers, with limited help from the federal government. Growers have formed, in cooperation with the Texas Department of Agriculture, eradication zones to fight the boll weevil. This bill creates a cost-sharing program to eradicate the boll weevil and the pink bollworm.

Allows the commissioner of agriculture to contract for services with the Texas Boll Weevil Eradication Foundation, a nonprofit corporation.

Requires the Department of Agriculture to pay the Texas Boll Weevil Eradication Foundation at a rate no greater than established by the General Appropriations Act.

Restricts the use of boll weevil eradication services under this chapter to eradication zones in which a boll weevil eradication program is already active, or in which the United States Department of Agriculture has already declared boll weevil eradication complete.

## BOLL WEEVIL PROGRAM - S.B. 631

*by Senator Duncan*
*House Sponsors: Representatives Walker and Hawley*

Currently, certain aspects of the Texas Boll Weevil Eradication Foundation (foundation) with respect to its operation are acting within changes made by the 75th Legislature. There is a need for certain revisions to the boll weevil eradication statute. Enacts changes to existing boll weevil eradication program.

Creates a compliance certificate program in areas where growers have established eradication programs.

Authorizes the commissioner of agriculture to:

- ◊ inspect the financial records of the foundation at any time; and
- ◊ to adopt rules relating to the compliance certificate program to manage the payment and collection of an assessment levied.

Provides for mandatory venue in Travis County for disputes that arise in which the foundation is a party.

Eliminates joint and several liability for persons who apply pesticides or other chemicals using aircraft or other equipment and who are unaffiliated with the foundation (applicators) with respect to acts or omissions of the foundation.

Continues liability insurance requirement for the foundation and its employees with respect to activities that involve applicators, but does not require the foundation to carry liability insurance to cover acts or omissions of the applicators themselves.

Authorizes the foundation to:

- purchase goods and services that provide the best value for the foundation, for a purchase of goods and services under this chapter, using purchase price and whether the goods or services meet specifications to determine the best value;
- develop a compliance program to manage the payment and collection of assessments, including a compliance certificate for cotton for which an assessment has been paid; and
- assign, with approval of the commissioner, assessments or liens in favor of the foundation only if the proceeds of the loan are designated for use in the eradication zone from which the assessments or liens originated.

Provides that an assessment lien in favor of the foundation attaches and is perfected 60 days after the date the foundation mails notice of assessments on certain cotton.

## STATEWIDE AGRICULTURAL POLICY - H.B. 2

*by Representative Swinford*
*Senate Sponsor: Senator Ogden*

Agriculture comprises a major portion of the state economy, creating many job opportunities for Texans. Texas currently lacks a comprehensive statewide policy to address the agricultural industry, whether with regard to production, or processing, or the economic survival of agriculture industries and businesses. H.B. 2 establishes conditions regarding agriculture and a state agricultural policy.

The bill defines agriculture broadly to include the cultivation of the soil to produce crops; horticulture, floriculture or viticulture; forestry; or the raising or keeping of livestock or poultry.

Mandates the development of a comprehensive statewide agriculture policy by the legislature and the relevant state agencies that addresses the following issues:

- water availability, including planning for water supplies and drought preparedness and response;
- transportation, including the farm-to-market road system and intermodal transportation;
- the role of state regulatory policy;
- the role of state tax policy;

- ◊ the availability of capital, including state loans or grants authorized by Section 52-a, Article III, Texas Constitution;
- ◊ the promotion of Texas agricultural products, including development of domestic and foreign markets;
- ◊ eradication or control of injurious pests and diseases that affect crops and livestock;
- ◊ research and education efforts, including financial risk management and consumer education and education in the public schools;
- ◊ promotion of efficient utilization of soil and water resources;
- ◊ rural economic and infrastructure development;
- ◊ protection of property rights and the right to farm;
- ◊ preservation of farmland;
- ◊ food safety;
- ◊ efforts to participate in the formulation of federal programs and policies;
- ◊ promotion of rural fire service; and
- ◊ promotion of value-added agricultural enterprises.

Requires the legislature to conduct a comprehensive study of the condition of agriculture, the state's current programs in support of agriculture, and the role of the state in preserving the agricultural industry.

## AGRICULTURAL PROGRAMS - H.B. 3050

*by Representative Counts, et al.*
*Senate Sponsor: Senator Duncan*

Currently, the Texas Department of Agriculture (department) administers several programs to aid, assist, and promote the agriculture industry.

H.B. 3050 recreates the Young Farmer Loan Guarantee Program to effectively refinance loans and clarify the approval process for linked deposit applications.

The bills also requires the department to develop, maintain, and administer an agri-tech program in eligible institutions of higher education.

- ◊ Establishes the agriculture technology account as a general revenue fund account.
- ◊ Requires account funds to be used to match grants provided by the federal government or private industry for specific collaborative research projects at eligible institutions, when practicable within the purposes of this chapter.

## SOUTHEAST TEXAS AGRICULTURAL DEVELOPMENT DISTRICT - H.B. 3845

*by Representative Zbranek*
*Senate Sponsor: Senator Truan*

Historically, the Southeast Texas agricultural economy has been dependent on rice and livestock production. Attempts at feed grain and oil crop production have not been successful. There is concern that by the year 2002, the Federal Farm Program may drop all subsidies, and that other major contributing agricultural products may not produce the required income per acre to maintain a sufficient agricultural base. In light of the current economic condition of agriculture production in the coastal area, agriculture stock holders and land owners are evaluating the viability and profitability of alternative agricultural enterprises.

This bill creates the Southeast Texas Agricultural Development District (district) in and around Chambers County, and confers upon the district powers intended to promote and foster the growth of enterprises based on certain types of agriculture. The district is empowered to issue bonds, to enter contracts with public and private entities, to exercise the power of eminent domain, to annex territory according to procedures outlined in the Water Code, to fund agricultural research projects, and to exercise other powers necessary to achieve the purposes of the district. Some of those purposes created by the bill are as follows:

Authorizes the district to:

- ◊ encourage state economic development, including by making a loan or grant of public money for the purposes of this chapter;
- ◊ promote all agricultural enterprises, facilities, and services of the district; and encourage the maintenance and conservation of soil in the district;
- ◊ design, construct, and operate a sugar mill or other agricultural enterprise, and authorizes the district to acquire property necessary for a sugar mill or other agricultural enterprise;
- ◊ designate as an agricultural project a project that relates to the development of agriculture in the district and surrounding areas and the preservation and conservation of the soil in the district for agricultural purposes, and specifies that a project designated under this section is for a public purpose. The bill also authorizes the cost of a project, including interest during construction and costs of issuance of bonds, to be paid from any source;
- ◊ encourage the transportation and distribution of the district's agricultural products through the development and operation of transportation structures, including railroads and private roads; and
- ◊ cooperate and contract with other special purpose districts in the area.

## WATER AVAILABILITY MODEL FOR RIO GRANDE - S.B. 76

*by Senator Truan, et al.*
*House Sponsor: Representative Flores*

Requires the Texas Natural Resource Conservation Commission (TNRCC) to obtain or develop a water availability model for all existing water rights, uses, and demands on the Rio Grande river not later than December 21, 2003. Texas law already requires TNRCC to develop such models for all Texas river basins, including the Rio Grande. S.B. 76 provides more specific guidance for the Rio Grande basin, including a specific completion date. The bill specifies that the model shall encompass the significant water demands within the watershed of the river, as well as the unique geology and hydrology of the region. S.B. 76 also authorizes TNRCC to obtain data from all jurisdictions that allocate the waters of the Rio Grande, including jurisdictions in the United Mexican States.

## FLOOD CONTROL POWERS - S.B. 142

*by Senator Brown*
*House Sponsor: Representative Bosse*

Expands the counties that can bring suit to enforce flood protection regulations. Strengthens the enforcement powers of counties under the Flood Control and Insurance Act, which currently enables certain counties to seek injunctions against individuals who violate or threaten to violate the land use restrictions contained in the Act and to recover civil penalties for violations.

Currently, this authority is restricted to counties containing *two or more municipalities, each of which has a population of 250,000 or more.* S.B. 142 creates two additional categories of counties that enforce the Flood Control and Insurance Act in this manner:

- counties with populations of 2.8 million or more; and
- counties with populations of 270,000 or more that are adjacent to two or more counties, each of which has a population of one million or more.

## IMPROVEMENTS TO REGIONAL WATER PLANNING GROUPS - S.B. 272

*by Senator Brown*
*House Sponsor: Representative Ron Lewis*

Emphasizes the necessity of adequate representation on regional water planning groups from the public, counties, municipalities, industries, agricultural interests, environmental interests, small businesses, electric generating utilities, river authorities, water districts, and water utilities.

Empowers political subdivisions to contract with a regional water planning group in order to assist in developing or revising a regional water plan.

Immunizes a regional water planning group, its representatives, and employees of political subdivisions that contract with the regional water planning group from liability and damages that may arise from acts or omissions that occur within the course and scope of regional water planning group activities.

Requires the attorney general, on request, to represent a regional water planning group, or its representative or an employee of a political subdivision that contracts with the regional water planning group for alleged liability arising within the course and scope of regional water planning group activities.

## LOCAL STANDARDS FOR DROUGHT MANAGEMENT - S.B. 657

*by Senator Brown*
*House Sponsor: Representative Ron Lewis*

Empowers regional water planning groups to develop drought management strategies for specific river basins based on "factors specific to each source of water supply" in the regional water planning area.

Requires TNRCC to provide water availability data to all interested parties based on a "drought of record," and replaces the "50 and 75 percent" requirement with data developed by the water planning groups in each region.

## WATER QUALITY PROTECTION ZONES IN ETJS - S.B. 1165

*by Senator Wentworth*
*House Sponsor: Representative Keel*

Water quality protection zones currently may be designated in certain areas within the extraterritorial jurisdiction (ETJ) of municipalities with populations greater than 5,000. A zone may be created if the zone encompasses 500 acres or more of land, and the land in the zone is wholly within the ETJ of a municipality, and has been the subject of three or more water quality ordinances in the preceding five years.

Authorizes the Texas Natural Resource Conservation Commission (TNRCC) to regulate water quality protection zones (zone) outside the corporate limits of a municipality with a population greater than 10,000.

Provides that the purpose of a zone is to provide for the consistent protection of water quality in the zone without imposing undue regulatory uncertainty on owners of land in the zone, not to provide the flexibility necessary to facilitate the development of land within the zone.

Requires TNRCC's review and approval of the plan or any amendment to the plan to be completed within 120 days of the date it is filed.

Prohibits new development under a plan until the plan or amendment to the plan, as appropriate, has been approved by TNRCC.

Authorizes a designated water quality protection zone to be amended. An amendment to a zone designation adding land to or excluding land from a zone must describe the boundaries of the zone as enlarged or reduced by metes and bounds or other adequate legal description, and must be filed in the deed records of the county in which the land is located. The bill also authorizes TNRCC to amend the zone designation, to terminate a zone on reasonable terms and conditions on application by all owners of land in a zone.

## TDOA REPRESENTATION IN WATER RESOURCE MANAGEMENT - S.B. 1310

*by Senator Brown*
*House Sponsor: Representative Cook.*

Provides for the representation of agricultural interests in the water resource planning and management activities of the state:.

Requires the Texas Water Development Board (TWDB) to make regional water plans developed or revised under contracts available to the Department of Agriculture (TDOA).

Authorizes the TDOA to provide:

- ◊ input to the Texas Natural Resource Conservation Commission (TNRCC) during the review and approval process for dedication of water rights; and
- ◊ advice regarding any of the duties to be performed relating to regional water plan-related contracts.

Requires TWDB to coordinate with TDOA, the Texas Parks and Wildlife Department (TPWD), and TNRCC as necessary, but at least every five years to coincide with the five-year cycle, for adoption of a new water plan.

Requires initial coordinating boards in a region to represent the interests of the public, counties, municipalities, industries, agricultural interests, environmental interests, small businesses, electric generating utilities, river authorities, water districts, and water utilities.

Requires an initial regional coordinating board to designate additional representatives if necessary to ensure adequate representation from the interests comprising that region.

Requires the regional water planning group to maintain adequate representation from those interests. Requires representatives of the board, TPWD, and TDOA to serve as ex officio members of each regional water planning group.

Authorizes the TNRCC executive director, on behalf of and with the consent of the commission, to enter into contracts or other agreements with the TDOA for purposes of obtaining laboratory services for water quality testing.

## PROOF OF GROUNDWATER AVAILABILITY REQUIRED - S.B. 1323

*by Senator Wentworth*
*House Sponsor: Representative Hilderbran*

The law does not currently require developers to demonstrate that groundwater-dependent real estate will have an adequate supply for a proposed development before property is sold to prospective home or business owners. Inadequate groundwater supply has already begun to cause problems in certain parts of the state as rural areas become developed and increase the demand for water.

Requires certain plats for real estate subdivisions to include an engineer's report that demonstrates adequate groundwater is available for the proposed development.

Requires the Texas Natural Resource Conservation Commission (TNRCC) to establish the appropriate form and content of a certification to be attached to a plat application.

Prohibits county commissioners courts and municipal authorities responsible for approving plats from approving subdivision plats for which the intended source of the water supply is groundwater, unless the statement containing proof of adequate groundwater is attached to a proposed plat.

## THIRTEEN NEW GROUNDWATER CONSERVATION DISTRICTS - S.B. 1911

*by Senator Brown, et al.*
*House Sponsors: Representatives Walker and Ron Lewis*

Since 1951, the Texas Legislature has passed legislation creating 45 groundwater conservation districts. During the 76th Legislative Session, bills have been filed seeking to create some 23 new groundwater conservation districts, many of them to be comprised of a single county. Senate Bill 1, 75th Legislature, established a framework for water planning with an emphasis on local input and regional planning. Work is now underway on the regional water plans that will comprise the next State Water Plan.

Concerns have been raised that the myriad groundwater districts proposed in the 76th Legislature are based on political, rather than hydrological, boundaries and, therefore, may not be able to manage the underlying aquifers consistent with the powers and duties of the Groundwater Conservation Districts as created by Chapter 36 of the Water Code, or with the long-range water management planning envisioned by Senate Bill 1.

S.B. 1911 provides for the creation, administration, powers, duties, operation, and financing of 13 groundwater conservation districts that have been legislatively proposed this session, and establishes that they may not adopt district management plans until after September 1, 2001.

Creates the following groundwater districts, and establishes their boundaries: (1) Cow Creek Groundwater Conservation District; (2) Brazos Valley Groundwater Conservation District; (3) Crossroads Groundwater Conservation District; (4) Hays Trinity Groundwater Conservation District; (5) Lone Wolf Groundwater Conservation District; (6) Lost Pines Groundwater Conservation District; (7) McMullen Groundwater Conservation District; (8) Middle Pecos Groundwater Conservation District; (9) Red Sands Groundwater Conservation District; (10) Refugio Groundwater Conservation District; (11) Southeast Trinity Groundwater Conservation District; (12) Texana Groundwater Conservation District; and (13) Tri County Groundwater Conservation District.

## DUPLICATIVE PROGRAMS ENSURING WATER QUALITY - S.C.R. 56

*by Senator Lindsay, et al.*
*House Sponsor: Representative Ron Lewis*

Vetoed

Currently, the United States Army Corps of Engineers has primary authority over the operation of the national permit program, under the federal Clean Water Act, for the placement of dredged and fill materials into waters of the U.S., including wetlands. Section 401 of the Clean Water Act authorizes states to certify whether the issuance of certain federal permits complies with state water quality standards. The Texas Natural Resource Conservation Commission (TNRCC) provides this certification. However, because the U.S. Army Corps of Engineers, prior to granting a permit, receives comments from a variety of state and federal resource agencies, including the U.S. Fish and Wildlife Department, the Texas Parks and Wildlife Department, and TNRCC, Section 401 certification by TNRCC may unnecessarily duplicate U.S. Army Corps of Engineers analysis. S.C.R. 56 provides that it is the intent of the legislature that TNRCC should attempt to eliminate duplication between its Section 401 water quality certification program and the review conducted by the U.S. Army Corps of Engineers, and sets forth related intentions of the legislature.

## EMPOWERS SOME LOCALITIES TO REGULATE STORM WATER - H.B. 732

*by Representative Bosse*
*Senate Sponsor: Senator Brown*

This bill applies to counties with populations of 2.8 million or more and special purpose districts or authorities created pursuant to Article XVI, Section 59 of the Texas Constitution that are authorized to provide storm water drainage and flood control facilities.

Empowers such counties, districts, and authorities to take any necessary or proper action to comply with the requirements of the storm water permitting program under the National Pollutant Discharge Elimination System (Section 402, Federal Water Pollution Control Act (33 U.S.C. Section 1342)), including:

- ◊ developing and implementing controls to reduce the discharge of pollutants from any conveyance owned or operated by the county, district, or authority that is designed for collecting or conveying storm water;
- ◊ developing, implementing, and enforcing storm water management guidelines, design criteria, or rules to reduce the discharge of pollutants into any conveyance owned or operated by the county, district, or authority that is designed for collecting or conveying storm water;
- ◊ assisting residents with the proper management of used oil and toxic materials, including the holding of household hazardous waste collection events; and
- ◊ developing and providing educational tools and activities designed to reduce or lead to the reduction of the discharge of pollutants into storm water.

Creates civil penalties for violations of the storm water-related rules or orders adopted pursuant to this statute of not more than $1,000 per violation. Empowers counties, special purpose districts, or authorities to bring suit against violators.

## REVISION OF WATER DISTRICTS - H.B. 846

*by Representative Ron Lewis*
*Senate Sponsor: Senator Brown*

Extensively amends existing provisions in the Water and Government Codes with regard to the administration, management, operation, and authority of water districts and authorities, including the following changes:

Clarifies that its provision are intended to apply to water districts *other than* groundwater districts created under Chapter 36 of the Water Code.

Provides permissive authority for sick leave pools for all water districts and authorities operating under Chapter 36 or Chapter 49 of the Water Code. Currently, Chapter 661, Government Code, requires all state agencies, including river authorities, to establish sick leave pools. Sick leave pools allow agency employees to voluntarily contribute sick leave to a pool for use by employees who have exhausted their sick leave. No explicit authority currently exists for water districts, other than river authorities, to establish these pools.

Disqualifies a director of a water district who becomes a candidate for another office.

Authorizes certain individuals to go on any land to inspect, make surveys, or perform tests to determine certain information about the property, and requires the cost of restoration to be borne by the district or the water supply corporation. The bill also provides that district employees and agents are entitled to enter any property within the district's boundaries or adjacent to any reservoir or property owned by the district at any reasonable time for certain purposes.

Requires an annexing municipality to pay, in cash, an amount equal to the sum of all actual costs and expenses payable to the landowner or developer in connection with the district that the district, in writing, has agreed to pay and that would otherwise have been eligible for reimbursement from bonds proceeds.

Authorizes a district that operates a wastewater collection system to prohibit, by rule, the installation of private on-site wastewater holding or treatment facilities on land within the district not already served by such facilities. The bill requires such a district to agree to pay the owner of a particular tract the costs of connecting the tract to the district's wastewater collection under certain circumstances.

Authorizes a district to add or exclude land under certain conditions. Provides that if land is added or excluded, an election to confirm the new district boundaries must be held.

Requires a person to be a registered voter to be qualified for election as a supervisor.

Authorizes a district to purchase and install street lighting and security lighting in certain areas.

Authorizes certain owners of land in a district to petition the district to exclude the owner's land or other property, and establishes the grounds for exclusion of land or other property. The bill requires the board to consider all engineering data and other evidence presented and determine if the facts support an affirmative finding on the alleged grounds for exclusion. The bill requires the board to enter an order excluding the land and redefining the boundaries to reflect the exclusion.

Provides that a person who violates a regulation adopted by a district under this chapter or other law commits a Class C misdemeanor.

Authorizes a municipality to sell to a district a water or sewer system owned by the municipality without a required election.

Provides that a person who violates a regulation adopted by a district under this chapter or other law commits a Class C misdemeanor.

Authorizes a municipality to sell to a district operating under the authority of Section 59, Article XVI, Texas Constitution, a water or sewer system owned by the municipality without a required election.

## DROUGHT RISK MANAGEMENT PLAN - H.B. 2660

*by Representative Swinford, et al.*
*Senate Sponsor: Senator Ogden*

Texas law requires the division of emergency management of the office of the governor to coordinate a state drought response plan. The number and severity of droughts in recent years warrants the development of a plan that focuses on risk management, in addition to a plan which focuses on drought crisis management.

H.B. 2660 amends the drought response plan to:

- ◊ include input from the Department of Agriculture;
- ◊ expand the membership of the drought preparedness council to include representatives from currently represented agencies as well as the Texas Department of Housing and Community Affairs, the Texas Forest Service, the Texas Department of Transportation, the Texas Department of Economic Development, and groundwater management interests;
- ◊ require the plan to be separate from the state water plan; and
- ◊ specify the duties of the state drought manager.

## CONSOLIDATION OF GROUNDWATER CONTROL DISTRICTS - H.B. 2926

*by Representative Walker*
*Senate Sponsor: Senator Bivins*

This bill changes the procedure by which two or more groundwater control districts (districts) may consolidate into one district. The law currently requires all districts to approve of a proposed consolidation. However, districts that do not initiate consolidations generally do not experience changes in their taxing or bonding authority. H.B 2926 alters the procedure by which districts consolidate by requiring voter approval only in those districts that initiate a consolidation proposal.

Requires a ratifying election in each district that initiates consolidation. H.B 2926 changes the current procedure by providing that an election is *not* required in a district that does not initiate consolidation.

Requires the board of each district that initiates a consolidation to agree on the terms and conditions thereof before ordering an election to approve the consolidation. Each district, if required to do so, shall hold an election. All districts required to conduct elections shall hold them on the same day.

Requires a majority of electors in each district required to conduct an election to approve the consolidation, except that if more than two districts are consolidating, failure of any one district to ratify the consolidation shall not prevent the consolidation of the other districts.

## REGIONAL FLOOD CONTROL PLANS - H.B. 2977

*by Representative Hamric*
*Senate Sponsor: Senator Lindsay*

Vetoed

Currently, when developing certain projects in Harris County, there are local flood control guidelines as well as federal and state water quality requirements leaving some concern that this process may ignore the regional approach necessary to effectively address flood and water quality issues. H.B. 2977 sets forth provisions regarding regional flood control plans and certification of federally authorized discharges.

## OIL-FIELD CLEANUP REGULATORY FEE ON OIL AND GAS - S.B. 115

*by Senator Brown*
*House Sponsor: Representative West*

The 72nd Legislature adopted the repeal, effective August 31, 1999, of the oil-field cleanup regulatory fees imposed on in-state production of crude petroleum and natural gas.

Eliminates the repeal of oil-field cleanup regulatory fees scheduled for August 31, 1999.

## PROTECTING THE OFFICIAL STATE SHELL - S.B. 133

*by Senator Brown*
*House Sponsor: Representative Bonnen*

Texas' official state shell, the lightning whelk, has been unintentionally harvested in shrimpers' nets. S.B. 133 prohibits the retention of lightning whelks while trawling for shrimp.

Includes the lightning whelk among fish that are not to be retained by a person using a trawl for the purpose of taking shrimp. A person who violates this provision commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

## PROCEDURES FOR LANDFILL SITING - S.B. 486

*by Senator Brown*
*House Sponsor: Representative Ron Lewis*

Limits the power of a county or other local government to prohibit municipal or industrial landfill sites. Under this Act, a local government may prohibit certain areas from being turned into landfills only with respect to landfills proposed to the Texas Natural Resource Conservation Commission (TNRCC) subsequent to the effective date of the provision in the Health and Safety Code that gave local governments this power.

Limits local governments' power to pass ordinances prohibiting landfills in a given area if an application for the landfill is already filed and pending before TNRCC, or if TNRCC has already granted the permit.

Prohibits TNRCC from granting an application to site a landfill if the local government has already passed a legally valid ordinance prohibiting a landfill in the area in question.

Requires TNRCC to set and enforce a deadline by which an application for a landfill permit must be completed.

Provides for remedial action with respect to municipal solid waste landfill facilities in which industrial solid waste has been disposed. Where TNRCC has issued a permit to a municipal solid waste landfill facility in which more than 150,000 barrels of solid waste have been disposed, the bill empowers TNRCC to require the facility to prevent, as far as practicable, the release of industrial solid waste into the environment. To the extent that industrial solid waste is released, the bill authorizes TNRCC to require the owner of the facility to remediate to the extent practicable to prevent or minimize the release of the waste so that the waste does not migrate.

Creates different effective dates for the bill's various provisions based on actions already taken by county commissioners with respect to specific solid waste facilities, with respect to a given solid waste disposal facility.

## TPWD COOPERATES TO MITIGATE ENVIRONMENTAL DAMAGE - S.B. 627

*by Senator Truan, et al.*
*House Sponsor: Representative Flores*

Mandates the Texas Parks and Wildlife Department to work with federal, state, and local agencies to mitigate environmental damage. This bill directs the Texas Parks and Wildlife Department (department) to cooperate with departments of the federal government and other departments of state and local government, including the state water plan, water districts, river authorities, and special districts in outdoor recreation.

Directs the department to implement programs and coordinate with federal authorities, including the United States Border Patrol and the Drug Enforcement Administration, and other departments of state and local government, if necessary, to minimize environmental damage to any land under the control and custody of the department along the Texas-Mexico border.

## CREATION OF STATE ESTUARY PROGRAM - S.B. 708

*by Senator Jackson*
*House Sponsor: Representative Gray*

Provides for the implementation and financing of approved management plans for designated estuaries of national significance in Texas. No such approved plans currently exist to protect Texas estuaries. Some significant provisions of S.B. 708:

Recognizes the state and national significance of Texas coast estuaries and that the cooperative efforts created by the National Estuary Program serve a public and state purpose.

- ◊ Sets forth that by virtue of that state purpose, an approved implementation program established under the National Estuary Program is eligible to receive state funds through a grant program.

Provides that the Texas Natural Resource Conservation Commission (TNRCC) will assume the lead role in coordinating the state estuary program, and names the Parks and Wildlife Department, the Texas Department of Transportation, the Railroad Commission of Texas, the State Soil and Water Conservation Board, the Texas Water Development Board, Texas Department of Health, and the General Land Office as participants.

Requires funding for the implementation of approved comprehensive conservation and management plans to be shared by the state, local governments in the area of the estuaries, and the federal government.

## VOLUNTARY COMPLIANCE BY GRANDFATHERED FACILITIES - S.B. 766

*by Senator Brown*
*House Sponsors: Representatives Allen and Chisum*

Establishes procedures for the Texas Natural Resource Conservation Commission (TNRCC) to issue permits outside the standard rulemaking process, and creates a voluntary emission reduction program for unpermitted, grandfathered facilities that apply for a permit under this program no later than September 1, 2001.

Provides TNRCC with flexibility in securing a reduction of emissions from grandfathered facilities. The bill establishes the basic standard for emissions control, the best available control technology, that was available 120 months, or ten years, prior to the permit application, but also allows TNRCC to take into account the age and remaining useful life of the facility. Special considerations are created based on whether the plant exists in a Clean Air Attainment or Non-Attainment Zone under the federal Clean Air Act, and whether the plant is located in proximity to a school, child day care facility, hospital, or nursing home. The bill also enables facilities that are deemed incapable of retrofitting their facilities to meet proposed emissions reductions to engage in mitigation projects to reduce air pollution by other means, and creates a "small business stationary source assistance program" for smaller businesses requiring special assistance to reduce their air contaminants.

Authorizes TNRCC to issue a single "multiple plant permit" for multiple existing facilities owned or operated by the same person. The multiple plant permit provision relaxes the current requirement under which a company must obtain a permit from TNRCC prior to constructing a new facility that will comprise part of an existing plant, or modifying an existing facility, if the new plant or modification will increase the emission of air contaminants.

Authorizes TNRCC to adopt rules to set de minimis levels of air contaminants, below which no air quality preconstruction authorization would be necessary.

Imposes fees on those grandfathered facilities that fail to secure voluntary permits by September 1, 2001. On and after September 1, 2001, for a grandfathered facility that does not have a permit application pending, TNRCC is required (1) to impose a fee for all emissions, including emissions in excess of 4,000 tons; and (2) to triple the amount of the fee imposed for emissions in excess of 4,000 tons each fiscal year.

## COOPERATION IN DEVELOPING HABITAT CONSERVATION PLAN - S.B. 1272

*by Senator Wentworth*

*House Sponsors: Representatives Bob Turner and Keel*

Establishes guidelines for developing and implementing habitat and regional habitat conservation plans by cities and counties. Exempts habitat conservation plans that have already been approved by the United States Fish and Wildlife Service from the requirements of the bill.

The Texas Parks and Wildlife Code allows local political subdivisions to develop and enter into conservation agreements with the United States Department of the Interior. Some land owners have complained that local governments have identified their land for habitat conservation, and then delayed excessively in purchasing the land. In the interim between announcement of a habitat conservation plan and actual purchase of the land, landowners seeking to develop their property fear that they will be unable to obtain the permits necessary for water, wastewater, electricity, and other utilities necessary for development. S.B. 1272 seeks to protect landowners who want to develop their land by imposing state monitoring and open meetings requirements on the development of habitat conservation plans. Moreover, S.B. 1272 requires that local governments demonstrate the ability to pay for land designated for a conservation plan so that landowners get paid quickly. Among the extensive provisions contained in S.B. 1272 are the following:

Requires any conservation agreement between a political subdivision of the state and the U.S. Department of the Interior to be developed in consultation with the Texas Parks and Wildlife Department (TPWD).

Authorizes the department or a political subdivision to participate in the study and preparation for and creation of a regional habitat conservation plan.

Sets forth certain actions that a political subdivision may take in order to facilitate the creation of a habitat preserve and the setting aside of land to protect a species protected under a conservation agreement.

Authorizes a plan participant to apply for a federal permit in conjunction with a regional habitat conservation plan only if the qualified voters of the local government participating in the plan have authorized the issuance of bonds or other debt financing in an amount equal to the estimated cost of acquiring all land for habitat preserves within the time required by this subchapter, or the plan participant has demonstrated that adequate sources of funding exist to acquire all land for habitat preserves within the time required by this subchapter.

Prohibits a governmental entity from imposing a regulation, rule, or ordinance related to endangered species, unless it relates to the operation or management of a habitat preserve owned by or on behalf of a plan participant.

Prohibits a governmental entity from discriminating against a permit application, permit approval, or the provision of utility service, or from denying or limiting available water or wastewater service, to land designated as actual or potential habitat preserve.

Requires a regional habitat conservation plan to be based on the amount of harm to each endangered species to be protected, and requires the size of proposed habitat preserves to be based solely on the amount of harm to the endangered species. Requires the plan participants, together with TPWD and the landowner members of the citizens advisory committee, to appoint a biological advisory team to assist in certain studies.

- ◊ Provides that meetings of the biological advisory team are subject to the open meetings law, and all work product of the biological advisory team is subject to the open records law.

Requires the plan participants to appoint a citizens advisory committee to assist in preparing the regional habitat conservation plan and the application for a federal permit.

- ◊ Sets out the prerequisites for advisory committee members.
- ◊ Requires one-third of the committee members to consist of landowners from the affected area, and none of the landowner members may work for a unit of government involved in developing the conservation plan.

In determining the fair market value of the property to be acquired as habitat, prohibits the consideration of the tract's designation as actual or potential habitat preserve, or the presence of endangered species or endangered species habitat. Requires the plan participants to make offers based on fair market value to the landowners for the acquisition of fee simple or other property interest in land designated in the regional habitat conservation plan as habitat preserve by a certain date, and for land to be removed from the description of land to be acquired for the conservation plan if the plan participants fail to purchase the property by a certain deadline.

## COMBATING COASTAL EROSION - S.B. 1690

*by Senator Bernsen*
*House Sponsors: Representative Gray, et al.*

Despite the importance of its long coastline, Texas remains the only coastal state in the union without a program to combat the disastrous effects of erosion. This bill creates a Coastal Erosion Response Account to provide a permanent source of funding for state and local officials to address coastal erosion problems. Among the provisions of S.B. 1690 are the following:

Prohibits a person from undertaking an action relating to erosion that will alter the shoreline unless the person has filed a survey and has obtained any required lease or other instrument from the commissioner of the General Land Office (commissioner) or School Land Board, as applicable. Sets forth considerations that must be satisfied to approve the proposed shoreline alteration. Confers upon the commissioner authority to implement rules to remedy erosion and protect the common law rights of the public in public beaches.

Requires the General Land Office (land office) to implement a specific program outlined in the bill rather than simply act as the lead agency for the coordination of coastal erosion duties, and requires the commissioner to develop a coastal erosion response plan, which he must publish and periodically update.

Requires the land office to undertake coastal erosion studies and response projects if the land office receives legislative appropriations or other funding for that purpose, and to work with other government agencies or other qualified project partners in undertaking those studies and projects, if reasonable and appropriate. Requires an agreement between the commissioner and a qualified project partner to undertake a coastal erosion response study or project to take certain action.

Provides a coastal erosion response account is an account in the general revenue fund that may be appropriated only to the commissioner and used only for the purpose of implementing this bill, and sets forth the items of which the account consists, including all money received by this state from the sale of dredged material.

- ◊ Authorizes money in the account to be used for any action authorized by the bill. Requires the commissioner to approve an expenditure from the account, and to consider certain conditions, in determining whether to approve an expenditure for a study or project.

Requires the commissioner to publish and periodically update a coastal erosion response plan. The commissioner is required to develop the plan in coordination with state and federal agencies and local governments and provide for public input on the plan.

In determining whether a "critical coastal erosion area" exists, the commissioner must determine whether the area in question has experienced the "the loss of land, marshes, wetlands, beaches, or other coastal features within the coastal zone because of the actions of wind, waves, tides, storm surges, subsidence, or other forces." Further, the commissioner must determine whether this erosion threatens the public welfare, including but not limited to the following: public health or safety, public beach use or access, traffic safety, public property or infrastructure, private commercial or residential property, fish or wildlife habitat, or an area of regional or national importance.

Requires coastal erosion response studies to be prioritized so that:

- benefits are balanced throughout the coast;
- federal and local financial participation is maximized;
- studies and projects are scheduled to achieve efficiencies and economies of scale; and
- the severity of erosion effects in each area is taken into account. The bill empowers the commissioner to adopt rules necessary to implement coastal erosion studies and projects that take these factors into account.

Requires the commissioner, in consultation with the Bureau of Economic Geology of the University of Texas at Austin and coastal and county and municipal governments, to monitor historical erosion rates at each location along the shore of the Gulf of Mexico. Requires the commissioner to make historical erosion data accessible, through the Internet and otherwise, to the public.

Encourages local governments to use historical erosion data to prepare a plan for reducing public expenditures for erosion and storm damage losses to public and private property, including public beaches, by establishing and implementing a building set-back line that will accommodate a shoreline retreat. Requires the local government to hold a public educational meeting on the plan before proposing to implement it.

Provides for partnerships between local governments, the General Land Board, and other relevant state agencies to carry out anti-erosion projects.

Prohibits the commissioner from undertaking a coastal erosion response project on certain property without the landowner's consent.

Creates guidelines for coastal property owners where erosion has created uncertainty concerning the dimensions of real property.

Provides that this state, the commissioner, and land office staff are immune from liability for an act or omission related to certain aspects of the coastal erosion program unless the act or omission is intentional, willfully or wantonly negligent, or committed with conscious indifference or reckless disregard for the safety of others or wantonly negligent, or committed with conscious indifference or reckless disregard for the safety of others.

## TWDB FEES FOR STATE PARTICIPATION PROGRAM - S.B. 1862

*by Senator Ratliff*
*House Sponsors: Representatives Tracy King and Heflin*

Empowers the Texas Water Development Board (TWDB) to charge an administrative fee to a political subdivision with which TWDB agrees to participate in a project. The bill enables TWDB to set such fees under its rulemaking authority at an amount necessary to recover the costs incurred or to be incurred by the board in administering such a project over its life, including the costs of processing an application, as well as auditing and monitoring the project. TWDB may require the payment of the fee in one or more installments.

Requires the state auditor to review fees charged by the board to determine whether they are consistent with the intent of the bill.

## PUBLIC PARTICIPATION IN ENVIRONMENTAL PERMIT PROCESS - H.B. 801

*by Representative Uher, et al.*
*Senate Sponsor: Senator Armbrister*

Currently, if an application to issue, amend, or renew a permit for which public notice and an opportunity for public hearing is required or allowed under Chapter 26 (Water Quality Control) or 27 (Injection Wells), Water Code, or required or allowed under Chapter 361 (Solid Waste Disposal Act) or 382 (Clean Air Act), Health and Safety Code, and the application is contested, Chapter 2001 (Administrative Procedure) of the Government Code applies.

H.B. 801 provides that Subchapter C (Contested Cases: General Rights and Procedures), Subchapter D (Contested Cases: Evidence, Witnesses, and Discovery), Subchapter E (Contested Cases: Testimony of Child), Subchapter F (Contested Cases: Final Decisions and Orders; Motions for Rehearing), Subchapter G (Contested Cases: Judicial Review), and Subchapter H (Court Enforcement) of Chapter 2001 do not apply to the aforementioned permit applications, and establishes alternative procedures for providing public notice, and an opportunity for public comment and a public hearing under Subchapters C-H, Chapter 2001, Government Code, regarding the aforementioned permit applications.

- ◊ Provisions in this bill address matters such as notice of intent to obtain a permit, a technical review of preliminary decisions on an application, and a request for reconsideration or a contested case hearing.

The bill establishes procedures applicable to permits for certain concentrated animal feeding operations.

The bill also limits the matters that can be referred for a hearing before an administrative law judge to disputed issues. This bill also sets forth procedural specifications for the hearing, such as:

- ◊ specifying time lines for the hearing procedure; and
- ◊ limiting the scope of permissible discovery.

## LOW-LEVEL RADIOACTIVE WASTE REGULATION - H.B. 1172

*by Representative Chisum*
*Senate Sponsor: Senator Brown*

Currently, discrepancies between the Texas and federal definitions of low-level radioactive waste in state law do not conform to definitions of the same terms in federal law. H.B. 1172 redefines low-level radioactive waste and related terms and makes other changes with respect to the Texas low-level radioactive waste program, such as the calculation and collection of fees.

Redefines "low-level radioactive waste" and related terms such as "disposal site" and "operation" in the Health and Safety Code. The bill also redefines "disposal," "processing," and "radioactive substance," and explains what is excluded from the definition of "low-level radioactive waste."

Requires the Texas Department of Health or the Texas Natural Resource Conservation Commission (TNRCC), in making a licensing decision on a specific license application to process or dispose of low-level radioactive waste from other persons, to take certain factors into consideration, including the socioeconomic effects on surrounding communities resulting from the operation of the licensed activity and of associated transportation of low-level radioactive waste.

Deletes text requiring the Texas Low-Level Radioactive Waste Disposal Authority (authority) to pay expenses from surcharge rebates made by the United States Department of Energy.

Requires fees established to take into account the projected annual volume and the relative hazard presented by each type of low-level radioactive waste generated, and for the fees to be deposited in the state treasury to the credit of the low-level radioactive waste fund. The bill makes other changes in the method used to establish fees, tying the fee level to the balance in the low-level radioactive waste fund in a given fiscal biennium.

Requires the fee to be set at an amount that may not exceed the actual expenses annually incurred to accomplish certain business tasks, including collecting payments for the low-level radioactive waste fund and general revenue.

Eliminates the requirement that payments to the State of Texas under named federal public laws must be deposited to the credit of the low-level radioactive waste fund. The bill also deletes text authorizing payments to this state under federal public laws to be used only for the purposes stated in the federal law.

## NO CAP FOR WASTEWATER DISCHARGE IN 24-HOUR PERIOD - H.B. 1283

*by Representative Counts*
*Senate Sponsor: Senator Brown*

Currently, the holder of a general permit for wastewater discharge cannot discharge more than 500,000 gallons of water into surface water in any 24-hour period. H.B. 1283 removes this cap and allows the holder of a general permit to discharge over 500,000 gallons of wastewater in a 24-hour period.

Provides the Texas Natural Resource Conservation Commission (TNRCC) discretion with regard to the elements required for the issuance of a wastewater discharge permit, especially by allowing TNRCC to issue such a permit upon receipt of complete written notice of intent without conducting a public hearing.

## RENEWAL OF WASTEWATER DISCHARGE PERMITS - H.B. 1479

*by Representative Clark*
*Senate Sponsor: Senator Bivins*

The Water Code presently provides an opportunity for a public hearing whenever a wastewater discharge permit is renewed or amended; this type of hearing also occurs when one submits an original permit application. Applicants must undergo this hearing process even when there will be no significant change in the permit discharge conditions. An applicant who proposes to improve permit discharge conditions is also subject to the public hearing process.

Requires notice of an application for a permit, permit amendment, or permit renewal to be given to the persons who, in the judgment of the Texas Natural Resource Conservation Commission (TNRCC), may be affected by the application. Authorizes TNRCC to approve an application to renew or amend a permit at a regular meeting without the necessity of holding a public hearing if the applicant is not applying to increase the quantity of waste authorized to be discharged, or to change materially the pattern or place of discharge, and the activities to be authorized by the renewed or amended permit will maintain or improve the quality of waste authorized to be discharged. The bill provides that notice and opportunity to request a public meeting shall be given in compliance with National Pollution Discharge Elimination System (NPDES) program requirements for NPDES permits, and that the TNRCC shall consider and respond to all timely received significant public comments. The bill also enables TNRCC to dispense with the public hearing requirement if it determines that an applicant's compliance history for the preceding five years raises no issues regarding the applicant's ability to comply with a material term of its permit.

## LIABILITY OF TAXING UNIT FOR STORAGE TANKS - H.B. 2109

*by Representative Bonnen*
*Senate Sponsor: Senator Brown*

Establishes limits on the liability of a taxing unit for underground or above-ground storage tanks. Uncertainty exists as to whether a taxing unit is liable for underground storage tanks acquired through the foreclosure of an ad valorem tax lien on real property. The Texas Natural Resource Conservation Commission believes that a taxing unit is liable for such an acquisition. H.B. 2109 establishes limits on the liability of a taxing unit that has foreclosed an ad valorem tax lien on real property on which an underground or above-ground storage tank is located.

## REGULATION OF AIRBORNE DISINFECTANTS - H.B. 2597

*by Representative McReynolds*
*Senate Sponsor: Senator Armbrister*

The Texas Natural Resource Conservation Commission (TNRCC) is charged with adopting administrative rules to regulate the quality of the state's air to enforce the Texas Clean Air Act. TNRCC's authority includes the power to regulate airborne antimicrobial products. H.B. 2597 prohibits TNRCC from adopting a rule that makes hospital or medical disinfectant less effective in killing or inactivating agents of an infectious disease, including rules restricting the volatile compounds used as propellants in such airborne disinfectants, except as specifically required to comply with federal law or regulation.

## "PRESCRIBED BURNING" PROGRAM LESSENS WILDFIRE RISK - H.B. 2599

*by Representative McReynolds*
*Senate Sponsor: Senator Duncan*

Currently, a landowner in Texas has the right to use prescribed burning as a land management tool to reduce vegetative fuel that can flare up and cause wild fires. Wildfires pose a serious threat to the state, particularly to suburban areas, and prescribed burning can help to reduce this risk. However, landowners may be hesitant to use this method for fear of liability for accidents. H.B. 2599 creates a Prescribed Burning Board in the Department of Agriculture, provides that a landowner is shielded from liability if he or she conducts burns in accordance with procedures outlined in the bill and with the assistance of a "burn manager," but states that the landowner otherwise remains liable for property damage, personal injury, or death resulting from the burning of vegetative fuel.

## PETROLEUM STORAGE TANK REMEDIATION ACCOUNT - H.B. 2816

*by Representative Junell*
*Senate Sponsor: Senator Brown*

Under current Texas law, the petroleum product delivery fee is assessed on bulk loads of motor fuel. Proceeds from the fee are used to fund the account administered by the Texas Natural Resource Conservation Commission (TNRCC). The account serves as a state-sponsored insurance fund to clean up sites contaminated by leaking petroleum storage tanks (tanks). In 1995, the fee was doubled to pay back loans from the general revenue fund issued when the account was insolvent. As of December 22, 1998, tank owners could no longer rely on the account as proof of federally mandated insurance. In addition, the account will accept no new claims for cleanup.

H.B. 2816 limits the administrative expenses of the Petroleum Storage Tank Remediation Account (account) to an amount specifically appropriated for that purpose, decreases by one-quarter the petroleum product delivery fee on bulk loads of motor fuel, and provides for the termination of this account on September 1, 2003, rather than 2001. To meet federal requirements, tank owners must now acquire cleanup insurance from the private sector.

## NO FEES FOR DISPOSING OF CERTAIN KINDS OF SLUDGE - H.B. 3288

*by Representative Greenberg*
*Senate Sponsor: Senator Barrientos*

Prevents Texas Natural Resource Conservation Commission (TNRCC) from charging fees for the disposal of certain types of sludge. Under the bill, TNRCC may not charge a fee for the disposal of:

- ◊ Class I industrial solid waste; or
- ◊ other industrial solid waste for which no permit may be required under the relevant sections of the Health and Safety Code.

The bill likewise prohibits the assessment of a fee for disposing of sewage sludge that has been treated to:

- ◊ reduce the density of pathogens to the lowest level provided by TNRCC rules; and
- ◊ comply with TNRCC rules regarding metal concentration limits, pathogen reduction, and vector attraction reduction.

## OIL AND GAS LEASES ASSIGNMENT ON STATE LAND - H.B. 3696

*by Representative Hawley*
*Senate Sponsor: Senator Lucio*

A state fee lease may now be transferred at any time by a lessee. Additionally, every transferee assumes all rights and all obligations, liabilities, and penalties owed to the state by the original lessee or any prior transferee of the lease. As it stands, current Railroad Commission bonding programs may not be adequate to ensure that wells on state-owned submerged lands or any other lands are properly plugged and abandoned.

H.B. 3696 establishes conditions regarding the approval of assignments of oil and gas leases on certain state land. H.B. 3696 authorizes a lessee to transfer a lease with the consent of the Commissioner of the General Land Office (commissioner). Under this bill, the commissioner can require the transferee to demonstrate that it has the financial responsibility to discharge its obligations under the lease, including the obligations to properly plug abandoned wells, remove platforms or pipelines, or remediate contamination at drill sites. H.B. 3696 also authorizes the commissioner to require the transferee to post a bond or provide other security to secure those obligations if the transferee is unable to demonstrate such financial responsibility to the commissioner's satisfaction.

## BUCKLE UP FOR SAFETY - S.B. 60

*by Senator Moncrief, et al.*
*House Sponsors: Representative Goolsby, et al.*

Requires a child between the ages of four and 15 to be secured by a safety belt whether the child is riding in the front or back seat of a passenger car, provided the child is occupying a seat that is equipped with a safety belt.

◊ Defines "passenger car" to include a pickup truck with a manufacturer's rated carrying capacity of not more than 1,500 pounds.

## MINERAL OR ROYALTY INTEREST - S.B. 436

*by Senator Nixon*
*House Sponsor: Representative McReynolds*

Requires an offer to purchase the mineral or royalty interest in a property to conspicuously state that the conveyor of the interest is indeed selling that interest. The offer shall include a notice, in substantially the following form:

◊ *BY EXECUTING AND DELIVERING THIS INSTRUMENT YOU ARE SELLING ALL OR A PORTION OF YOUR MINERAL OR ROYALTY INTEREST IN (DESCRIPTION OF PROPERTY BEING CONVEYED).*

Authorizes a conveyor of interest to bring suit against a purchaser if the purchaser does not provide that notice.

Currently, a person may unknowingly sign away mineral or royalty interest on a property to a purchaser of that interest because the purchaser provided an ambiguously worded instrument of conveyance.

## ALCOHOLIC BEVERAGE SELLERS SANCTIONS - S.B. 551

*by Senator Gallegos*
*House Sponsor: Representative Arthur Reyna*

This legislation removes administrative sanctions for the sale or delivery of alcoholic beverages to unauthorized persons by certain permitted wholesalers and distributors, if they reasonably believe that the retailer is authorized to purchase and receive alcoholic beverages, and who obtain a written affirmation from the retailer that the retailer is authorized to purchase and receive alcoholic beverages.

## CONTRACTORS IN DEBT TO THE STATE - S.B. 583

*by Senator Ellis*
*House Sponsor: Representative Sylvester Turner*

This bill prohibits a state agency from entering into a contract unless the proposed contractor agrees to have any tax debt the contractor owes to the state subtracted from the warrants received from a state contract. The purpose is to make state agencies more accountable for their debts and to reduce the overall debt owed to the state.

## ORGANS DONATED IN TEXAS TO REMAIN IN TEXAS - S.B. 862

*by Senator Gallegos, et al.*
*House Sponsors: Representative Janek, et al.*

Currently, organ allocation stems from the 1984 federal law, the Organ Procurement and Transplantation Act, which gives the U.S. Department of Health and Human Services jurisdiction over the national organ allocation program. The United Network for Organ Sharing (UNOS) is a private organization contracted to administer the national Organ Transplant Network, which directs organ allocation. Under this system, organs are offered first to local patients waiting at transplant centers served by one of the three organ procurement organizations in Texas. Organ allocation consists of combined patient waiting lists in either a UNOS region or to all transplant centers within a 500-mile radius of the donor hospital, if the organ cannot be transplanted in the area where it was recovered. S.B. 862 requires organs recovered in Texas to stay in Texas, if there is a patient waiting in the state and the organ is deemed suitable.

- ◊ Provides that a qualified organ procurement organization in this state is the specified donee, if a person dies in Texas and does not specify the donee.
- ◊ Requires that the organization that receives the gift distribute the organ to an individual on the waiting list to be transplanted at a transplant center in Texas.
- ◊ Allows the organization to transfer a vascular organ to an out-of-state procurement organization if a suitable recipient cannot be found in this state or, the transfer is made in accordance with a reciprocal agreement.

## COMMERCIAL FINFISH INDUSTRY LICENSURE - S.B. 1303

*by Senator Brown*
*House Sponsor: Representative Uher*

Creates a program to license and manage the commercial finfish industry to be administered by the Texas Parks and Wildlife Department (TPWD) and the finfish license management review board, which will be composed of nine commercial finfish fishermen.

Prohibits a person from fishing commercially for finfish unless the person has obtained a commercial finfish license. The bill contains extensive provisions that create the requirements, fees, notice requirements, and revocation provisions of the finfish license.

Prohibits specific fishing practices and places limits on other methods of fishing; for example, the bill limits the number and length of trotlines that a commercial finfish fisherman may use.

Requires the TPWD commissioners to consider the social and economic viability of the finfish industry, and input from the finfish license management review board regarding the reissue of finfish licenses through auction or lottery.

Requires TPWD to issue a written report to the governor and the legislature no later than the beginning of the second regular legislative session to convene following the implementation of a finfish license management program. The bill requires the report to include an overview of the administration and status of the affected license management program.

## LICENSING OF THE RENDERING BUSINESS - S.B. 1532

*by Senator Carona*
*House Sponsor: Representative Glaze*

The Texas Renderers' Licensing Act has not been revised since it was enacted in 1969. This bill modernizes the Act and establishes Department of Health guidelines to ensure that rendering businesses track, document, identify vehicles, and identify animals which are renderable, from origin to destination in the food supply chain, in order to better protect the public health.

## REGULATION OF THE OYSTER INDUSTRY - S.B. 1685

*by Senator Bernsen, et al.*
*House Sponsors: Representative Zbranek, et al.*

Promotes the Texas oyster industry and protects the public from possible health hazards. Some of the more significant provisions of S.B. 1685 are as follows.

Requires people who handle oysters to comply with certain provisions of the Health and Safety Code currently applicable to other commercial handlers of fish.

Requires the first certified shellfish dealer who handles, stores, packs, labels, unloads at dockside, or holds oysters taken from the waters of this state to pay the state a fee of $1 for each barrel of oysters—equivalent to three one hundred pound containers—processed by the certified shellfish dealer (dealer).

- ◊ Prohibits a dealer from packing oysters in containers that, when packed, exceed 110 pounds in weight, and authorizes the Texas Department of Health to levy a fine against violators.

Creates the Texas Oyster Council, and provides for the terms that will govern its members.

Creates an Oyster Advisory Committee to provide guidance and direction on the above described programs and activities.

Authorizes the marine biology department of Texas A&M University at Galveston to conduct oyster-related research and otherwise further the purposes of the bill.

## PROVIDING UTILITY SERVICE TO SCHOOLS - S.B. 1797

*by Senator Duncan*
*House Sponsor: Representative Hawley*

Prohibits a gas utility or municipally owned utility from refusing to provide service to a school district at a service site in certain situations.

## PURCHASE & SALE OF LOTTERY TICKETS - H.B. 703

*by Representative Wilson*
*Senate Sponsor: Senator Barrientos*

Currently, the State Lottery Act is structured in a way to list prohibitions on the purchase of lottery tickets, namely with food stamps, credit or debit cards, by telephone or mail order. Effectively, the Lottery Act allows the purchase of tickets only with cash or cash equivalents depending on retail store policy.

H.B. 703 rewrites the section of the Lottery Act regarding the sale of lottery tickets in a way that lists the specific forms of payment which may be accepted by a person for the sale of a ticket. Those forms of payment are only by U.S. currency, checks, debit cards, vouchers or coupons issued by the Texas Lottery Commission, and mail order subscriptions authorized by the commission.

## LOTTERY PRIZES & ADVERTISING - H.B. 844

*by Representative Wilson*
*Senate Sponsor: Senator Armbrister*

Currently, the State Lottery Act restricts the amount of lottery prizes that may be awarded to players by an amount calculated to be five percent less than the amount awarded as prizes in FY 1997.

H.B. 844 removes the prize cap and provides a new scheme by which the amount that will be awarded as prizes, based on the percentage of total sales awarded as prizes in a prior year, may affect the Lottery Commission's appropriated budget.

- ◊ If the total amount of the lottery prizes awarded in FY 2000 exceeds 57 percent of gross sales in that fiscal year, the advertising budget for the lottery in FY 2001 is reduced by $1 million for each full percent. This provision expires January 1, 2002.
- ◊ If the total amount of lottery prizes in any fiscal year after FY 2000 exceeds an amount equal to 52 percent of gross sales in that fiscal year, the advertising budget for the lottery in the next fiscal year is reduced by $1 million for each full percent by which the total amount of lottery prizes exceed 52 percent of gross sales of tickets in that preceding fiscal year.

## AMUSEMENT RIDE REGULATIONS - H.B. 1059

*by Representative Keel, et al.*
*Senate Sponsor: Senator Barrientos*

This bill is designed to more stringently regulate amusement rides.

Amends the Insurance Code to raise the annual fee for an amusement ride permit from $20 to $40.

Prohibits a person from operating an amusement ride unless a photocopy of the inspection certificate and the insurance policy has been filed with certain people.

Requires the inspection to include a method to test the stress and wear-related damage of critical parts that the manufacturer of the amusement ride determines are reasonably subject to failure.

Requires the operator of an amusement ride in this state to maintain records of any governmental action taken in any state relating to that particular ride.

Requires the commissioner of insurance to adopt rules requiring that a sign be posted to inform the public how to report an unsafe amusement ride or an operator who appears to be violating the law.

Authorizes state and local law enforcement officials to conduct spot inspections and immediately shut down an amusement ride if safety concerns are present or for failure to comply with statutory insurance or inspection requirements.

Provides that a person commits an offense if the person is intoxicated while operating an amusement ride or while assembling a mobile amusement ride.

## TEXAS ALCOHOLIC BEVERAGE COMMISSION REGULATIONS - H.B. 2450

*by Representative Haggerty*
*Senate Sponsor: Senator Jackson*

The purpose of this bill is to set out criteria for disciplining a liquor wholesaler or beer distributor whose licensed or permitted employees are charged with a violation of the law.

Authorizes the Texas Alcoholic Beverage Commission to suspend or revoke the alcoholic beverage permit or license, or otherwise discipline the permit or license holder, whose supervisory agents, based on an act or omission:

- ◊ were directly involved in the act or omission of the holder of an agent's permit or agent's beer license;
- ◊ had notice or knowledge of the act or omission; and
- ◊ failed to take reasonable steps to prevent the act or omission.

## SETTLEMENT AGREEMENTS FOR STATE AGENCY EMPLOYEES - S.B. 191

*by Senator Ogden*
*House Sponsor: Representative Junell*

Currently, under Texas law, the grant of extra compensation to state employees after service has been rendered is prohibited. Other constraints, such as the state's doctrine of at-will employment and restrictions on contracting for an amount of money beyond the biennium, essentially prohibit state agencies from entering into employment contracts that include severance provisions. However, in a few cases severance payments have occurred. This bill clarifies and restricts the actions a state agency or state-supported higher education institution may take in a settlement agreement with a former employee.

Prohibits the reassignment of the executive head of a state agency to another position in the agency or at another agency that is controlled by the same governing body, unless the governing body votes in an open meeting to approve the reassignment.

Prohibits a state agency from entering into a contract with the executive head, a person who has been the executive head within the previous four years, or with a person who employs a current or former executive head unless certain requirements are met.

Establishes that the terms of the reassignment of an executive head and the terms of a contract with a current or former executive head are open records. Requires public disclosure of a record that pertains to the reassignment of an executive head, the terms of a consulting service contract with a former or current executive head, or an agreement under which the agency will pay money or other consideration to an executive head as a settlement, compromise or other resolution of differences among the parties. Provides that a person who withholds a record under this section from public disclosure commits a Class A misdemeanor.

## STATE EMPLOYEE TRAINING POLICY - S.B. 223

*by Senator Ogden*
*House Sponsor: Representative Junell*

In an interim study, it was found that several state agencies pay for training and educational opportunities for employees with no guarantee that these employees would continue their employment subsequent to the training. This bill creates requirements for the adoption of a state employee training policy, and sets forth the employee's responsibility subsequent to training.

Requires a state agency, except a river authority, to adopt an employee training policy before spending money on training.

Sets out requirements for state employees who receive three or more months of education or training and who do not perform their regular duties as a result of the education or training. Requires a state employee to agree to the conditions before receiving the education or training.

Provides that, in a public meeting, the agency may waive the requirements if the governing body finds that such action is in the best interests of the agency or would cause the employee extreme personal hardship.

Provides that a state employee who does not comply with the requirements is liable to the state agency for any costs and for the agency's reasonable expenses incurred in obtaining the payment.

Requires each state agency to prepare and submit an annual report to the Legislative Budget Board detailing the amount of money spent for training in the preceding fiscal year.

Requires a state agency to notify the Legislative Budget Board, the Senate Finance Committee, and the House Appropriations Committee if it pays membership dues to an organization that pays all or part of the salary of a person registered under Chapter 305.

## STREAMLINED RECORD KEEPING FOR LICENSING BOARDS - S.B. 234

*by Senator Ellis*
*House Sponsor: Representative Hunter*

This bill streamlines record keeping for various state licensing boards by deleting the requirement that a roster of the boards' licensees be filed with the Secretary of State.

## TEXAS INCENTIVE AND PRODUCTIVITY COMMISSION/SUNSET - S.B. 355

*by Senator Harris*
*House Sponsor: Representative Bosse*

The Texas Incentive and Productivity Commission (commission) was created in 1989 and administers programs that provide a system for rewarding employee initiative in improving efficiency. The commission underwent review which resulted in the Sunset Advisory Commission recommending its continuation.

Establishes criteria for membership in the commission and establishes rules and guidelines for awarding productive suggestions.

## STATE AGENCY RULES - S.B. 382

*by Senator Duncan*
*House Sponsor: Representative Smithee*

This bill prevents agency rules from being voided by a court on a technicality.

Requires an agency order finally adopting a rule to consist of: a summary of comments received from interested parties; a summary of the factual basis for the rules which demonstrates a rational connection between the factual basis for the rule and the rule as adopted; and the reasons why the agency disagrees with party submissions and proposals.

States that the agency does not have to provide additional analysis of alternatives not adopted beyond the requirements described above or a justification separate from the statements required above.

Provides that a rule is voidable, unless a state agency adopts it in substantial compliance with this statute.

Provides that a person must initiate a contested proceeding on a rule not later than two years after the effective date of the rule.

Provides that a state agency complies with the requirements stated above if its reasoned justification demonstrates in relatively clear and logical fashion that the rule is reasonable, and provides that a mere technical defect is not grounds for invalidation of a rule.

Provides that, if a court finds that an agency has not substantially complied with one or more of the requirements above, the court may remand the rule. The court must provide a reasonable time for the agency to either revise or readopt the rule, and during the remand period the rule shall remain effective unless the court finds good cause for invalidation.

Allows a state agency to adopt a rule that the agency determines is necessary in preparation for the implementation of legislation that has become law but has not taken effect. The agency may also take administrative action on a rule that has been finally adopted but has not taken effect. Prohibits a rule from taking effect before the legislation that allows its implementation takes effect.

## FUNERAL SERVICE COMMISSION SUNSET DATE ACCELERATED - S.B. 440

*by Senator Moncrief*
*House Sponsor: Representative Capelo*

Several issues regarding the Texas Funeral Service Commission have caused the commission to be the focus of intense scrutiny. The bill accelerates the expiration date for the commission by two years, to September 1, 2001, which effectively accelerates the performance review process.

## STATE PRESERVATION BOARD AND BOB BULLOCK MUSEUM - S.B. 494

*by Senator Harris*
*House Sponsors: Representatives Goolsby and Hunter*

Establishes the Bob Bullock State History Museum and prescribes certain operations, powers, and duties of the State Preservation Board (board).

Grants the board the same powers and duties relating to other buildings and grounds as it has for the Capitol and the General Land Office Building, except as expressly limited by law. Authorizes the board to establish and maintain a chapel in the Capitol.

Creates the Capitol renewal account in the general revenue fund, which consists of money appropriated for the purpose of the account.

- ◊ Authorizes money in the account to be used only for the purpose of maintaining and preserving the Capitol, the General Land Office Building, their contents and grounds.
- ◊ Requires the pro rata portion of interest received from investment of money in the general revenue fund to be credited to the account.
- ◊ Provides that the account is exempt from the application of Sections 403.095 and 404.071, Government Code.

Authorizes the board to use specimens of non-indigenous plants that have historical significance in relation to the Capitol grounds.

Authorizes the board to develop, construct, govern, and operate a state history museum to be located within the Capitol complex. Requires the executive director to notify the board in writing of any expenditures for goods and services in excess of $15,000.

**WOODLAWN**

Provides that the title to the historic property known as Woodlawn, located at No. 6 Niles Road in Austin, is in the name of the board.

Requires the board to:

- ◊ preserve, maintain, restore, and furnish the building;
- ◊ preserve, maintain, and restore its contents and grounds; and
- ◊ otherwise provide for use of the building and grounds.

Authorizes the board to set and collect a fee for the use of Woodlawn for special activities. Requires the board to deposit the fees in the Capitol fund.

Authorizes the board to provide for the transportation of visitors within the Capitol complex and between the building and grounds subject to the jurisdiction of the board. Authorizes the board to set and collect a transportation fee, which shall be deposited in the Capitol fund.

Authorizes the board to employ public relations personnel and to publish or contract for the publication of brochures, books, and periodicals intended for the general public. Authorizes the board to sell publications printed under this section.

**BOB BULLOCK TEXAS STATE HISTORY MUSEUM**

Establishes the Bob Bullock Texas State History Museum for the purpose of educating and engaging visitors in the exciting and unique story of Texas and displaying objects and information relating to the history of Texas.

- ◊ Requires the museum to provide exhibits, programs, and activities that support the education of public school students in the essential knowledge and skills adopted under the Education Code.
- ◊ Requires the board to govern and provide for the operation of the museum. Requires the governor, lieutenant governor, and speaker of the house of representatives, in their capacities as board members, to each appoint one person to an advisory committee to assist and advise the board in governing and operating the museum. Provides that a member of the board is eligible to serve on the advisory committee.
- ◊ Makes other provisions relating to the governance and operation of the museum and establishes a museum fund.

Dedicates the museum to former Lieutenant Governor Bob Bullock in recognition of his contribution to the people of the State of Texas through a life of public service and in recognition of his vision in proposing and securing funding for the museum.

## AGENCY INFORMATION ON THE INTERNET - S.B. 801

*by Senator Ellis*
*House Sponsor: Representative Maxey*

In 1997, the legislature instructed the Department of Information Resources (DIR) to develop a biennial state strategic plan for overseeing technological developments, including the use of technology to improve access to public information.

Requires a state agency to make its rules and selected written letters, opinions, or other statements interpreting the rules available on the Internet.

Requires a state agency to design its Internet site so that a member of the public may send questions about the rules to the agency electronically and may receive answers electronically.

Requires an agency's Internet site to conform to standards for accessibility for people with disabilities.

Requires each state agency that receives information or money from the public or its regulated members to include strategic plans for receiving information or payments through the Internet or other electronic means. Requires DIR to assist in this effort.

Requires all state agencies that maintain a generally accessible Internet site to cooperate in linking the sites. Requires DIR to assist in this effort.

## CONTRACTING BY TEXAS PARKS AND WILDLIFE DEPARTMENT - S.B. 874

*by Senator Brown*
*House Sponsor: Representative Kuempel*

Currently, the Texas Parks and Wildlife Department (TPWD) is granted some authority to contract with federal agencies, but it does not have authority to contract with governmental entities or nonprofit organizations.

The bill:

- ◊ authorizes the executive director of TPWD, or the director's designee, to negotiate, contract, or enter an agreement with the United States or its agencies, another state or political subdivision of a state or this state, or a nonprofit organization for research and field work;
- ◊ authorizes TPWD to negotiate, contract, or enter an agreement for professional services relating to a project of the department; and
- ◊ authorizes the General Services Commission to adopt rules governing policies and procedures under this section.

## TASK FORCE TO IMPROVE STATE AGENCY INTERNET SERVICES - S.B. 974

*by Senators Shapleigh and Barrientos*
*House Sponsor: Representative Solomons*

As the Internet has grown to be an important tool for exchanging information and conducting everyday business, it is imperative that state and local government agencies improve their Internet services. This bill requires the Department of Information Resources to create a task force and demonstration project regarding Internet-based services and systems.

◊ Sets out the membership of the task force.

Requires the task force to assess the current and future feasibility of establishing a common electronic system using the Internet, so that agencies may provide certain services to the public.

## PURCHASING BY THE GENERAL SERVICES COMMISSION - S.B. 1127

*by Senator Armbrister*
*House Sponsor: Representative Brimer*

This bill amends the regulations governing state purchases of goods and services.

Authorizes the General Services Commission (GSC) to offer appropriate training to vendors on a cost recovery basis and authorizes the agency to charge an annual registration fee biennially.

Requires GSC and other state agencies to give preference to recycled, remanufactured, or environmentally sensitive products and requires an agency not using these products to include in the file a justification stating the reasons why the commodity or services do not meet the requirements.

## REVISIONS TO THE TEACHER RETIREMENT SYSTEM - S.B. 1128

*by Senator Armbrister, et al.*
*House Sponsors: Representative Greenberg, et al.*

This bill sets forth revised guidelines for the administration of systems and programs of the Teacher Retirement System of Texas. Among other provisions, the bill:

Amends the requirements for member compensation subject to contributions and credit, including the requirement that the system provide at least one type of performance pay.

Adds a section relating to permissive service credit restrictions.

Provides that a member may not establish service credit in the retirement system for any period when the member was participating in the optional retirement program.

Provides that a member may select an optional service retirement annuity together with a lump sum option. Lays out the methods for distributing the lump sum option.

Allows a member to discontinue participation in the plan.

Adds new provisions relating to the board of trustees, including the following:

- ◊ Allows the board of trustees to delegate responsibility, discretion, and authority to employees, investment managers, custodians, and other agencies and entities, in a prudent manner.
- ◊ Permits the board to adopt a statement that provides the expected rate of return on system assets and the expected rates of return and acceptable levels of risk for each investment class.

Provides that a professional investment manager shall acknowledge in writing that the manager assumes fiduciary responsibility to the system and is considered to agree that the laws of this state govern the performance of its responsibilities to the system.

Adds reporting requirements for employers of system members.

Adds new provisions relating to insurance for school district employees and retirees. Creates the school district employees and retirees optional insurance trust fund.

Adds new provisions relating to annuities or investments for educational employees.

Increases monthly benefit payments beginning in September 1999 by a certain percentage depending on the annuitant's latest retirement or death date.

Lays out new requirements for an investment manager to be eligible for appointment by the board of trustees.

## REGULATION OF ERS PROGRAMS - S.B. 1130

*by Senators Armbrister and Barrientos*
*House Sponsors: Representatives Greenberg and Telford*

The Employees Retirement System (ERS) provides a retirement program for state employees, administers the Uniform Group Insurance Program, provides various retirement savings programs, and is the state's Social Security Administrator. S.B. 1130 adds new regulations to programs and systems administered by the ERS, as part of the oversight of the system by the Senate State Affairs Committee.

Among other provisions, the bill makes changes in the system's responsibility for making benefit payments, including partial lump sum payments; criteria for withdrawal of payments to the system; establishment of creditable service; service retirement benefit administration; and the powers and duties of the board of trustees; and increases retirement benefits by a percentage based on the date the employee retired or died. The bill also makes changes in the administration of the Uniform Group Insurance Program.

## STATE AGENCY CUSTOMER SERVICE - S.B. 1563

*by Senator Armbrister*
*House Sponsor: Representative Cuellar*

This bill establishes customer service standards and performance measures for state agencies.

Adds Chapter 2113, Customer Service, to the Government Code, as follows:

- ◊ Defines "state agency" and includes an institution of higher education in the definition.
- ◊ Requires each state agency to create an inventory of external customers for each budget strategy listed for that agency, and to gather information from customers using survey or focus groups regarding the quality of service delivered by the agency. Requires the agency to request in the survey evaluation of certain services, such as facilities, ease of access, staff courtesy and knowledgeability, communications, and Internet site.
- ◊ Requires the agency to report the results of the survey to the Legislative Budget Board (LBB) and the Governor's Office of Budget and Planning (GOBP) by June 1 of each even-numbered year.
- ◊ Requires the LBB to develop means to measure customer service satisfaction and create performance measures for agencies in this area.
- ◊ Allows the LBB and the GOBP to inspect a state agency and analyze its customer service performance by sending a customer service evaluator to confidentially pretend to be a customer of that agency.
- ◊ Allows the LBB and GOBP to award the "Texas Star" to a state agency that provides exemplary customer service.
- ◊ Requires each agency to appoint a customer relations representative and lays out the duties of the representative. Requires each agency to create a "Compact with Texans," to be approved by the GOBP and which shall set customer service standards for the agency.
- ◊ Allows the GOBP to adopt rules, in consultation with the LBB, to implement this chapter.

Requires the LBB and the GOBP to file a report with the lieutenant governor and the speaker of the house by December 31, 2000. Requires the report to include analysis of agency customer service and recommendations for improving that service.

## COMPENSATION FOR STATE EMPLOYEES SERVING ON BOARDS - S.J.R. 26

*by Senators Ratliff and Wentworth*
*House Sponsor: Representative Krusee*

State employees who receive compensation from the state serve as members of various local governing bodies, but currently they are prohibited from receiving compensation for board service. S.J.R. 26 submits a constitutional amendment to the voters that would allow state employees to receive compensation from the governing bodies they serve.

## SELECTIVE SERVICE REGISTRATION PREREQUISITE - H.B. 558

*by Representative Hunter, et al.*
*Senate Sponsor: Senator Truan*

This bill requires a prospective state employee, whose age or gender would require that employee to register with the selective service system, to present proof of registration or exemption from registration as a condition of employment.

◊ The bill does not apply to a person continuously employed by a state agency who was hired before September 1, 1999.

## EMERGENCY SERVICES PERSONNEL RETIREMENT FUND - H.B. 1739

*by Representative Greenberg*
*Senate Sponsor: Senator Shapleigh*

This bill updates the statutes governing the Texas Statewide Emergency Services Personnel Retirement Fund, which provides retirement benefits for employees of fire, rescue, and emergency medical services departments that participate in the fund. Several sections of the statute are amended, including those relating to membership, service credit, benefits, and administration.

## HUMAN RIGHTS COMMISSION/SUNSET - H.B. 1976

*by Representative Bosse*
*Senate Sponsor: Senator Madla*

The Texas Commission on Human Rights (commission) enforces state equal employment opportunity and fair housing laws prohibiting discrimination on the basis of race, sex, age, religion, national origin, and disability. The commission is subject to the Sunset Act and underwent review during the 76th Legislature. H.B. 1976 continues the commission until September 1, 2011 and makes statutory modifications.

These modifications include new requirements for commissioner training, new provisions for commission outreach programs and public information, complaint procedures, investigator training, and analysis of discrimination complaints.

Requires each state agency to:

- ◊ provide an employment discrimination training program to employees of the agency;
- ◊ develop and implement personnel policies and procedures that comply with this chapter, subject to review by the commission;
- ◊ analyze its current workforce and compare the numbers of African Americans, Hispanic Americans, and females in the statewide civilian workforce to determine the percentage of exclusion or underutilization by each job category; and
- ◊ file a report with the commission containing equal opportunity employment information.

Requires the commission to compile a report based on the information reported to the commission and provide it to the legislature.

Requires a state agency that receives three or more complaints of employment discrimination in a fiscal year, other than complaints determined to be without merit, to provide a comprehensive equal employment opportunity training program to appropriate supervisory and managerial employees.

Requires the commission to provide landlords with technical and other assistance relating to the accessibility requirements in this chapter.

## ADVISORY COMMISSION ON STATE EMERGENCY COMMUNICATIONS/SUNSET - H.B. 1983

*by Representative Bosse, et al.*
*Senate Sponsor: Senator Madla*

The Advisory Commission on State Emergency Communications (commission) was created in 1987 to assist local governments in providing 9-1-1 telephone service by assisting in the delivery of 9-1-1 calls to locally run answering points provided by regional planning commissions. This bill renames the advisory commission as the Commission on State Emergency Communications and continues the commission until September 1, 2011.

Provides that the composition of the commission consists of nine appointed members and three ex-officio members. Provides that the governor appoints a member of the commission as the presiding officer. Sets out eligibility requirements for membership and the grounds for removal of a member.

Sets out required personnel policies, standards of conduct, and member training policies.

Requires the commission to have a procedure for public comment and complaints.

Requires the commission to prepare, for each state fiscal biennium, a strategic plan for the following five state fiscal years using information from the strategic information contained in the regional plans. Makes other provisions related to information gathered from regional and municipal 9-1-1 districts.

Requires the commission to distribute money appropriated to the commission from the 9-1-1 services fee fund to regional planning commissions for use in providing 9-1-1 services as provided by contracts. Requires to comptroller to collect past due amounts and makes other provisions for the comptroller's distribution of funds collected.

Sets out provisions that contracts between the commission and regional planning commissions must contain.

Requires information furnished to a poison control center to be confidential.

## TEXAS STATE BOARD OF MECHANICAL INDUSTRIES - H.B. 2155

*by Representative Yarbrough*
*Senate Sponsor: Senator Harris*

Vetoed

Currently, a contractor who wishes to perform plumbing, air conditioning, refrigeration, and backflow prevention services is required to obtain several specific licenses from several different agencies. H.B. 2155 creates the Texas State Board of Mechanical Industries to consolidate certain agencies to make a more effective and efficient system of licensing and inspection.

## TEXAS COMMISSION ON PRIVATE SECURITY/SUNSET - H.B. 2617

*by Representatives Bosse and Wise*
*Senate Sponsor: Senator Harris*

Changes the name of the Texas Board of Private Investigators and Private Security Agencies to the Texas Commission on Private Security (commission).

Incorporates the standard Sunset Commission language for requiring that appointments to the executive committee be made without regard to the appointee's race, color, disability, sex, religion, age or national origin; designation of a presiding officer; conflicts of interest; grounds for removal of a member; training program for members of the executive committee; public testimony; standards of conduct; and equal employment opportunity policies.

Other provision changes include the following:

- ◊ Continues the commission until September 1, 2009.
- ◊ Allows the commission to commission full-time investigators as peace officers.
- ◊ Requires the commission to make available to the public certain information about an individual regulated by the board for whom the board has taken disciplinary action.

## AGENCIES MUST POST INFORMATION ON THE INTERNET - H.B. 2835

*by Representative Sylvester Turner*
*Senate Sponsor: Senator Shapleigh*

The purpose of this bill is to provide the public with greater access to information about state agencies. It requires a state agency, excluding an institution of higher education, whose budget exceeds $175 million to post specific information regarding its expenditures, governing body, contracts, duties, rules, and hearing procedures on the agency's Internet website.

## REGULATION OF THE FUNERAL SERVICE COMMISSION - H.B. 3516

*by Representative Marchant*
*Senate Sponsor: Senator Carona*

The bill makes changes in the regulation of funeral directing and embalming by amending the statutes relating to the Texas Funeral Service Commission. It clarifies the responsibilities of the commissioners in their governance of the agency and shifts some authority of the executive director to the board of the commission. It also clarifies language regarding fines that can be imposed and hearings before such fines become final. Some of the bill's provisions are as follows.

Reduces the number of commissioners from nine to six and changes the requirements for membership, and sets forth provision regarding board membership qualifications.

Provides that no person may be appointed to the commission who is an officer or employee of an entity that controls more than three funeral establishments if another commissioner is also an officer or employee of the same corporation. If, because of a merger or other agreement, a violation of this provision occurs after a member is appointed, a vacancy is created and will be filled by the governor as soon as practicable. Requires both the commission's presiding officer and the assistant presiding officer to be public members.

Requires all meetings, including meetings of the committees of the commissioners, to be public. Provides that a member of the public is not required to give notice before appearing and speaking before the commissioner.

Sets out standards and requirements for reciprocal licensing of applicants from other states. Sets out other requirements for licensing the industry, including procedures for hearings related to denial and revocation of licenses; violations; and penalties and fines.

## OFFICE OF COMMISSIONER OF HEALTH AND HUMAN SERVICES - H.J.R. 74

*by Representative Gray*
*Senate Sponsor: Senator Brown*

H.J.R. 74 is a proposed constitutional amendment intended as a companion to H.B. 2641. Under proposed H.B. 2641 (the Health and Human Services Commission Sunset review bill), the commissioner of health and human services (commissioner) is given increased power over the operations of the health and human services agencies.

Proposes a constitutional amendment that, if the legislature establishes an office known as the office of the commissioner of health and human services that is filled by appointment by the governor and is the single governing office of the state agency responsible for coordinating the planning and delivery of health and human services, the person holding that office serves at the pleasure of the governor.

◊ Proposes a temporary provision to the Texas Constitution providing that the person who holds office as the commissioner of health and human services on the effective date of the constitutional amendment is subject to that amendment and that this temporary provision expires February 1, 2001.

## OFFICE OF THE ADJUTANT GENERAL - H.J.R. 95

*by Representative Gray*
*Senate Sponsor: Senator Brown*

Currently, an adjutant general is appointed every two years by the governor. However, since the governor serves a four-year term, it is often necessary for the governor to reappoint the adjutant general half-way through the governor's term. The adjutant general must go through Senate confirmation again.

This bill provides that if the legislature establishes the office of the adjutant general of the state military forces that is filled by gubernatorial appointment and subordinate only to the governor, the person holding that office serves at the pleasure of the governor, regardless of any time limit set by law.

◊ Provides that the person holding such office on the effective date of that constitutional amendment is subject to that amendment.

◊ Adds a temporary provision, which shall expire February 1, 2001, to the Texas Constitution, which applies to this proposed constitutional amendment.

Provides that the proposed constitutional amendment shall be submitted to the voters on November 2, 1999.

## NO CAMPAIGNING FOR CERTAIN COUNTY EMPLOYEES - S.B. 203

*by Senator Carona*
*House Sponsor: Representative Jones*

Expands the prohibitions against political activities contained in Section 31.039, Election Code, which currently pertain only to county elections administrators, to include the employees of county elections administrators. This bill prohibits a county elections administrator employee:

- ◊ from running as a candidate for public office or holding office in a political party. These activities would vacate the employee from his or her position with the county elections administrator; and
- ◊ from political contributions or public support for a candidate. Engaging in these activities would be a Class A misdemeanor, and, if convicted, the employee would be required to resign from employment, and would be ineligible to work for a county elections administrator in the future.

## POLLING PLACES - S.B. 1832

*by Senator Bivins*
*House Sponsor: Representative Smithee*

Current law provides that an election must be held in a public building as defined by Section 43.031(a), Election Code. If a suitable public building is unavailable the law indicates that the election may be held "in some other building." The ambiguity in the language could allow a location which might not be deemed sufficiently neutral by the voting public to be used as a polling place. S.B. 1832 prohibits a polling place from being located at the home of a candidate or at the home of a person who is closely related to the candidate.

## VOTER GUIDE FOR JUDICIAL ELECTIONS ON THE INTERNET - H.B. 59

*by Representative Cuellar*
*Senate Sponsor: Senator Duncan*

Vetoed

Authorizes the secretary of state to implement a voter information service program for judicial elections and to make it available on the Internet. The bill provides that a candidate may file information for use in the voter information guide not later than the 70th day before the date of the judicial election and include his or her (1) current occupation; (2) educational and occupational background; (3) biographical information; and (4) any previous experience serving in government. The bill creates a procedure for the secretary of state to accept or reject the information submitted by a candidate, and otherwise grants the secretary of state authority to devise procedures necessary for administering the program. If the secretary of state decides to implement the voter information service, the information must be made available on the Internet not later than 45 days before election day. The bill enables voters to carry the information with them to the polling place to assist in marking their ballots.

## ELECTRONIC FILING OF CAMPAIGN FINANCE REPORTS - H.B. 2611

*by Representative Greenberg, et al.*
*Senate Sponsor: Senator Moncrief*

Currently, paper campaign finance reports are filed with the Texas Ethics Commission (commission). People interested in viewing the information in these reports may only access them by traveling to the commission office in Austin. This bill requires candidates for and officeholders of a statewide office, the state Senate, the state House of Representatives, and the State Board of Education to file reports with the commission electronically, and requires the commission to post electronically filed reports on the Internet.

Requires campaign finance reports filed by candidates and officeholders for a statewide office, the state Senate, or state House of Representative and their supporting political committees to be filed electronically, except in the following cases:

- ◊ a candidate, officeholder, or campaign treasurer who files an affidavit stating that the candidate, officeholder, or political committee does not use computer equipment to keep the current records of political contributions and expenditures; or
- ◊ a candidate or officeholder (aside from one holding or running for statewide office) who accepts contributions or makes expenditures that in the aggregate do not exceed $20,000 in a calendar year.

Sets forth computer software specification requirements for electronic filing.

Allows a person who is required to file reports electronically to use a publicly accessible state agency computer terminal that has Internet access and a web browser software to prepare the report.

- ◊ Prohibits an officeholder from using a computer issued to the officeholder for official use to prepare an electronic report.

Requires the commission to make the electronically filed reports available on the Internet.

## SPECIAL PLATE FOR ENTITIES TRANSPORTING DISABLED PEOPLE - S.B. 21

*by Senators Zaffirini and Nelson*
*House Sponsor: Representative McReynolds*

Currently, an institution, facility, or retirement community that maintains a vehicle for transporting people with disabilities must display a placard for each resident being transported. This bill requires the Texas Department of Transportation to issue a specially designed license plate or disabled parking placard to an institution transporting the disabled.

## CESAR CHAVEZ DAY - S.B. 107

*by Senator Truan, et al.*
*House Sponsor: Representative Chavez*

This bill creates an optional state holiday on March 31 in honor of Cesar Chavez.

Allows the administrator of a state agency to permit an employee of the agency to have a day off with pay on Cesar Chavez Day in lieu of any other state holiday that occurs on a weekday. The total number of holidays in a year to which an employee of a state agency is entitled is not changed by this law.

Requires each state agency to remain open and conduct the operations of the agency at a minimum level on March 31.

## TEXAS RELIGIOUS FREEDOM RESTORATION ACT - S.B. 138

*by Senator Sibley, et al.*
*House Sponsors: Representative Hochberg, et al.*

Provides that the state, any state agency, municipality, or other political subdivision may not, through ordinance, rule, order, decision, practice, or other exercise of authority, substantially burden a person's free exercise of religion, unless the action:

- furthers a compelling governmental interest; and
- is the least restrictive means of furthering that interest.

Provides that a person whose free exercise of religion has been substantially burdened in violation of this Act may assert that violation as a defense in a judicial or administrative proceeding.

Grants the following remedies to any person, other than a government agency, who successfully asserts a claim or defense under this Act:

- ◊ declaratory and injunctive relief;
- ◊ compensatory damages for pecuniary and nonpecuniary losses not to exceed $10,000; and
- ◊ reasonable attorney's fees, court costs, and other expenses incurred in bringing the action.

Bars a person from bringing an action under this Act unless the person, 60 days prior to bringing the action, provides written notice to the government agency that the person's free exercise of religion has been burdened by an act of that agency; this notice requirement does not apply if threat to the person's exercise of religion is imminent and the person did not have sufficient notice or knowledge of the government action that would allow timely notice. The agency is authorized to implement a remedy to reasonably remove the burden.

Provides that any claim under this Act must be within one year after the date the person knew or should have known of the substantial burden on the person's exercise of religion.

Declares that municipalities shall have no less authority to adopt or apply laws and regulations concerning zoning, land use planning, traffic management, urban nuisance, or historic preservation than existed under the U.S. Constitution as interpreted by federal courts prior to April 17, 1990.

Provides that this Act applies to claims regarding employment, education, or volunteering by those who perform duties for a religious organization.

Creates a rebuttable presumption that a valid ordinance, rule, order, decision, or practice, which applies to persons within a city, county, or state jail or correctional facility meets this test.

Provides that this Act does not affect the grant or denial to a religious organization of an appropriation, other money or benefits, or a tax exemption.

## INFORMATION DISCLOSURE & PROPERTY OWNERS' ASSOC. - S.B. 434

*by Senator Brown*

*House Sponsor: Representative Yarbrough*

In the past decade, the number of property owners' associations in Texas has increased. Because these associations assess dues and fees to their members in exchange for services provided to the community of homeowners, prospective buyers need to be aware of the obligations they may incur before they buy a home.

Although the Texas Real Estate Commission authorizes an addendum and resale certificates to be used in transactions involving the sale of property subject to mandatory assessment in a property owners' association, some associations do not complete the certificate. Without a certificate, many buyers would not be aware of pertinent information.

S.B. 434 adds a new chapter to the Property Code that applies to a subdivision whose property owners' association is entitled to levy regular or special assessments that are secured by a continuing lien on property in the subdivision.

Requires an association, not later than the 10th day after receiving a written request from an owner, owner's agent, or title insurance company acting on behalf of the owner, to deliver current copies of the restrictions applying to the subdivision and the association's bylaws and rules, as well as a resale certificate.

Sets out what information must be contained in the resale certificate, including restrictions on the owner's right to transfer the property, regular and special assessments, unpaid amounts due to the association attributable to the owner's property, the association's budget, unsatisfied judgments or pending lawsuits against the association, property and liability insurance relating to the common areas and facilities, and whether the restrictions allow foreclosure of the association's lien on the owner's property for failure to pay assessments.

Permits an association to charge a reasonable fee to prepare and deliver a resale certificate.

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Provides that if an association does not timely deliver information required under this chapter, the owner or the owner's agent may submit a second request. If the association fails to deliver the information before the seventh day after the second request for the information was mailed by certified mail, return receipt requested, or hand delivered, the owner may:

- ◊ seek certain legal remedies, including a court order directing the association to furnish the required information, a judgment against the association for not more than $500, a judgment for court costs and attorney's fees, or a judgment authorizing the deduction of amounts awarded from any future regular or special assessments; and
- ◊ provide a buyer under contract to purchase the owner's property with an affidavit stating that two written requests have been made under this chapter and the association did not timely provide the information. A buyer receiving such affidavit is not liable to the association for any money or debt that is due and unpaid on or before the date of the affidavit, and any association's lien to secure such amounts will automatically terminate.

Bars an association from denying the validity of any statement in the resale certificate.

Terminates the association's lien for any amounts due the property that are not disclosed on the date the resale certificate is prepared.

Provides that a buyer, buyer's agent, owner, owner's agent, lender, and title insurance company and its agent are not liable for any debt or claim existing on the preparation date of the resale certificate that is not disclosed in the resale certificate.

Provides that a resale certificate does not affect:

- ◊ an association's right to recover debts or claims that arise or become due after the date the resale certificate is prepared; or
- ◊ a lien on a property securing payment of future assessments held by the association.

## STATE FLAG CEREMONY - S.B. 483

*by Senator Duncan*
*House Sponsor: Representative Hunter*

When the state flag is retired, it is burned in a dignified ceremony. This bills expands the recommended ceremony for the retirement of the flag.

## INCREASE IN SIZE OF URBAN HOMESTEAD - S.B. 496

*by Senator Harris*
*House Sponsor: Representative Brimer*

This bill is the enabling legislation that accompanies S.J.R. 22.

Requires the urban homestead to consist of not more than 10 acres, rather than one acre, of land which may be in one or more contiguous lots, together with any improvements thereon.

Provides that a homestead is considered to be urban if at the time the designation is made, the property is located within, and provided certain services by, a municipality.

If there is a conflict between this subchapter and federal law regarding an upper limit on the amount of homestead property a person may exempt from seizure, this subchapter prevails to the extent allowed under federal law.

Provides that the doctrine or rule prohibiting an existing lien upon part of a homestead from extending to another part of the homestead not charged with the debts secured by the existing lien upon part of the homestead does not apply in this state.

## INCREASING THE DEFINED SIZE OF URBAN HOMESTEAD - S.J.R. 22

*by Senator Harris*
*House Sponsor: Representative Brimer*

Currently, Texas law prohibits home equity loans from being made on lots of over one acre in urban areas. A homeowner of a property that exceeds one acre who wants a home equity loan must then either try to subdivide the property or ask the lender to take an interest only in the home and less than one acre within the lot, which creates an undue burden on the homestead. S.J.R. 22 proposes a constitutional amendment that increases the size of an urban homestead from one acre to 10 acres.

Provides that the homestead in a city, town, or village shall consist of a lot or contiguous lots amounting to not more than 10 acres of land, together with any improvements on the land.

Provides that a release or refinance of an existing lien against a homestead as to a part of the homestead does not create an additional burden on the part of the homestead property that is unreleased or subject to the refinance, and a new lien is not invalid only for that reason.

## SUING FIREARMS OR AMMUNITION MANUFACTURERS - S.B. 717

*by Senators Lindsay and Nelson*
*House Sponsors: Representative Green, et al.*

This bill:

- ◊ is designed to limit the ability of governmental units to file lawsuits against gun makers;
- ◊ does not prohibit the Texas Attorney General from bringing suit on behalf of the state or any other governmental unit; and
- ◊ does not create a cause of action.

Prohibits a governmental unit, other than the attorney general, from suing a firearms or ammunition manufacturer, trade association, or seller for damages associated with lawfully selling firearms to the public, unless the suit is approved by the legislature.

Allows a governmental unit, without legislative approval, to sue a firearms or ammunition manufacturer, trade association, or seller for recovery of damages, for:

- breach of contract or warranty for firearms or ammunition purchased by the governmental unit;
- damage or harm to property owned or leased by the governmental unit caused by a defective firearm or ammunition;
- personal injury or death arising from a governmental unit's claim for subrogation;
- injunctive relief to enforce a valid ordinance; or
- contribution under Chapter 33, Civil Practice and Remedies Code, regarding proportionate responsibility.

## CONFORMS PROBATE CODE TO HOMESTEAD LIABILITY LAWS - S.B. 1553

*by Senator Ellis*
*House Sponsor: Representative Thompson*

This bill conforms the Texas Probate Code to the recently enacted homestead liability laws of Texas.

Provides that a homestead is not liable for the payment of debts of an estate, except for the following new exceptions:

- work and material used in constructing improvements thereon if the requirements of Section 50(a)(5) of Article XVI, Texas Constitution (Texas Homestead Law) are met;
- an owelty of partition imposed against the entirety of the property by court order or by a written agreement of the parties to the partition, including a debt of one spouse in favor of the other spouse resulting from a division or an award of a family homestead in a divorce proceeding;
- the refinance of a lien against a homestead, including a federal tax lien resulting from the tax debt of both spouses, if the homestead is a family homestead, or from the tax debt of the decedent;
- an extension of credit on the homestead if the requirements of Section 50(a)(6) of Article XVI, Texas Constitution are met; or
- a reverse mortgage.

## REVERSE MORTGAGES - S.J.R. 12

*by Senator Carona, et al.*
*House Sponsors: Representative Hochberg, et al.*

Requires the submission to the voters of Texas a ballot proposing a vote for or against "The constitutional amendment relating to the making of advances under a reverse mortgage and payment of a reverse mortgage." The proposal shall be submitted to the voters at an election to be held November 2, 1999.

Contingent upon passage of the constitutional amendment, the following provisions would become effective:

- ◊ raises the age to which a reverse mortgage may be extended to, to a person who is, or whose spouse is 62, from 55 years or older;
- ◊ redefines a "reverse mortgage" to include an extension of credit that requires no payment of principal or interest until: all borrowers have died; the homestead property securing the loan is sold or otherwise transferred; all borrowers cease occupying the homestead property for a period of longer than 12 consecutive months; or the borrower defaults on certain obligations, fails to maintain the priority status of the lien, or commits actual fraud in connection with the loan;
- ◊ requires notice from the borrower before the lender is subject to forfeit all principal and interest of the reverse mortgage if the lender fails to make loan advances as required in the loan documents and if the lender fails to cure the default as required in the loan documents, except when a governmental agency or instrumentality takes an assignment of the loan in order to cure the default;
- ◊ requires the lender, at the time the loan is made, to disclose to the borrower by written notice the specific provisions under which the borrower is required to repay the loan;
- ◊ provides that a reverse mortgage is an extension of credit that does not permit the lender to commence foreclosure until the lender gives notice to the borrower that a ground for foreclosure exists and gives the borrower a specific amount of time to remedy the situation; and
- ◊ provides that the mortgage is secured by a lien that may be foreclosed upon only by a court order in certain situations.

The resolution would also require that advances made on a reverse mortgage loan, under which more than one advance is made, to be made according to the terms established by the loan documents by certain proscribed methods.

Provides that in addition to other rulemaking authority, the Supreme Court shall promulgate rules of civil procedure for expedited foreclosure proceedings related to foreclosure of a reverse mortgage lien that requires a court order.

## AUTHORIZING LEGAL ACTION AGAINST UNWANTED FACSIMILES - H.B. 23

*by Representative Goolsby*
*Senate Sponsor: Senator Armbrister*

Prohibits a person from making or causing to be made a fax transmission for the purpose of a solicitation or sale to a fax machine after 11 p.m. and before 7 a.m.

Requires a person, who makes or causes a fax transmission to be made to a fax machine for the purpose of solicitation or sale, to include in the document transmitted or on a cover page to the document—a statement, in at least 12-point type—informing the fax recipient of a toll-free or local phone number at which the recipient may notify the "fax sender" not to send any further transmissions to a number(s) indicated by the recipient.

Requires the "fax sender" to send a written acknowledgment within 24 hours after receiving a "stop sending faxes" notification from the fax recipient.

Authorizes a person who receives an unwanted fax that violates this legislation or the corresponding federal law may bring an action against the person who originates the fax communication in a court of this state for an injunction, damages in the amount specified in H.B. 23, or both.

Entitles a plaintiff who wins a lawsuit under this legislation to the greater of $500 for each violation or the person's actual damages, with the exception that the court may increase the amount of the award to not more than the greater of $1,500 for each violation or three times the person's actual damages, if the court finds that the "fax sender" committed the violation.

## INFORMATION ON DRIVER'S LICENSES - H.B. 571

*by Representative Hupp, et al.*
*Senate Sponsor: Senator Nelson*

Driver's licenses currently issued by the state contain information about the license holder in an electronically readable form. This bill prohibits the Department of Public Safety (DPS) from including any unspecified information on a driver's license, commercial driver's license, or identification certificate in electronically readable form. It also requires the DPS to take steps to ensure that the information is used only for law enforcement or governmental purposes, and makes unauthorized use of the information a Class A misdemeanor.

## TEXAS PARENTS DAY - H.B. 1196

*by Representative Arthur Reyna*
*Senate Sponsor: Senator Madla*

Designates the second Sunday in August of each year as Texas Parents Day to celebrate the family and emphasize the importance of active parenting.

## TEXAS HISTORICAL ARTIFACTS PROGRAM AND FUND - H.B. 1223

*by Representative Seaman, et al.*
*Senate Sponsor: Senator Armbrister*

Recently, important historical artifacts have been discovered that are significant to Texas history. The Texas Historical Commission (THC) works with local communities to help them display artifacts in the cities and counties where they were discovered. However, many communities do not have the resources to provide facilities to display the artifacts. This bill establishes a program, to be administered by THC, to assist municipalities, counties, museums, and county historical commissions in developing and improving museum facilities that display artifacts significant to Texas or American history.

It also creates the Texas Historical Artifacts Program Fund, a separate account in the general revenue fund to be composed of money appropriated to the fund, money deposited to the fund from grants or donations, and interest received from investment of fund money. THC is required to establish rules governing the use, administration, and distribution of the fund.

## RESTORING HISTORIC COURTHOUSES - H.B. 1341

*by Representative Gallego, et al.*
*Senate Sponsor: Senator Fraser*

There are 225 historic county courthouses in Texas, all of which, as a group, have been named to the National Trust for Historic Places list of the 11 most endangered places in the United States. The courthouses are in need of repair because of outdated wiring, roof leaks, and inadequate climate control. This bill requires the Texas Historical Commission (commission) to establish a historic courthouse preservation program to award loans and grants for restoring or preserving historic courthouses.

Establishes the Historic Courthouse Preservation Program (program) to be administered by the commission.

Allows a county that owns a historic courthouse to apply for a grant or loan for a historic courthouse project. Sets forth the procedures and standards for the program.

Requires the commission to appoint a Texas Courthouse Preservation Program Advisory Committee to assist on matters relating to the program.

Requires a county, before incurring any expenses under the program, to have a master preservation plan for its courthouse project. Allows the commission to prescribe minimum standards for the plan.

Requires a county that receives money from the program to use recognized preservation standards for work on a project. Lists eligible preservation and restoration expenses under the courthouse preservation program and requires the commission to develop rules relating to eligible expenses. Provides that a county's expenses under the program are subject to audit by the state auditor, and requires the commission to develop rules for oversight of a project.

Provides that the historic courthouse preservation fund account is a separate account in the general revenue fund and consists of transfers made to the account, payments on loans made under the program, grants and donations made to the program, and income earned on investments of money in the account. Allows the commission to use money in the program fund account to provide a grant or loan to a county that owns a historic courthouse for a project. Allows money to be loaned under the program only if the legislature provides in the appropriations act that the money may be used to make loans. Allows the commission to require the creation of a conservation easement in favor of the state or the creation of other appropriate covenants as a condition of providing money for the courthouse project. Provides that a grant for a project may not exceed the greater of $4 million or two percent of the amount appropriated for the program during the biennium. Provides that biennial appropriations for the program, including providing oversight for historic courthouse projects, may not exceed one percent of the amount appropriated for implementing the program during the state fiscal biennium.

Allows the commission to develop rules to set a limit on the loan amount for a project, which may be expressed as a dollar amount or as a percentage of the total amount appropriated for implementing the program during a fiscal biennium.

Allows the commission to accept a gift, grant, or other donation for the program or a specific historic courthouse project.

## FUNDING LOCAL PARKS - H.B. 2108

*by Representatives Cook and Dutton*
*Senate Sponsor: Senator West*

In 1993, the legislature created the Texas Recreation and Parks Account Program (TRPA), which is funded by a dedication of state sales taxes on sporting goods. This bill provides an alternative funding source for local parks, and allows cultural resource sites to be included in the funding.

Allows money granted to a political subdivision under this statute to be used for the operation and maintenance of parks, recreational areas, cultural resource sites or areas, and open space areas under certain conditions.

◊ Requires the Parks and Wildlife Department (TPWD) to make grants of money from the TRPA account to a political subdivision or nonprofit corporation for recreation, conservation, or education programs for underserved populations, to encourage and implement increased access to and use of parks and other recreational and cultural areas.

Provides that, when revenues to the TRPA account exceed $14 million per year, an amount not less than 15 percent shall be made available for grants to local governments for up to 50 percent of the cost of acquisition or development of indoor recreational facilities.

Prohibits the purchase of property for this purpose if the price of the property exceeds fair market value.

Allows two or more jurisdictions to cooperate to secure assistance from the account to acquire or develop property. Under this circumstance, allows TPWD to modify the standards for individual applicants but requires assurance that a cooperative management plan can be developed and effectuated and that one of the jurisdictions possesses the necessary qualifications to perform contractual responsibilities for purposes of the grant.

## SALE OF PROPERTY GOVERNED BY PROPERTY OWNERS' ASSC.-H.B. 2224

*by Representative Solomons*
*Senate Sponsor: Senator Shapiro*

A purchaser of a home may be unaware that the seller is a member of a homeowners' association and that the purchase of the home obligates the seller to be a member of the association. Even if a purchaser is aware of this fact, the purchaser may not be aware of the extent of the restrictions governing the maintenance and use of the property and of the responsibilities associated with membership in the association.

This bill requires the seller of one dwelling unit of residential real property subject to membership in a property owners' association to give to the purchaser of the property a written notice of membership in a property owners' association.

Requires the seller to deliver the notice to the purchaser before the date the executory contract binding the purchaser to purchase the property. The notice may be given as part of the executory contract.

Exempts from this requirement certain transfers, including those by a court order or foreclosure sale, a fiduciary administering an estate or trust, from one co-owner to another co-owner, or to a spouse.

Authorizes a purchaser, if an executory contract is entered into without the requisite notice, to terminate the contract for any reason within the earlier of seven days after the date the purchaser receives the notice or the date the transfer occurs as provided by the contract. This is the purchaser's exclusive remedy.

Requires a property owners' association to file its dedicatory instrument in the real property records of each county in which the property to which the dedicatory instrument relates is located. Not later than January 1, 2000, each association must present for recording with the county clerk each dedicatory instrument governing the association that has not been previously recorded in the real property records of the county.

## ROSTER OF ENGINEERS ON THE INTERNET - H.B. 2300

Vetoed

*by Representative Hunter*
*Senate Sponsor: Senator Ellis*

Currently, the Texas Engineering Practice Act appears to limit the production of a roster of engineers to a paperback format. Since a vast majority of engineers regularly use the Internet, a higher level of service can be realized by placing the roster online and the number of paperback rosters required to be produced will decrease. H.B. 2300 sets forth provisions to post a roster of engineers on the Internet and authorizes a fee for a physical copy of the roster.

## PREMARITAL EDUCATION HANDBOOK & COURSES - H.B. 2442

*by Representative Goodman, et al.*
*Senate Sponsor: Senator Wentworth*

After remaining stable during the 1950s, the divorce rate in the United States increased in the 1960s, doubled between 1966 and 1976, and leveled off at a high rate in the 1980s. In order to combat the high divorce rate, a premarital education course may benefit couples who are uncertain of their choice to get married. Research indicates that 10 to 15 percent of couples taking a premarital education course decide not to marry.

This bill requires the county clerk, on the execution of a marriage license application, to distribute to each applicant a premarital education handbook provided by the attorney general.

- ◊ Requires the attorney general to appoint a nine-member advisory committee to assist in the development of the premarital education handbook.

Provides that each person applying for a marriage license is encouraged to attend a premarital education course of at least four hours during the year preceding the date of the application. The course may be by personal or videotape instruction, instruction through an electronic medium, or a combination thereof.

Sets out what a premarital education course should include (conflict management, communication skills, children and parenting responsibilities and financial responsibilities) and who may offer such a course.

◊ Requires the applicant for a marriage license who takes the course to pay the fee for the course.

Creates the family trust fund to fund the development of the handbook and course.

◊ Increases the fee for a marriage license from $25 to $30, and requires the county clerk to remit $3 of that fee to the comptroller for deposit in the family trust fund.

## SUSPENDED, CANCELLED & REVOKED DRIVER'S LICENSES - H.B. 3685

*by Representative Flores*
*Senate Sponsor: Senator Lucio*

Vetoed

Currently, the Texas Department of Public Safety's Driver Improvement and Control Bureau is charged with the assessment of the Administrative License Revocation (ALR), Driver Improvement and Control (DIC), and Safety Responsibility (SR) appeals. The task is complicated by differing statutory language. While ALR appeals are suspended upon the 91st day of the stay, DIC and SR appeals may stay active for years. The statute for ALR appeals is more specific than the SR and DIC statutes.

H.B. 3685 clarifies the Transportation Code regarding driver's license suspensions, cancellations, and revocations. This bill sets forth more specific provisions that may be applied to all appeal petitions received by the Department of Public Safety.

## SUCCESSION IN THE OFFICE OF GOVERNOR OR LT. GOVERNOR - H.J.R. 44

*by Representative Ramsay, et al.*
*Senate Sponsor: Senator Truan*

This joint resolution requires the submission to the voters of a constitutional amendment to provide for, in case of a vacancy in office, clear succession from the offices of lieutenant governor and senator to the offices of governor and lieutenant governor.

Provides that, if the governor dies, fails to qualify, or for any other reason is unable to assume the office of governor, then the lieutenant governor becomes governor for the full term to which the person was elected as governor. Provides that by becoming governor, the person forfeits the office of lieutenant governor. Provides that the resulting vacancy in the office of lieutenant governor is filled by the election by the whole Senate of one of its members to the office, and that member shall perform the duties of the lieutenant governor in addition to the member's duties as Senator until the next general election.

Provides that, if the governor becomes temporarily unable to take office, then the lieutenant governor acts as governor until the governor becomes able to assume his office. Also provides that in the case of temporary inability or disqualification, impeachment, or absence of the governor from the state, the lieutenant governor exercises the powers and authority of the office until the governor becomes able or qualified to resume service, is acquitted, or returns to the state.

Provides that, if the governor refuses to serve or becomes permanently unable to serve, or it the office of governor becomes vacant, the lieutenant governor becomes governor for the remainder of the term of the governor. The resulting vacancy in the office of lieutenant governor is filled by a vote of the Senate as described above.

Provides that if, while temporarily serving as governor, the lieutenant governor becomes temporarily unable to serve, the President pro tempore of the Senate assumes the office of governor until the lieutenant governor or governor is able to resume the duties of the office.

Provides that, while serving as governor, the lieutenant governor receives the same compensation as the governor. Provides that the president pro tempore of the Senate, while serving as governor, receives the same compensation as the governor.

## STREAMLINING THE STATE CONSTITUTION - H.J.R. 62

*by Representative Mowery, et al.*
*Senate Sponsor: Senator Shapiro*

Although the proposed rewrite of the Texas Constitution was not adopted, several other measures address constitutional issues. This legislation provides for a constitutional amendment to be submitted to the voters that would allow nonsubstantive simplifying and clarifying revisions to the Texas Constitution, which is a lengthy document. If approved by the voters, it would eliminate duplicative, obsolete, archaic and ineffective language from the constitution.

## POSTING NOTICE OF PUBLIC MEETINGS - S.B. 916

*by Senators Wentworth and Shapleigh*
*House Sponsor: Representative Danburg*

Establishes the Internet as the official posting place for notice of public meetings of state boards, commissions, departments, or officers having statewide jurisdiction.

Requires the Secretary of State to provide public access to a computer terminal with access to the Internet during regular business hours.

## GOVERNMENT HEARINGS ON THE INTERNET - S.B. 1252

*by Senator West*
*House Sponsor: Representative McClendon*

This bill allows governmental bodies to conduct open public meetings over the Internet and requires a body that broadcasts a meeting in this manner to establish an Internet site that provides public access to the broadcast from that site.

Authorizes a governmental body to broadcast an open meeting over the Internet.

Requires a governmental body that broadcasts a meeting over the Internet to establish an Internet site and provide access to the broadcast from that site. Requires the governmental body to provide on the Internet site the same notice of the meeting that the body is required to post under Subchapter C, Government Code (Notice of Meetings). Requires timely posting of the notice as in Subchapter C.

Requires the Department of Information Resources to form a task force to determine whether a governmental body can (1) receive real-time testimony from a person watching the broadcast of a meeting of a governmental body over the Internet; and (2) provide a way for the public to comment to the governmental body over the Internet on the issues discussed at the meeting. Requires the department to report its findings to the legislature by September 1, 1999.

## PUBLIC INFORMATION ACT UPDATE - S.B. 1851

*by Senator Wentworth, et al.*
*House Sponsor: Representative Sylvester Turner*

The Senate Interim Committee on Public Information was charged with identifying areas of concern associated with the Public Information Act and making recommendations for legislative action. S.B. 1851 enacts many of the committee's recommendations.

### ACCESS TO INFORMATION OF THE JUDICIARY

Provides that access to information collected, assembled, or maintained by or for the judiciary is governed by rules adopted by the Texas Supreme Court or by other applicable rules.

- ◊ Provides that this section does not address what judicial information is considered subject to these rules.

### OPEN RECORDS STEERING COMMITTEE

Creates an Open Records Steering Committee, composed of public members and representatives from state agencies and local governments, to advise the General Services Commission regarding its performance of duties under the chapter.

### FISCAL INFORMATION RELATING TO INFORMATION ACCESS

Requires each state governmental body to report to the Legislative Budget Board information regarding:

- ◊ the number and nature of requests for information received from the public; and
- ◊ the personnel and capital expenditure costs of making information available, including making the information available by means of the Internet or other electronic format.

Provides that the reported information will be used to estimate the extent to which it is cost-effective and useful to make information available on the Internet or other electronic format.

### PUBLIC INFORMATION AND EXCEPTIONS

Prohibits a court from ordering a governmental body or officer to withhold from public inspection any category of public information, unless the information is expressly made confidential under law.

Makes the following information confidential:

- ◊ commercial or financial information, the disclosure of which would cause substantial competitive harm; and
- ◊ information relating to economic development negotiations involving a governmental body and a business prospect, including trade secrets, critical commercial or financial information, and financial or other incentives offered, until an agreement is reached.

Allows crime victims to choose whether to allow public access to personal information held by the Crime Victims' Compensation Division of the Office of the Attorney General.

### RESPONDING TO REPETITIOUS OR REDUNDANT REQUESTS

Requires a governmental body to respond to a request for information, which was previously furnished to the requestor, either by furnishing the information again (for the applicable fee) or certifying (for no fee) to the requester that the information was previously furnished.

### CHARGES FOR PROVIDING PUBLIC INFORMATION

Requires the governmental body to give:

- ◊ an itemized estimate of the charge for supplying the information, if the estimated cost exceeds $40; and
- ◊ notice of a less costly alternative method of provision, if one is available.

Limits the actual charges a governmental body may impose for making available or supplying a copy of the requested public information.

Allows a governmental body with 16 or more employees to require a requestor to pay, or make a deposit or post a bond for the payment of anticipated personnel costs (if estimated to exceed $100) to supply public information that exists in paper records if:

- ◊ the information is more than five years old or completely fills six archival boxes; and
- ◊ it will take more than five hours to make the information available for inspection.

Allows a governmental body with fewer than 16 employees to require a requestor to pay, or make a deposit or post a bond for the payment of anticipated personnel costs (if estimated to exceed $50) to supply public information that exists in paper records if:

- ◊ the information is more than three years old or completely fills three archival boxes; and
- ◊ it will take more than two hours to make the information available for inspection.

Allows a governmental body to require a deposit or bond for payment of unpaid amounts owed for previous provision of public information.

### ATTORNEY GENERAL OPEN RECORDS OPINION PROCEDURES

Requires a governmental body that requests an attorney general open records opinion, regarding whether requested information is public or confidential, to:

- ◊ provide to the requester within 10 business days the body's wish to withhold the information and a copy of the body's written request to the attorney general; and
- ◊ submit to the attorney general a signed statement as to the date on which the request for information was received by the body.

A governmental body is required to release the requested information and is prohibited from requesting an attorney general opinion if the body has previously requested and received a determination that the precise information at issue is public.

If a governmental body fails to make a timely request for an attorney general opinion and fails to provide certain information to the requestor, the requested information must be released unless there is a compelling reason to withhold the information.

- ◊ This bill adds the compelling reason exception to releasing the information.

Prohibits the attorney general from disclosing to the requestor or the public, information submitted with a request for an opinion.

Sets forth notice procedures for the release of a third party's private or property interests information.

Shortens the length of time within which the attorney general is to render an open record opinion from 70 days to 55 days.

Creates a procedure for declaratory judgment or injunctive relief for a person who claims to be the victim of a violation of the public information law.

- ◊ Sets forth provisions regarding the assessments of court costs and attorney's fees in a suit for a writ of mandamus, for declaratory judgment, or for injunctive relief.

Outlines procedures and reasons for a governmental body to bring a suit to withhold information from a requestor and challenge a decision by the attorney general.

### CLOSED MEETINGS FOR ECONOMIC DEVELOPMENT NEGOTIATIONS

Provides that this chapter does not require a governmental body to conduct an open meeting to:

- ◊ discuss or deliberate information received from a business prospect with whom the body is involved in economic development negotiations; or
- ◊ deliberate the offer of a financial or other incentive to a business prospect.

## OPEN MEETINGS LAW APPLIES TO STAFF BRIEFINGS - H.B. 156

*by Representatives Wolens and Maxey*
*Senate Sponsor: Senator Wentworth*

A fundamental premise of the Texas Open Meetings Act is that all meetings of governmental bodies are open to the public unless an exception is specified by the Act or permitted by the Texas Constitution. However, it is unclear whether the Act applies to informal meetings, such as staff briefings. This bill amends the definition of "meeting" to include an informal gathering, which is any meeting of a quorum of the members of a governmental body and a third party to discuss public business or public policy over which the governmental body has supervision or control.

Expands the definition of "meeting" to include a gathering:

- ◊ conducted by the governmental body or for which the governmental body is responsible;
- ◊ at which a quorum of members of the body is present;
- ◊ called by that governmental body; and
- ◊ at which the members exchange information or questions with any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

Excludes from the definition of meeting any social functions unrelated to the public business or the attendance at a regional, state, or national convention or workshop, provided that no formal action is taken and any discussion of public business is incidental to the social function, convention, or workshop.

Limits current law permitting closed meetings by governmental bodies to the board of trustees of the Texas growth fund.

- ◊ Authorizes the board of trustees of the Texas growth fund to confer with fund employees or third parties without conducting an open meeting if the only purpose of the conference concerns information or questions relating to an investment or potential investment by the fund in certain business entities, if disclosure of the information would give advantage to a competitor.

Makes it an affirmative defense to a violation of the open meetings law that the member of the governmental body acted in reasonable reliance on a court order or the written opinion of a court of record, the attorney general, or the body's attorney.

Vetoed

## CERTAIN NONPROFIT CORPS. UNDER OPEN MEETINGS ACT - H.B. 2557

*by Representative Glaze*
*Senate Sponsor: Senator Ratliff*

Certain nonprofit corporations receive grant money from the state or the federal government to distribute these funds to local service agencies under contract. These organizations are not subject to the Texas Open Meetings Act (Act). This bill subjects a nonprofit organization that receives funds under the federal community services block grant and that is authorized to serve a geographic area of the state to the Act, thus requiring its board meetings and financial records to be open to the public.

## TEMPORARY OIL AND GAS PRODUCTION TAX EXEMPTION - S.B. 290

*by Senator Brown, et al.*
*House Sponsors: Representative Craddick, et al.*

Creates a temporary severance tax exemption for natural gas and crude oil production that expires on the earlier of September 1, 1999, or the date on which the sum of the exemptions granted totals $45 million.

The natural gas tax exemption provision begins, if the comptroller of public accounts (comptroller) certifies that during any three-month period, beginning November 1, 1998, the average closing price of natural gas on the New York Mercantile Exchange (NYMEX) is below $1.80 per MMBtu. Under such circumstances, gas production during the period of February 1, 1999 to July 31, 1999, will be eligible for exemption from the gas production tax.

The oil production tax exemption provision begins, if the comptroller certifies that during any three-month period, beginning November 1, 1998, the average closing price of West Texas intermediate crude oil on the NYMEX was below $15 per barrel. Should this occur, crude oil production during the period of February 1, 1999 to July 31, 1999, from wells producing fewer than 15 barrels per day, will be eligible for exemption from the oil production tax.

## PROPERTY TAX EXEMPTION - S.J.R. 21

*by Senator Carona*
*House Sponsors: Representative Hamric, et al.*

Requires the submission to the voters of Texas a ballot proposing a vote for or against "The constitutional amendment to authorize the legislature to exempt from ad valorem taxation leased motor vehicles not held by the lessee primarily to produce income." The proposal shall be submitted to the voters at an election to be held November 2, 1999.

Contingent upon passage of the constitutional amendment and enabling legislation, the following provisions would become effective:

- ◊ Allows the legislature by general law to exempt from property taxation, a leased motor vehicle that is not held primarily for the production of income by the lessee and that otherwise qualifies under general law for exemption.
- ◊ Stipulates that the governing body of a political subdivision may tax the leased motor vehicles described above, if not exempt by any other law; the resolution further allows the legislature by general law to limit taxation by a governing body of those leased motor vehicles.

## TAX CREDITS & EXEMPTIONS - S.B. 441

*by Senator Ellis, et al.*
*House Sponsors: Representative McCall, et al.*

S.B. 441 creates five franchise tax credits: a research and development (R&D) credit, a credit for day care/child care expenses, a job creation credit, an investment credit, and a credit for contributions to before and after school programs; provides an exemption from the franchise tax for small corporations; and also provides for several sales and use tax exemptions.

**R&D FRANCHISE TAX CREDIT:** The R&D credit is available to a corporation for qualified research performed throughout Texas, and equals five percent of the sum of the excess over the base amount, and basic research payments (based on federal R&D credit guidelines). Certain corporations may elect to use an alternative incremental credit computation found in the Internal Revenue Code. The qualified expenses would be doubled for R&D activities in an area designated as a strategic investment area.

The bill stipulates that the R&D credit is limited to 50 percent of the firm's franchise tax liability, and allows a carryover period of 20 reporting periods if a corporation's credit exceeds the limit. A corporation taking the R&D credit is not eligible for the job creation credit.

For corporations taking the credit against a report due before January 1, 2000, the amount of the credit is four percent, the qualified expenses would be multiplied by 1.5 for R&D activities in a strategic investment area, and the credit is limited to 25 percent of the firm's franchise tax liability. "Base amount," and "basic research payments" have the same meanings as found in the Internal Revenue Code.

**FRANCHISE TAX CREDIT FOR DAY CARE/CHILD CARE EXPENSES:** Entitles an eligible corporation to a franchise tax credit for a qualifying expenditure relating to:

- ◊ the establishment and operation of a day-care center created primarily to provide care for the children of employees of the corporation, or one or more other entities sharing the costs of establishing and operating the center; or
- ◊ the purchase of child care services that are actually provided to children of employees of the corporation at a day-care center, or at a family home that is registered or listed with the Department of Protective and Regulatory Services.

Stipulates that the amount of the credit is equal to the lesser of $50,000, 50 percent of the corporation's qualifying expenditures, or an amount that does not exceed 90 percent of the amount of tax due for that reporting period. The credit and accompanying limitations apply, as well, if a corporation shares in the cost of establishing and operating a day-care center.

A qualifying expenditure includes an expenditure for:

- ◊ planning the day care center;
- ◊ preparing a site to be used for the day-care center;
- ◊ constructing the day care center;
- ◊ renovating or remodeling a structure to be used for the day care center;
- ◊ purchasing equipment necessary in the use of the day care center and installed for permanent use in or immediately adjacent to the day care center, including kitchen appliances and other food preparation equipment;
- ◊ expanding the day care center;
- ◊ maintaining and operating the day-care center, including paying direct administration and staff costs; or
- ◊ purchasing all or part of child-care services that are actually provided to children of employees of the corporation at a day-care center or a registered or listed family home.

**JOB CREATION FRANCHISE TAX CREDIT:** Provides the job creation tax credit to a qualified business or corporation which creates a minimum of 10 qualifying jobs and pays an average weekly wage of at least 110 percent of the average weekly wage for the county where the qualifying jobs are located, and offers certain health benefits to its employees. The amount of the credit is 25 percent of the total wages and salaries paid by the corporation for the corresponding tax period, and shall be claimed in five equal installments over five consecutive reporting periods.

The job creation credit is limited to 50 percent of the firm's franchise tax liability, and a five-year carryover period is allowed if a corporation's credit exceeds the limit. A corporation taking the job creation credit is not eligible for the R&D credit.

**INVESTMENT FRANCHISE TAX CREDIT:** The investment credit equals 7.5 percent of the firm's capital investment, limited to 50 percent of the firm's franchise tax liability, and would be taken in five equal installments over five tax report periods. To qualify, a business must make a minimum $500,000 qualified capital investment, pay an average weekly wage at the location with respect to which the credit is claimed, which is at least 110 percent of the county average weekly wage, and offer certain health benefits to its employees. A five-year carryover period is allowed if a corporation's credit exceeds the limit.

A corporation taking the investment credit is not eligible for the tax reduction for investment in an Enterprise Zone offered by Section 171.1015 of the Tax Code.

**FRANCHISE TAX CREDIT FOR CONTRIBUTIONS TO BEFORE AND AFTER SCHOOL PROGRAMS:** Creates a franchise tax credit for corporations which provide financing for "school-age child care" programs. School-age child care is defined as care provided before and after school and during the summer and holidays for children who are at least five years of age, but younger than 14 years of age.

Provides that a corporation may claim a credit only for an expenditure relating to the operation of a school-age child care program that is operated by certain nonprofit organizations, certain nonprofit educational facilities, or a county or municipality which has adopted standards of care that include minimum child-to-staff ratios; staff qualifications; facility, health, and safety standards; and mechanisms for monitoring and enforcing the standards.

The amount of the credit is equal to 30 percent of a corporation's qualifying expenditures. The credit may not be claimed in an amount that exceeds 50 percent of the amount of net franchise tax due, after applying any other credits, for the reporting period.

Provides that a qualifying expenditure includes an expenditure for:

- ◊ constructing, renovating, or remodeling a facility or structure to be used by the program;
- ◊ purchasing necessary equipment, supplies, or food to be used in the program; or
- ◊ operating the program, including administrative and staff costs.

The sum of the R&D, day care/child care expense, and job creation credits is limited to the total amount of the firm's tax liability.

Requires the comptroller to gather and report to the legislature information on four of the five credits (excluding the school-age child care credit), including the geographic distribution of research performed, jobs created, and investments made. The comptroller is also required to report on the economic and tax impact of the credits.

**FRANCHISE TAX EXEMPTION:** Allows any corporation with $150,000 or less in annual gross receipts to be exempt from franchise tax liability and certain franchise tax reporting requirements.

**SALES TAX ON INTERNET:** The bill adds "Internet access service" as a taxable service under the sales tax, and exempts the first $25 of a monthly charge for Internet access service from the sales tax, without regard to whether the access was bundled with another service.

**INFORMATION AND DATA SALES TAX EXEMPTION:** The bill exempts 20 percent of the value of information services and data processing services from the sales tax.

**SALES TAX EXEMPTION FOR MEDICATION:** Exempts blood glucose monitoring test strips and non-prescription drugs from the sales tax, provided that they are labeled with a national drug code.

**SALES TAX HOLIDAY:** The bill also provides a *sales tax holiday* which exempts an article of clothing or footwear, if the article in question is less than $100 and if the sale takes place during the first Friday in August through the following Sunday at midnight. The exemption does not apply to clothing and footwear primarily designed for athletic activity or protective use, or certain accessories such as jewelry, handbags, or watches.

## PAYMENT OF LOCAL TAXES BY ELECTRONIC FUNDS TRANSFER - S.B. 779

*by Senator Madla*
*House Sponsor: Representative Siebert*

Authorizes a county tax assessor collector (collector) to accept payment by an electronic funds transfer and provides for the waiver of penalties and interest on a delinquent tax form in certain circumstances. Texas law does not currently allow the county tax assessor collector to accept tax payments electronically.

Amends the Tax Code to authorize a collector to accept payment by an electronic funds transfer, and for a taxpayer to enter into an agreement under which the person pays taxes by electronic funds transfer. The bill requires such a agreement to be in writing, signed by the collector and the taxpayer, and explicit with respect to the means or format of payment.

Requires the governing body of a taxing unit to waive penalties and interest on a delinquent tax form if the tax is payable by electronic funds transfer under the type of agreement described above, and the taxpayer submits evidence sufficient to show that the taxpayer attempted to pay the tax by electronic funds transfer in the proper manner before the delinquency date, the taxpayer's failure to pay the tax before the delinquency date was caused by an error in transmission of the funds, and the tax was properly paid by the 21st day after the date the taxpayer knew or should have known of the delinquency.

## TAX EXEMPTIONS AND SPECIAL APPRAISAL FOR TIMBER - S.B. 977

*by Senator Ratliff, et al.*
*House Sponsors: Representative Sadler, et al.*

Currently, the state imposes a heavier tax burden on the timber industry than it does on other segments of agriculture. Many of the items that are exempted from sales tax for farmers and ranchers, such as equipment, feed, seed, and fertilizer, are taxed if purchased by timber producers.

### PROPERTY TAX EXEMPTION

Exempts timber that a producer produces and owns, or timber "in the hands of the producer," and implements of husbandry that are used in the production of timber, from property taxation.

### PROPERTY TAX SPECIAL APPRAISAL

Provides for the special appraisal of qualified restricted-use timber land based on its productive capacity rather than on its market value, creating a special appraisal similar to the agricultural use appraisal commonly known as the "agricultural land exemption."

- ◊ Land qualifies for this special appraisal if the land is in an aesthetic management zone, critical wildlife habitat zone, or streamside management zone, and if timber was harvested from the land in a year in which the land was appraised under Title 1, Tax Code (the Property Tax Code) as timber, and the land has been regenerated for timber production.
- ◊ The appraised value of qualified restricted-use timber land is one-half of the appraised value based on its productive capacity, but may not exceed the lesser of the market value of the land as determined by other appraisal methods or the appraised value of the land for the year preceding the first year of this special appraisal.
- ◊ "Aesthetic management zone" means timber land on which timber harvesting is restricted for aesthetic or conservation purposes, including maintaining standing timber adjacent to public rights-of-way, including highways and roads, and preserving certain special or unique areas in a forest.
- ◊ "Critical wildlife habitat zone" means timber land on which the timber harvesting is restricted so as to provide at least three of the following benefits for the protection of an animal or plant that is listed as endangered or threatened under the Endangered Species Act of 1973 or as endangered under the Parks and Wildlife Code: habitat control; erosion control; predator control; providing supplemental supplies of water; providing supplemental supplies of food; providing shelters; and making of census counts to determine population.
- ◊ "Streamside management zone" means timber land on which timber harvesting is restricted in accordance with a management plan to protect water quality, or preserve a waterway, including a lake, river, stream, or creek.

### SALES TAX

Exempts from the sales tax, the performance of a service on machinery and equipment with a purchase price greater than $50,000 used exclusively in certain commercial timber operations.

The following sales tax exemptions take effect January 1, 2008. Until that date, a person is entitled to a credit or refund of a portion of the sales taxes paid on an item that after January 1, 2008, will be exempt. The bill exempts from the sales tax:

- ◊ seedlings of trees commonly grown for commercial timber;
- ◊ defoliants, desiccants, equipment, fertilizers, fungicides, herbicides, insecticides, and machinery exclusively used in the production of timber to be sold in the regular course of business;
- ◊ machinery and equipment used in, and pollution control equipment required as a result of, certain processing, packing, or marketing of timber products by an original producer; and
- ◊ tangible personal property sold or used to be installed as a component of an underground irrigation system exclusively used in the production of timber to be sold in the regular course of business.

### MOTOR VEHICLE SALES TAX

Exempts from the motor vehicle sales tax:

- ◊ the sale or use of a machine, trailer, or semi-trailer for use primarily for timber operations, or the purchase of a machine, trailer, or semi-trailer that is to be leased for use primarily for timber operations; and
- ◊ the rental of a machine, trailer, or semi-trailer used primarily for timber operations.

## MANAGED AUDITS AND PERCENTAGE-BASED TAX REPORTING - S.B. 1319

*by Senator Ratliff*
*House Sponsor: Representative Isett*

This bill allows some taxpayers, at the discretion of the Comptroller of Public Accounts (comptroller) to perform managed audits under the supervision of the comptroller, and certain businesses to assess:

- ◊ the tax liability of their purchases through a percentage-based reporting method, and
- ◊ tax refunds due by a sampling method.

Allows the comptroller to authorize, through a written agreement, a taxpayer to conduct a managed audit. Allows the comptroller to examine records and perform reviews to verify the results of a managed audit.

- ◊ Sets forth the necessary elements of the agreement and factors the comptroller is to consider when deciding whether to allow a managed audit.

Unless the audit or information reviewed by the comptroller for audit verification discloses fraud or willful evasions of the tax, the comptroller:

- ◊ may not assess a penalty; and
- ◊ may waive all or part of the interest that would have accrued on any amount underpaid, excluding any amount collected by the taxpayer as a tax and not remitted.

Allows the taxpayer to be refunded any overpaid tax.

Defines "managed audit" to mean a review and analysis of invoices, checks, accounting records or other documents or information to determine a taxpayer's liability for sales, excise, and use taxes.

Allows a managed audit to be limited to certain categories of liability, including tax on;

- ◊ sales of one or more types of taxable items;
- ◊ purchases of assets;
- ◊ purchases of expense items; and
- ◊ purchases under a direct payment permit; or any other category agreed to by the comptroller.

Allows the comptroller to authorize the holder of a direct payment permit to use a percentage-based reporting method, for up to three years.

- ◊ Defines percentage-based reporting method to mean a method by which a taxpayer categorizes purchase transactions according to standards specified in the authorization letter, reviews an agreed sample of invoices in that category to determine the percentage of taxable transactions, and uses that percentage to calculate the amount of tax to be reported.

Allows the comptroller to revoke the authorization and makes the denial or revocation non-appealable.

Sets forth procedures for computation and reimbursement methods for overpaid taxes on purchases made by a person holding a permit who has purchased taxable items for use in this state and has remitted taxes in error.

## DELINQUENT TAX INTEREST RATE - S.B. 1321

*by Senator Ratliff*
*House Sponsor: Representative Junell*

Changes the yearly interest rate on all delinquent state taxes imposed by the Tax Code from 12 percent to a variable rate equal to the prime rate plus one percent.

Provides that in the comptroller of public accounts' final decision on a claim for a refund or in an audit, interest is due at the prime rate plus one percent on the amount erroneously overpaid by a taxpayer for state taxes imposed by the Tax Code.

Stipulates that a credit taken by a taxpayer on the taxpayer's return does not accrue interest.

Allows the comptroller to settle a claim for a tax refund, penalty, or interest if the total costs of defending a denial of the claim would exceed the total amount claimed.

## CREDITING OF REFUNDS BY COMPTROLLER - S.B. 1434

Vetoed

*by Senator Duncan*
*House Sponsor: Representative Puente*

Currently, the comptroller of public accounts (comptroller), prior to paying a tax refund, is required to credit the amount of a refund against other taxes owed by a person claiming a refund, and is then required to refund the remainder. Current law does not establish the same authority for other amounts such as fees that are owed the state. S.B. 1434 requires the comptroller to credit the amount due to the person claiming the refund against any other amount due to the state from the person, and refund the remainder. This bill authorizes the comptroller to transfer money from one fund or account to another for issuance of the credit or refund.

## MOTOR FUELS TAX ENFORCEMENT - S.B. 1547

*by Senator Bivins, et al.*
*House Sponsor: Representative Oliveira*

The intention of S.B. 1547 is to increase motor fuels tax revenue by implementing certain provisions related to reporting and auditing, providing the comptroller with additional enforcement powers, and providing for penalties for violations of the provisions.

Increases reporting requirements and imposes new restrictions in importing/exporting motor fuel.

Prohibits a person from:

- ◊ selling or holding for sale dyed diesel fuel for any use that the person knows or has reason to know is a taxable use of the diesel fuel; and
- ◊ using or holding for use dyed diesel fuel for a use other than a nontaxable use if the person knows or has reason to know that the diesel fuel is dyed diesel fuel.

Notice of such nontaxable use of dyed diesel fuel provisions is required at numerous stages of the distribution to the point of sale of the fuel.

Prohibits a person from operating a motor vehicle on a public highway in Texas with taxable motor fuel that contains dye in the fuel supply tank of the motor vehicle, with certain exceptions.

Allows the comptroller to revoke a distributor's or supplier's permit if the distributor or supplier purchases, for export, motor fuel in this state on which the tax has not been paid and subsequently diverts or causes the fuel to be diverted to a destination in Texas or another state or country other than the originally designated state or country without first obtaining a diversion number.

Allows the comptroller or a peace officer to stop a motor vehicle that appears to be operating with or transporting motor fuel, in order to examine certain required documents, take samples from the fuel supply or cargo tanks, and make any other investigation that could reasonably be made to determine whether the taxes have been paid or accounted for.

- ◊ Allows certain state officials to take samples of motor fuel from any storage tank or container to determine if the fuel contains hazardous waste or is adulterated, or to allow the comptroller to determine whether taxes on the fuel have been paid or accounted.

Prohibits a person from importing motor fuel to a destination in Texas or from exporting motor fuel to a destination outside Texas unless the person possesses a shipping document for that fuel created by the terminal or bulk plant at which the fuel was received.

- ◊ Among other requirements such as the shipping document, diversion numbers, and import verification numbers, the bill also provides that the importer or exporter may deliver motor fuel only to the destination state or states indicated on the shipping document.

Provides that the first sale or use of diesel fuel in Texas is taxable, except that sales of dyed diesel fuel, or of undyed diesel fuel if the fuel will be used for an agricultural purpose, may be made without collecting the tax if the purchaser furnishes to a permitted supplier a signed statement, including an end user number or agricultural user exemption number.

- ◊ Prohibits a person from making a tax-free sale of any diesel fuel to a purchaser using a signed statement unless the purchaser has an end-user number or agricultural user exemption number issued by the comptroller.

## WORK IN LIEU OF PROPERTY TAX - H.B. 51

*by Representatives Cuellar and Ehrhardt*
*Senate Sponsor: Senator Gallegos*

This bill authorizes a taxing unit to permit an individual who is least 65 years of age to perform services for the taxing unit in lieu of paying property taxes owed to the unit on property owned by the individual and occupied as the individual's residence homestead.

The bill also allows a governing body of a school district to permit qualified individuals to perform teaching services for the school district at a junior high school or high school of the district in lieu of paying property taxes owed to the district on property owned and occupied by the individual as a residence homestead. The provision also applies to certain businesses that may allow qualified individuals employed by the business to perform teaching services in a high school or a junior high school for the school district in lieu of paying taxes imposed by the district on property owned by the business entity.

## PROPERTY TAX EXEMPTION - H.B. 541

*by Representative Maxey*
*Senate Sponsor: Senator Barrientos*

This bill addresses associations of ambulatory health care centers which provide health care services to underserved populations.

Entitles an association which provides assistance to ambulatory health care centers to a property tax exemption of the property it owns and uses exclusively for purposes for which the association is organized, if the association:

- ◊ is a tax-exempt charitable organization;
- ◊ complies with certain criteria for a charitable organization under the property tax code;
- ◊ engages exclusively in providing assistance to ambulatory health care centers that provide medical care to individuals without regard to the individuals' ability to pay, with certain exceptions;

- ◊ is funded wholly or partly, or assists ambulatory health care centers that are funded wholly or partly, by a grant under the Federal Public Health Service Act; and
- ◊ does not perform abortions or provide abortion referrals or provide assistance to ambulatory health care centers that perform abortions or provide abortion referrals.

## PROPERTY TAX EXEMPTION: INCOMPLETE IMPROVEMENTS - H.B. 873

*by Representative Hochberg*
*Senate Sponsor: Senator Lindsey*

Provides that an incomplete improvement of property belonging to certain organizations qualifies for an exemption from property taxation for a period of not more than three years.

- ◊ Qualifying organizations include charitable organizations, youth development associations, religious organizations, certain schools, veterans organizations, the Texas Federation of Women's Clubs, the Nature Conservancy of Texas, the Congress of Parents and Teachers, private enterprise demonstration associations, theater schools, community service clubs, certain medical center development property owned by a nonprofit corporation, certain scientific research corporations, and certain nonprofit water supply or wastewater service corporations.
- ◊ An incomplete improvement is an improvement that is under active construction or other physical preparation, and is designed and intended to be used by the qualified organization in a qualifying manner.

## REQUIREMENTS FOR TAX RATE INCREASE - H.B. 954

*by Representatives Uher and Bonnen*
*Senate Sponsor: Senator Armbrister*

Current law requires public notice and hearing for the adoption of any tax rate that results in an increase in the tax levy; the levy can be affected by a rate change, valuation change, or a change in growth of the tax base.

Prohibits a governing body from adopting a property tax rate that exceeds the lower of the rollback tax rate or 103 percent of the effective tax rate.

- ◊ This change restores a provision which was eliminated in the 75th Legislature that allows the three percent buffer or exemption for a change in tax rate, allowing a taxing unit to increase its rate by up to three percent without public notice and hearing.

Requires the governing body to deliver to each property owner in the taxing unit a statement that the adoption of a tax rate equal to the effective tax rate would result in an increase or decrease, as applicable, in the amount of taxes imposed by the unit as compared to last year's levy, and the amount of the increase or decrease.

Requires a taxing unit to provide additional notice of a hearing on an Internet website, if the taxing unit owns, operates, or controls the website, continuously for at least seven days immediately before the public hearing; and if the taxing unit has free access to a television channel, the taxing unit shall request that the station carry a 60-second notice of the public hearing at least five times a day between the hours of 7 a.m. and 9 p.m. for at least seven days immediately before the public hearing.

## PROPERTY TAXATION OF TIMBERLAND - H.B. 958

*by Representative Hope*
*Senate Sponsor: Senator Nixon*

Currently, timberland that has a change of use that occurred as a result of a sale for right-of-way or a condemnation, is exempted from additional property tax. Timberland, as agricultural land, is appraised based on its productive capacity rather than its market value.

H.B. 958 extends that exemption to a transfer of the land to the State of Texas or a political subdivision of this state to be used for a public purpose.

## JUNIOR COLLEGE BRANCH CAMPUS MAINTENANCE TAX - H.B. 1346

*by Representatives Salinas and Cuellar*
*Senate Sponsor: Senator Zaffirini*

Currently, many rural counties have a difficult time attracting institutions of higher learning in the forms of daytime extension facilities, branch campuses, or vocational facilities due to a lack of classroom and administrative office space.

H.B. 1346 provides that the governing body of a county with a population of 150,000 or less, on completion of a needs assessment analysis showing adequate need and on approval by the Texas Higher Education Coordinating Board, on its own motion and without the presentation of a petition, may propose an election to authorize a branch campus maintenance tax.

The bill exempts those counties with a population of 150,000 or less, from current provisions which require presentation of a petition for an election to authorize the maintenance tax, signed by at least five percent of the qualified voters of the jurisdiction, for which the school district or county must determine the legality and the legitimacy of the petition.

## INSURANCE TAXES - H.B. 1837

*by Representative Brimer*
*Senate Sponsor: Senator Ratliff*

In Texas, all insurance companies, except nonprofit cooperatives, farm mutual companies, and fraternal organizations, are subject to the insurance premium tax. The premium tax rate varies depending on several factors, including the type of insurance the insurer sells, the insurer's place of domicile, and, in some cases, the level of investment a company has made in Texas-backed securities.

Under this tiered tax system, all property and casualty insurers are required to pay at a rate of 3.5 percent, and all title insurers at a rate of 2 percent. However, the Insurance Code permits these companies to qualify for a lower tax rate if they maintain certain tax levels in Texas-backed securities, allowing for a rate as low as 1.6 percent for a property and casualty insurer, and to 1.3 percent for a title insurer.

H.B. 1837 establishes a flat tax rate for property and casualty insurance of 1.6 percent and a flat tax rate of 1.35 percent for title insurance. The bill also clarifies existing law by adding language to reinstate a definition of "premium" for the purposes of unauthorized insurance taxation that had been removed in previous legislation, and by adding language to clarify the application of the state's retaliatory tax.

## FRANCHISE TAX: BANKING CORPORATIONS - H.B. 2067

*by Representative Marchant*
*Senate Sponsor: Senator Fraser*

Currently, banks and thrift institutions have a special apportionment method for sourcing interest and dividend receipts to Texas when the financial institution's commercial domicile is in Texas. Because of a court ruling, multistate banks have been able to change their commercial domiciles to states other than Texas, thereby avoiding some franchise tax. H.B. 2067 repeals that provision, requiring banks to use the same interest and dividend sourcing methods used by all other franchise taxpayers, bringing a portion of those interest and dividend receipts back into the franchise tax base.

The bill also revises the franchise tax charter forfeiture and charter revival provisions related to banks, which adapts charter forfeiture procedures to better conform with current branch banking laws.

## SALES TAX EXEMPTION: VENDING MACHINE SNACKS & TOYS - H.B. 2146

*by Representative Allen*
*Senate Sponsor: Senator Harris*

Currently, food, candy, chewing gum, toys, and other items designed primarily to be used or played with by children that are sold through coin-operated bulk vending machines for less than 25 cents are exempt from sales, excise, and use tax.

This bill increases from 25 cents to 50 cents, the maximum price by which the following items may be sold through a coin operated bulk vending machine and be exempt from the state sales and use tax:

- ◊ food or candy, other than beverages;
- ◊ chewing gum; or
- ◊ toys and other items designed primarily to be used or played with by children.

## PROPERTY TAX EXEMPTION - H.B. 2269

*by Representatives Hamric, et al.*
*Senate Sponsor: Senator Barrientos*

This bill expands the list of those entities which the property tax code entitles to a property tax exemption.

Entitles a charitable organization which provides certain cooperative housing to higher education students to a property tax exemption of the property it owns and uses exclusively.

## OIL & GAS SEVERANCE TAX - H.B. 2615

*by Representative Counts, et al.*
*Senate Sponsor: Senator Brown*

The high-cost gas severance tax incentive program is designed to encourage natural gas producers to drill expensive and technically difficult gas wells and to encourage producers not to plug inactive wells. This bill extends the high-cost gas severance tax incentive program by eight years and extends the two-year inactive well severance tax incentive program by 10 years.

Extends the expiration dates for natural gas and crude oil tax relief under the high-cost gas program and the two-year inactive well program.

- ◊ The bill extends the deadline to drill a qualifying gas well in the high-cost gas program to September 1, 2010 from September 1, 2002, allowing more time for a well to be spudded or completed. The high-cost gas produced is entitled to a gas production tax reduction.
- ◊ The bill extends the Railroad Commission's certification date for two-year inactive wells to February 29, 2010 from February 29, 2000, as well as the two-year inactive well application period to August 31, 2009 from August 31, 1999. Any oil or gas produced from a well certified as a two-year inactive well qualifies for a 10-year severance tax exemption.

## CIGARETTE TAX - H.B. 3600

*by Representatives McClendon and Thompson*
*Senate Sponsor: Senator West*

Under current law, the importation of 200 or fewer cigarettes by individuals for personal consumption is not subject to the cigarette excise tax at the rate of $0.41 per pack.

H.B. 3600 requires a person who imports and personally transports 200 or fewer cigarettes into this state from a foreign country to pay the cigarette tax for each pack of cigarettes, and retains the exemption for cigarettes imported from other states.

## FEE WAIVER FOR CHARITABLE PURPOSE VEHICLES - S.B. 408

*by Senator Duncan*
*House Sponsor: Representative Isett*

Currently, only a vehicle which carries more than six passengers qualifies for a vehicle registration fee exemption when used by charitable religious organizations. Trailers and semitrailers used to deliver supplies to the poor or homeless do not qualify for a fee exemption.

Allows a trailer or semi-trailer to be registered without payment if it is owned by an organization that qualifies as a religious organization and is primarily used for transporting property in connection with charitable activities and functions.

## REGIONAL TOLLWAY AUTHORITIES - S.B. 537

*by Senator Cain*
*House Sponsor: Representative Alexander*

This bill is designed to allow agreements between regional tollway authorities and the Texas Transportation Commission.

Authorizes the Texas Turnpike Authority or a regional tollway authority to set speed limits for vehicles on a turnpike.

## AWARD OF STATE HIGHWAY IMPROVEMENT CONTRACTS - S.B. 555

*by Senator Ogden*
*House Sponsor: Representative Hamric*

This bill is designed to avoid a rebidding process and allow the Texas Transportation Commission (TTC) to award a contract to the second lowest bidder for maintenance contracts involving a maximum of $100,000, if the lowest bidder withdraws its bid or fails to execute the contract.

## ENFORCEMENT OF MOTOR CARRIER REGULATIONS - S.B. 1019

*by Senator Shapleigh*
*House Sponsor: Representative Pickett*

This bill sets forth guidelines for the impoundment of certain commercial vehicles and the payment of certain administrative penalties.

Requires the Department of Public Safety (DPS) to:

- ◊ establish uniform standards for municipal enforcement and requires certain municipalities to comply with these standards;
- ◊ revoke or rescind the certification of any municipal police officer who fails to comply with the standards set forth by the DPS; and
- ◊ establish a safety audit program.

Requires a person subject to an administrative penalty imposed by the DPS to pay the administrative penalty or respond to a DPS notice within 20 days.

Prohibits a person who fails to pay administrative penalties within a specified period from operating or directing operation of a commercial vehicle in Texas. Requires DPS to impound a vehicle in violation of this law.

Requires vehicles impounded to remain so until the administrative penalties are remitted.

Requires all costs of towing or storage to be the responsibility of the owner.

## SAME SPEED LIMITS FOR TRUCKS AND AUTOMOBILES - H.B. 676

*by Representative Isett, et al.*
*Senate Sponsor: Senator Bivins*

This bill removes differential speed limits for automobiles and trucks on Texas highways and beaches.

Deletes language that required trucks to travel at a slower speed on Texas highways and beaches, allowing all vehicles to travel at the same posted speed limit.

## REGULATIONS FOR AIRCRAFT ON WATER - H.B. 1620

*by Representative Wohlgemuth*
*Senate Sponsor: Senator Fraser*

This bill is designed to regulate aircraft on water.

Defines “aquatic aircraft” as a seaplane, floatplane, or similar aircraft capable of taking off and landing on water.

Provides that this law applies to all navigable bodies of water in this state, other than a navigable body of water that the federal government owns.

Prohibits a governmental entity that owns, controls, or has jurisdiction over a navigable body of water in an area in which motorboats are prohibited from disallowing or regulating aquatic aircraft.

Allows a governmental entity to apply to the Texas Department of Transportation to prohibit or limit the operation of aquatic aircraft on a navigable body of water.

## VEHICLE SAFETY INSPECTIONS - H.B. 2794

*by Representative Gutierrez*
*Senate Sponsor: Senator Wentworth*

Vetoed

The Texas Department of Public Safety (DPS) enforces vehicle safety inspection procedures and retains vehicle inspection information. The management of vehicle data and reporting and monitoring functions are done manually, which is extremely time consuming and labor intensive for DPS and the inspection station. Additionally, the retention schedule for these records is 18 months, after which any vehicle inspection information contained on the records is no longer maintained. H.B. 2794 requires DPS to automate the data collection process, and authorizes DPS to charge participating inspection stations a transferable fee for assisting DPS in automation.

## RESTRUCTURING OF THE ELECTRIC UTILITY INDUSTRY - S.B. 7

*by Senator Sibley, et al.*
*House Sponsor: Representative Wolens*

Currently, the Public Utility Regulatory Act of 1995 (Act) authorizes the Public Utility Commission (PUC) to regulate the electricity market and ensure that only one electric energy provider serves each area of the state. This bill amends the Act by deregulating the electricity generation market and permitting certain providers to compete for customers who choose their electricity supplier in competitive areas. This bill also authorizes the PUC to develop and promulgate customer protection rules during and after a transition to a competitive market.

### CHOICE OF ELECTRIC PROVIDER

Authorizes retail customers (individuals, small and large businesses) served by investor-owned utilities (IOUs) in areas certified by the Public Utility Commission (PUC) to choose their electricity provider on January 1, 2002, except for customers of electric cooperatives (COOPs) and municipally-owned utilities (MOUs) that have not opted for consumer choice for their certified area. A COOP or MOU may opt into competition by a vote of its governing board or is automatically "opted in" by competing outside of its PUC-approved area, and must follow the same rules as the restructured IOUs.

### UNRECOVERED INVESTMENTS (STRANDED COSTS)

Provides that because of competition, utilities may not be able to recover their investments made in constructing power plants and purchasing equipment, known as "stranded costs" (SC). Under S.B. 7, utilities will be able to recover 100 percent of their SC through securitization bonds, secured by a nonbypassable fee on monthly electric bills. The PUC must review utilities' SC on 1/10/2004 for over or under earnings (the review is of the three separate affiliates' combined stranded costs remaining).

### MARKET POWER OF EXISTING UTILITIES (IOUS)

Requires IOUs to be unbundled into three separate affiliates under restructuring:

**Transmission and Distribution Utility (TDU)** — Operates the transmission facilities and distribution wires necessary to deliver electricity to end-users (residential, small and large business customers). The TDU becomes the only utility and will continue to be regulated by the PUC after 2007.

**Power Generation Company (PGC)** — Owns and operates facilities for the generation of electricity for resale. This entity can sell electricity wholesale at unregulated prices.

**Retail Electric Provider (REP)** — Sells electricity to end-users on the retail market. This entity can sell electricity at unregulated prices and is known as an affiliated REP.

Sets forth this separation to prevent a few entities from dominating the Texas electricity market. Additionally, market power is addressed through a provision that limits most utilities with generation capacity (such as El Paso Electric) from owning and controlling more than 20 percent of the generating capacity in a region. Utilities affected by the bill are required to sell 15 percent of their generation capacity through auctions to competitors to allow new REPs to have access to a limited amount of electricity from affiliated PGCs. Utilities are also encouraged to use market valuation (sell power plant to the highest bidder) as the method to determine a power plant's value.

Establishes a refund program that credits each customer's account with $150 on 1/1/2004, if the individual stays with his or her present utility. This ensures that affiliated REPs do not have excessive earnings during the transition to competition because some customers do not switch providers (similar to what happens in telephone restructuring, in which a consumer wants to stay with AT&T).

**CONSUMER BENEFITS AND PROTECTIONS**

Provides that consumers receive a six percent reduction in their electric rates on 1/1/2002, while all IOU electricity rates are frozen from 9/1/1999 until 1/1/2002. To assist the transition to a free market for electricity, the six percent rate reduction becomes the price to beat (PTB). The PTB is a principal linchpin in the Texas plan that becomes both a ceiling and a floor for electricity prices. The PTB is a ceiling that no one can exceed, with some exceptions, in most of Texas for five years, until 2007, or until a utility loses 40 percent of its electricity market to competitors. The PTB is also a price floor for three years (2002 - 2005), below which no electricity provider can go.

Sets forth other provisions to safeguard consumers, including bars on slamming (unauthorized switching of electricity provider) and cramming (unauthorized charges in electric bills), comprehensive consumer education programs, and a goal of 10 percent of growth in annual demand for alternative energy efficiency programs. Consumers can aggregate their electricity load for savings through associations and churches, while local governments are authorized to aggregate customers who opt to give the local government that authority.

Requires five percent of REPs' electricity load (measured in megawatt hours) to serve residential consumers, or the REP pays a penalty of $1 per megawatt hour for the remaining percentage(s) of residential consumers that fall below the five percent requirement. The penalty goes to the System Benefit Fund (used to assist school districts affected by S.B. 7, low income and extreme weather assistance funding, and consumer education programs).

**ENVIRONMENTAL PROVISIONS**

Requires electric power plants that were grandfathered and unpermitted to reduce emissions beginning on 5/1/2003 or have the option to shut down (some can be required to shut down). The bill limits nitrogen oxide emissions to 50 percent, and sulfur dioxide to 75 percent, of reported 1997 total levels. Utilities can recover the costs of the necessary environmental retrofits required to meet emission allowances as a part of their SC, if approved by the PUC. A goal is established of 2000 megawatts (MW) of new renewable energy capacity by 2009 (the present renewable capacity is about 800 MW).

**OTHER KEY PROVISIONS**

***Utilities*** are subject to a comprehensive set of system reliability rules, such as penalties for a utility's distribution feeder or power line that is among the worst 10 percent for two consecutive years.

***Comprehensive Code of Conduct*** provisions address business relationships between entities (TDUs and their affiliates, PGCs and REPs), mitigate market power abuses, and provide considerable governmental enforcement authority and remedies.

***Municipal Franchise Fees*** can be collected from a utility that uses the municipality's right of way at the same levels that are presently collected.

***Do Not Call Lists*** provide privacy for customers who wish to stay off REPs' telemarketing call lists.

***Legislative Oversight Committee*** meets annually with the PUC and monitors restructuring efforts.

## ELECTRIC & TELECOMM. INDUSTRIES' CONSUMER PROTECTION - S.B. 86

*by Senator Nelson, et al.*
*House Sponsor: Representative Danburg*

There has been a marked increase in retail competition in the telecommunications services industry which has resulted in an increase in reported incidences of unfair or fraudulent business practices. There is additional concern that similar occurrences may result if the electric industry is restructured to allow retail competition as well. S.B. 86 provides an increase in consumer protection of telecommunications and electric services customers.

Provides greater protection for consumers by giving the Public Utility Commission (PUC) rulemaking authority to adopt and enforce rules providing customer safeguards, including safeguards against unfair, fraudulent, misleading, or anticompetitive practices in the electric and telecommunications industries.

Requires the PUC to promote public awareness of electric and telecommunications market changes and information to customers about their rights and available options.

Grants rulemaking authority to the PUC:

- ◊ to adopt and enforce rules for minimum service standards on customer deposits, credit extensions, switching fees, levelized billing programs, and service termination for certificated telecommunications utilities and electric utilities;
- ◊ regarding certification, registration, and reporting requirements for certificated telecommunications utilities, electric utilities, telecommunications utilities that are not dominant carriers, pay (coin) telephone providers, qualifying facilities that are selling capacity into the wholesale or retail market, exempt wholesale generators, and power marketers; and
- ◊ to ensure that customers are protected from unauthorized switching of a selected telecommunications service provider or electric utility.

Grants rulemaking authority to the governing body of electric cooperatives and municipally owned utilities to adopt, implement, and enforce rules to ensure customer protection, including the resolution of disputes.

Requires a billing utility, upon its knowledge or notification of an unauthorized charge on a customer's bill, to promptly take responsive action.

Prohibits a billing utility from disconnecting or terminating service to any customer for nonpayment of an unauthorized charge, or from filing an unfavorable credit report against a customer who has not paid charges the customer has alleged were unauthorized, unless the dispute regarding the unauthorized charge is ultimately resolved against the customer.

Requires every service provider to maintain a record of every disputed charge placed on a customer's bill. Requires the record to be kept for at least 24 months following the completion of all steps required by the billing section of S.B. 86.

To enhance the PUC's enforcement authority, authorizes the PUC to:

- ◊ take action for providing false information to the PUC against any entity as if it were regulated by the PUC; and
- ◊ deny a telecommunications service provider or electric utility the right to provide service in this state if the billing utility is a repeat offender.

Prohibits a provider of basic local telecommunications service from discontinuing that service because of nonpayment by a residential customer of charges for long distance service. Payment must first be allocated to basic local telecommunications service.

Provides automatic enrollment of eligible utility customers for lifeline telephone service and reduced electric rates available to low-income households.

### CUSTOMER PROTECTION STANDARDS

Provides that consumers of telecommunications and retail electric services are entitled to:

- ◊ protection from fraudulent, unfair, misleading, deceptive, or anticompetitive practices, including protection from being billed for services that were not authorized or provided;
- ◊ choice of a telecommunications service provider, a retail electric provider, or an electric utility, where that choice is permitted by law, and to have that choice honored;
- ◊ information in English and Spanish and any other language PUC deems necessary concerning rates, key terms and conditions, and the basis for any claim of environmental benefits of certain production facilities;
- ◊ protection from discrimination on the basis of race, color, sex, nationality, religion, marital status, income level, or source of income and from unreasonable discrimination on the basis of geographic location;
- ◊ impartial and prompt resolution of disputes with a certificated telecommunications utility, a retail electric provider, or an electric utility as well as disputes with a telecommunications service provider related to unauthorized charges and switching of service;
- ◊ privacy of customer consumption and credit information;
- ◊ accuracy of metering and billing;
- ◊ bills presented in a clear, readable format and easy-to-understand language;
- ◊ information in English and Spanish and any other language as PUC deems necessary concerning low-income assistance programs and deferred payment plans;
- ◊ all consumer protections and disclosures established by the Fair Credit Reporting Act and the Truth-in-Lending Act; and
- ◊ after retail competition begins as authorized by the legislature, programs provided by retail electric providers that offer eligible low-income customers energy efficiency programs, an affordable rate package, and bill payment assistance programs designed to reduce uncollectable accounts.

## TELECOMMUNICATIONS PROVIDERS ACCESS RATE REDUCTION: PUBLIC UTILITY COMMISSION/SUNSET - S.B. 560

*by Senator Sibley, et al.*
*House Sponsors: Representatives Van de Putte and Goodman*

Requires a telephone company with greater than five million access lines to reduce its switched access rates on a combined originating and terminating basis as follows:

- ◊ requires certain telephone companies to reduce switched access rates on a combined originating and terminating basis in effect on September 1, 1999, by one cent a minute; and
- ◊ requires the company to reduce switched access rates on a combined originating and terminating basis by an additional two cents a minute on July 1, 2000; or on the date the telephone company, or its affiliate, actually begins providing interLATA services in Texas (long distance service).

Redefines the terms: "long run incremental cost," "price flexibility," and "telecommunications provider." Defines "advanced communications."

Requires a telecommunications utility that had more than six percent of the total intrastate access minutes of use to pass on switched access rate reductions to its customers.

Prohibits an affiliate of a person holding a certificate of convenience and necessity from directly or indirectly selling to a non-affiliate any regulated product or service purchased from the person holding a certificate of convenience and necessity at any rate or price less than the price paid to the person holding a certificate of convenience and necessity.

### NEW SERVICES

Authorizes a local phone service provider to introduce a new service 10 days after providing an informational notice to the Public Utility Commission (PUC), to the Office of the Public Utility Counsel, and others.

Prohibits the PUC from adopting any rule or order that would prohibit a local phone service provider from jointly marketing or selling its products and services with the products and services of any of its affiliates in any manner permitted by federal law.

**PRICING FLEXIBILITY**

Authorizes the local phone service provider to exercise pricing flexibility 10 days after providing an informational notice to PUC, to the Office of the Public Utility Counsel, and others.

Authorizes a local phone service provider to offer a promotion for regulated service (such as waivers of installation charges or service order charges) for not more than 90 days in any 12-month period.

**CONSUMER PROTECTIONS**

Authorizes the PUC to resolve disputes between a retail customer and a billing utility, service provider, or telecommunications utility.

Prohibits a provider of basic local telecommunications service from discontinuing that service because of nonpayment by a residential customer of charges for long distance service.

Authorizes an affected person, the Office of the Public Utility Counsel on behalf of residential or small commercial customers, or the PUC, to file a complaint by the 31st day after the date the company implements the rate alleging that a local phone service provider has priced a regulated service in a manner that does not meet the pricing standards.

Authorizes an affected person, the Office of the Public Utility Counsel on behalf of residential or small commercial customers, or the PUC, to file a complaint challenging the pricing of a new service by a local phone service provider.

Requires the PUC to adopt rules prohibiting a telecommunications provider from discontinuing local phone service to a consumer who receives lifeline service because of nonpayment by the consumer of charges for other services billed by the provider, including long distance service.

Requires the PUC to adopt rules providing for automatic enrollment to receive lifeline service for eligible consumers.

## STANDARDS FOR PREPAID CALLING CARDS - S.B. 1020

*by Senators Shapleigh and Barrientos*
*House Sponsor: Representative Turner*

A large number of consumers in Texas purchase "prepaid calling cards" which provide telephone services up to the dollar amount on the card. However, there is often no way for the consumer to determine the per-minute rate, minimum rate, or per-call fees associated with the card.

This bill authorizes the Public Utility Commission (PUC) to develop rules prescribing standards regarding the information a prepaid calling card company is required to disclose regarding the rates and terms of service for the cards. The bill also provides that a violation of a rule adopted by PUC is subject to enforcement.

## THE LIFELINE AND TEL-ASSISTANCE PROGRAMS - H.B. 1700

*by Representative Danburg*
*Senate Sponsor: Senator Barrientos*

Currently, there are two telecommunications assistance programs available to qualifying low-income individuals. The first of these programs is the tel-assistance service program, which provides low-income residential customers a reduction in their basic local exchange access service. Under the second program, the lifeline service, many local exchange carriers apply a credit of $10.50 to the basic local service rate of eligible low-income customers. This bill enhances the consumer protections provided by these programs.

Requires the Public Utility Commission of Texas (PUC) to adopt rules prohibiting a telecommunications provider (provider) from discontinuing local telephone service of a consumer who receives lifeline service because the consumer did not pay charges for other services billed by the provider, including long distance service.

Requires the PUC to adopt rules providing for the automatic enrollment in lifeline service for eligible consumers. Requires the Texas Department of Human Services (department) to assist in the adoption and implementation of those rules upon request of the PUC.

Authorizes a provider to block a lifeline service participant's access to all long distance service, other than toll-free numbers, if the participant owes money for that service.

Requires the commission to adopt and enforce rules requiring local exchange companies to establish a universal service fund to reimburse certain telecommunications carriers providing lifeline service.

## GUIDELINES FOR TELECOM. MUNICIPAL FRANCHISE FEES - H.B. 1777

*by Representatives Wolens and Carter*
*Senate Sponsor: Senator Lucio*

Currently, there is no statutory provision specifying the method and level of compensation that a municipality may collect from a telecommunications provider (provider) for the use of the public rights-of-way and the right to provide services within that municipality. The purpose of this bill is to provide policies and guidelines relating to compensation that a municipality may receive from a provider within the municipality.

Establishes a uniform method for compensating municipalities for the use of a public right-of-way by telecommunications providers.

- ◊ Requires the Public Utility Commission (PUC) to determine, by September 1, 2002, whether changes in technology, facilities, or competitive or market conditions justify a modification in PUC-established categories of access lines.
- ◊ Requires a telecommunications provider that provides telecommunications services within a municipality to pay as compensation to a municipality for use of the public rights-of-way in the municipality only the amount determined by PUC.

## TEXAS LAW GOVERNS SOME INTERNET TRANSACTIONS - H.B. 2653

*by Representative Glenn Lewis*
*Senate Sponsor: Senator Ellis*

Currently, business conducted over the Internet with businesses out-of-state is not subject to Texas law.

This bill provides that a contract made solely over the Internet, between a person in Texas and a person outside this state, is governed by Texas law unless the party in Texas is given notice that the law of the state in which the other party is located applies to the contract and agrees to the application of that law.

## OFFICE OF DEFENSE AFFAIRS - S.B. 495

*by Senator Truan, et al.*
*House Sponsor: Representative Hawley*

The Office of Defense Affairs (ODA) and the Texas Strategic Military Commission work together to develop long-term strategies to prepare for base realignment and closure. This bill amplifies the requirements of these offices in order to enhance their ability to assist defense-dependent communities.

Requires ODA to assist:

- ◊ defense-dependent communities in the design and execution of programs that enhance a community's relationship with military installations and defense-related businesses; and
- ◊ communities in the retention and recruiting of defense-related businesses.

Requires ODA to prepare an annual report about the active military installations, defense-dependent communities, and defense-related businesses in this state, including, among other things:

- ◊ an economic impact statement describing in detail the effect of the military on the economy of this state;
- ◊ a statewide assessment of active military installations and current missions;
- ◊ a statewide strategy to attract defense-related business and prevent future defense closures and realignments; and
- ◊ a list of state and federal activities that have significant impact on active military installations and current missions.

## PROTECTIONS & BENEFITS FOR STATE MILITARY FORCES - S.B. 525

*by Senator Luna, et al.*
*House Sponsor: Representative Uher*

Prohibits a private employer from terminating the employment of a permanent employee who is a member of the state military forces because the employee is ordered to authorized training or to duty by a proper authority.

Entitles an employee to return to the same employment held when ordered to training or duty, and prohibits the employee from being subjected to loss of time, efficiency rating, vacation time, or any benefit of employment, during or because of the absence.

Provides that an employer is not required to pay the regular wage of an employee during the period the employee is absent because of military duty.

Authorizes a member of the state military forces who is killed or disabled while engaged in authorized training or duty to receive workers' compensation.

Authorizes the adjutant general to use public funds to purchase an insurance policy or annuity contract for workers' compensation claims by members of the state military forces.

## TUITION ASSISTANCE FOR STATE MILITARY FORCES - S.B. 526

*by Senator Luna, et al.*
*House Sponsors: Representatives Counts, et al.*

S.B. 526 creates a tuition assistance program for eligible members of the state military forces and sets forth provision regarding tuition exemption and reimbursement procedures with institutions of higher education.

Provides tuition assistance to eligible members of state military forces to encourage voluntary membership, to improve the education level of the members, to diversify the composition of the forces, and to enhance the state's workforce.

Provides that to be eligible, a person must be a member in good standing of the Texas Army National Guard, Texas Air National Guard, or Texas State Guard. Further provides that the member must be either an enlisted member, a warrant office of a grade from Warrant Officer One through Chief Warrant Officer Three, or a commissioned officer of a grade from Second Lieutenant through Captain.

Requires the adjutant general to grant tuition assistance to a number of eligible persons based on the funds available and the needs of the military forces. Prohibits the number of awards to the Texas State Guard from exceeding 30 per semester, unless there is compelling need for additional awards to the Guard.

Sets out which institutions the member may attend and conditions under which a member is not eligible for an award.

Requires the adjutant general, before the beginning of each semester, to provide the Texas Higher Education Coordinating Board (board) with a list of the persons to whom the general has awarded tuition assistance. Requires the board to determine whether sufficient money is available to fund the tuition assistance awards. If the board finds that sufficient money is not available, it must notify the adjutant general, who must reduce the number of awards according to the amount of money available and present to the board a revised list of awardees. (Note: The 76th Legislature appropriated $2 million to fund this program, beginning in 2001.)

## DISPLAY OF POW/MIA FLAG - S.B. 640

*by Senator Fraser*
*House Sponsor: Representative Uher*

Defines that the "POW/MIA flag" is the National League of Families POW/MIA flag identified by 36 U.S.C. Section 189.

Requires the POW/MIA flag to be displayed at each state office building on:

- ◊ the third Saturday in May, "Armed Forces Day;"
- ◊ the last Monday in May, "Memorial Day;"
- ◊ the 14th day of June, "Flag Day;"
- ◊ the fourth day of July, "Independence Day;"
- ◊ the 11th day of November, "Veterans Day;" and
- ◊ "National POW/MIA Recognition Day."

## GRANTING OF TEXAS MILITARY AWARDS - S.B. 643

*by Senator Truan*
*House Sponsor: Representative Wise*

Allows the Adjutant General increased freedom to adopt regulations for awards through the deletion of the existing descriptions of the medals in the Government Code, as listed below:

- ◊ Texas Faithful Service Medal;
- ◊ Federal Service Medal;
- ◊ Texas Medal of Merit;
- ◊ Texas Outstanding Service Medal;
- ◊ Texas State Guard Service Medal;
- ◊ Texas Desert Shield/Desert Storm Campaign Medal; and
- ◊ Texas Humanitarian Service Medal.

## TECHNOLOGY WORKFORCE CAMPAIGN - S.B. 231

*by Senator Ellis*
*House Sponsor: Representative Dukes*

Requires the Texas Workforce Commission to begin a marketing and information program to encourage more Texans, particularly African Americans, Hispanics, and persons with disabilities to enter technology industries.

## WORKING INMATES OF PRIVATE PRISONS NOT "EMPLOYEES" - S.B. 334

*by Senator Sibley*
*House Sponsor: Representative Jim Solis*

Currently, the term "employment," for the purposes of determining unemployment insurance benefits, excludes service performed by an inmate of a custodial or penal institution that is owned or operated by the state or a subdivision of the state. As a result of the language in the definition of "employment" in the Labor Code, which refers to the public nature of the custodial or penal institution, an inmate who is employed in a privately owned or operated prison is eligible for unemployment insurance benefits.

Redefines "employment" to clarify that an inmate employed in a privately owned or operated prison is ineligible for unemployment insurance benefits.

## TIME WORKED DETERMINES UNEMPLOYMENT BENEFIT - S.B. 335

*by Senator Sibley*
*House Sponsor: Representative Jim Solis*

Currently, under Texas law, unemployment benefit claims are determined based on wages earned during the week. This bill, to conform to federal law, disqualifies an applicant for unemployment benefits for any benefit period in which the applicant works at least 40 hours, without regard to the rate of pay.

Provides that an individual is not considered unemployed and is not eligible to receive unemployment compensation benefits for any benefit period in which the individual works at least 40 hours.

## JOB TRAINING - S.B. 343

*by Senator Ellis*
*House Sponsor: Representative Coleman*

Creates the Self-Sufficiency Fund (fund) designed to assist certain colleges, community-based organizations, and state agencies to develop job-training programs.

Provides that subject to the availability of funds, the fund is created for use by public community and technical colleges, community-based organizations, and state extension agencies, to develop for certain recipients of financial assistance under Chapter 31, Human Resources Code, customized job-training programs in which the recipients will be provided job training by:

- ◊ an entity that develops a job-training program under this section;
- ◊ a small or medium-sized business or trade union; or
- ◊ an informal partnership between an entity that develops a job-training program and a small or medium-sized business network or consortium.

## TRANSITION TO FEDERAL WELFARE WORK REQUIREMENTS - S.B. 666

*by Senator Zaffirini*
*by Representatives Glenn Lewis and Naishtat*

To bring Texas law into compliance with federal law requirements, this bill phases out the exemption from work requirements for persons with children who receive Temporary Assistance for Needy Families (TANF) assistance.

Provides that a single person who is the caretaker of a child is not required to participate in a work program until the caretaker's youngest child at the time the caretaker first became eligible for assistance reaches the age of three, effective January 1, 2000.

Provides that a single person who is the caretaker of a child is not required to participate in a work program until the caretaker's youngest child at the time the caretaker first became eligible for assistance reaches the age of two, effective September 1, 2000.

Provides that a single person who is the caretaker of a child is not required to participate in a work program until the caretaker's youngest child at the time the caretaker first became eligible for assistance reaches the age of one, effective September 1, 2001.

Requires the Texas Department of Human Services to work in conjunction with the Texas Workforce Commission or a local workforce development board to develop a client education effort targeted at clients affected by these changes before implementing any of these provisions.

Provides that these provisions take effect only if a specific appropriation for the implementation of this bill is provided in H.B. No. 1 (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999.

## INFORMED DECISION MAKING IN PERSONAL INJURY SUITS - S.B. 731

*by Senator Harris*
*House Sponsor: Representative Goodman*

Currently, no clear requirements exist for an attorney to convey information on personal injury settlements. This lack of clarity serves inadvertently to force a client to accept a settlement that may not be in the client's best interest. Setting forth certain time periods, conditions under which a structured settlement is presented, may help a client make an informed decision. S.B. 731 sets forth guidelines for presentation to clients about damage settlements in personal injury suits.

Requires an offer of structured settlement made after a suit to be made in writing and presented to the attorney for the claimant.

Requires the attorney receiving the offer to present the offer to the claimant's personal representative as soon as practical. Requires the attorney to advise the claimant's representative with respect to the terms, conditions, and other attributes of the proposed structured settlement, and the appropriateness of the settlement under the circumstances.

## STRICTER RULES FOR MINORS WHO SELL DOOR-TO-DOOR - H.B. 160

*by Representative Wise*
*Senate Sponsor: Senator Zaffirini*

Currently, Texas law imposes restrictions on the age at which a child may be employed, the hours a child may be employed, and the type of work a child may be employed to perform. Certain businesses, such as those engaged in sales, target minors for use as sales representatives. H.B. 160 sets forth provisions to regulate sales or solicitations made by children, and provides a penalty for an offense.

Provides that the employment of a child to solicit is a hazardous occupation. Prohibits a person from employing a child unless the employer:

- ◊ at least seven days before the date the child begins employment, obtains on a form approved by the commission, the signed consent of a parent of the child or of a conservator, guardian, or other person who has possession of the child under a court order;
- ◊ provides to the individual who gives consent a map of the route the child will follow during each solicitation trip;
- ◊ provides the name of each individual who will be supervising each solicitation trip;
- ◊ provides at each location where children will be engaged to solicit at least one adult supervisor for every three children engaged in that solicitation trip; and
- ◊ limits each solicitation trip to no later than 7 p.m. on a day when the child is legally required to attend school and the hours between 10 a.m. and 7 p.m. on all other days.

Authorizes the Texas Workforce Commission, by rule, to make additional requirements for a person employing a child to protect the child's safety, health, or well-being. Specifies that provisions of this bill do not apply to an exempt organization or a business owned or operated by a parent, conservator, guardian, or other person who has possession of the child under a court order. Provides that a person commits a Class A misdemeanor if the person employs a child in violation of a rule adopted under provisions of this bill.

## IMMUNITY FOR DISCLOSURE TO PROSPECTIVE EMPLOYERS - H.B. 341

*by Representative McCall, et al.*
*Senate Sponsor: Senator Nelson*

Under current law, an employer can be found liable for disclosing or withholding certain information about current or former employees. As a result, many employers provide only limited information to a prospective employer about a current or former employee's job performance, or limit the information provided to only a confirmation that the employment occurred and the dates of employment. H.B. 341 sets forth provisions regulating the use of information regarding a current or former employee.

Authorizes an employer to disclose information about a current or former employee's job performance to a prospective employer of the current or former employee on the request of the prospective employer or the employee.

Provides that an employer who discloses such information is immune from civil liability for that disclosure or any damages proximately caused by that disclosure, unless it is proven by clear and convincing evidence that the information disclosed was known by that employer to be false or was made with malice or in reckless disregard for the truth or falsity of the disclosure.

Provides that this chapter does not require an employer to provide an employment reference to or about a current or former employee.

## ELECTRONIC TRANSFER OF WORKERS' COMP. PAYMENTS - H.B. 729

*by Representatives Hochberg and Giddings*
*Senate Sponsor: Senator Duncan*

Workers' Compensation Commission rules provide that a benefit check must be issued in a timely fashion. H.B. 729 specifies that payment to the employee must be made by the benefit due date and requires electronic funds transfer for payments, at the employee's request.

Requires insurance carriers to offer employees entitled to payment of benefits, for a period of sufficient duration, the option of receiving payments by electronic funds transfer. Provides that an insurance carrier is considered to have paid benefits in a timely manner if payment is made by electronic funds transfer and deposited in the employee's account by the benefit payment due date, if payment is made by mail and mailed in time for the payment to be postmarked by the benefit payment due date, or if payment is made available for the employee to pick up by the opening of business on the benefit payment due date.

## NO EXCESSIVE WORKERS' COMP. MEDICAL EXAMS - H.B. 1826

*by Representative Hochberg*
*Senate Sponsor: Senator Duncan*

Currently, the Texas Workers' Compensation Act provides that an employee injured at work may be entitled to receive benefits. This bill prohibits an insurance carrier from requiring an employee to submit to a medical examination more than annually, if the injured employee's condition has not improved during the preceding year.

- ◊ Sets forth guidelines providing for a dispute regarding the examination guidelines.
- ◊ Authorizes the Texas Workforce Commission to require an employee to submit to a medical examination only to determine whether the employee's medical condition is a direct result of impairment from a compensable injury.

## USING SALES TAX REVENUE FOR JOB TRAINING - H.B. 1916

*by Representatives Oliveira and Chavez*
*Senate Sponsor: Senator Lucio*

Currently, worker training is a major issue for companies wishing to relocate to Texas, and some economic development corporations would like to be able to offer companies funds for job training to make relocating more attractive to those companies. The ability to use economic development tax money for job training could be a spur to economic development in areas with an acute shortage of trained workers. H.B. 1916 allows industrial development corporations to use sales tax revenue for job training expenditures.

Authorizes a corporation to spend tax revenue for job training offered through a business enterprise only if it has committed in writing to create new jobs paying the average weekly wage for the county. Prohibits a corporation from spending tax revenue received under this Act in an amount that exceeds more than one-half the actual cost of job training, or if other state or federal funds dedicated to job training are used on the project, unless the county unemployment rate for the preceding calendar year is 1.5 times the average unemployment rate for the state.

## WORKERS' COMPENSATION SYSTEM FOR STATE EMPLOYEES - H.B. 2509

*by Representative Dukes*
*Senate Sponsor: Senator Shapleigh*

Under current law, state employees are permitted to take annual leave while receiving workers' compensation benefits. Employees who are injured on the job may receive combined annual leave pay and benefits up to 175 percent of that person's regular salary, with 100 percent coming from regular salary and the remaining 70-75 percent from benefits. Currently, there is a discrepancy between Chapter 2251, Government Code, and Section 408.027, Labor Code. H.B. 2509 sets forth requirements for the administration of the workers' compensation system for state employees.

Requires the director of the Office of Risk Management (office) to maintain, and make available to the legislature on request, a list of all persons who have received benefits under Chapter 501, the nature and cause of each compensable injury, and the amount paid weekly in income benefits and for medical services, hospital services, and other services.

Authorizes an employee to elect to use all or any number of weeks of accrued annual leave after the employee's accrued sick leave is exhausted. Provides that the employee is not entitled to income benefits under this chapter until the elected number of weeks of leave have been exhausted, if an employee elects to use annual leave.

Provides that medical benefit and income benefit payments made by the office are exempt from Chapter 2251, Government Code.

## WORKERS' COMPENSATION COMMISSION - H.B. 2510

*by Representative Dukes*
*Senate Sponsor: Senator Shapleigh*

Currently, the Texas Workers' Compensation Commission (TWCC), the Research and Oversight Council on Workers' Compensation, health care facilities, insurance carriers, the Medical Advisory Committee, and the Texas Department of Insurance are all involved in the administration of the workers' compensation program of Texas. H.B. 2510 makes several changes, including updates, specifications, and clarifications, to the workers' compensation program of this state, and grants rulemaking authority to the TWCC.

Requires TWCC to compute and publish the interest and discount rate, plus 3.5 percent.

Authorizes TWCC to accept a grant paid from the Texas Workers' Compensation Insurance Fund to implement specific steps to control and lower medical costs. Requires TWCC to publish the name of the grantor, and acknowledge acceptance of the grant, and sets forth provisions for that process.

Creates a Class D administrative violation for an employee who fails or refuses to appear for a scheduled examination. Requires TWCC, by rule, to ensure that an employee receives reasonable notice of payment suspension, and be provided with an opportunity to reschedule an examination. Sets forth provisions for the suspension or reduction of temporary income benefit payments. Requires TWCC to hold an expedited benefit review conference, within a certain time limit. Provides that TWCC is not required to automatically schedule a contested case hearing.

Authorizes TWCC to adopt the fourth edition of the "Guides to the Evaluation of Permanent Impairment" for determining the existence and degree of an employee's impairment. Requires TWCC to use the range of motion model for evaluating back injury-related impairments, if it adopts a certain guide.

Authorizes an insurance carrier to pay lifetime income benefits through an annuity that meets certain conditions. Provides that the establishment of such an annuity does not relieve the insurance carrier of the liability for insuring that the lifetime income benefits are paid.

Requires TWCC, by rule, to establish requirements for agreements under which death benefits may be paid monthly.

Authorizes the governing body of a political subdivision to elect to provide compensation payments that exceed the minimum benefits provided.

Requires reserves to be computed in accordance with any rules adopted by the commissioner of insurance.

## INDIVIDUAL DEVELOPMENT ACCOUNTS FOR POOR PERSONS - H.B. 2563

*by Representative Glenn Lewis*
*Senate Sponsor: Senator Ellis*

Requires the Texas Workforce Commission (TWC) to develop a pilot program in eight counties for individual development accounts for certain low-income individuals who are employed by the public or private sector.

Provides that participation in the program will be limited to individuals who have a family income below 200 percent of the poverty level and that expenditures from a participant's individual development account are limited to postsecondary educational expenses for the adult account holder and dependent children, housing expenses, including expenses of purchasing or financing a home for the adult account holder, expenses of a self-employment enterprise, and start-up business expenses for the adult account holder.

Provides for the evaluation of the pilot program by an institution of higher education.

## SMART JOBS FUND PROGRAM CUSTOMIZED FOR BUSINESSES - H.B. 3657

*by Representative Oliveira, et al.*
*Senate Sponsor: Senator Sibley*

Currently, the smart jobs fund program provides grants to employers for customized training of employees. The program is administered by the Texas Department of Economic Development (TDED) and is set to expire December 31, 1999. H.B. 3657 reauthorizes the program until TDED's 2001 sunset date.

Provides that the smart jobs fund program is created in the TDED as a workforce development incentive program to enhance employment opportunities for residents of this state and to increase the job skills of the existing workforce by providing job training assistance to businesses operating in, or locating to, this state. Requires the program to award grants for the creation and retention of qualified jobs. The bill also creates a rainy day fund to provide a financial cushion for the program during economic slowdowns, directs new funding to the skills development fund from the unemployment insurance trust fund, modifies the wage requirement necessary to access the program, modifies the information included in the annual report, and requires the performance of a biennial evaluation of the program.

## SURPLUSES PROMPT REFUNDS & STUDY ON WORK SAFETY - H.B. 3697

*by Representative Siebert, et al.*
*Senate Sponsor: Senator Sibley*

Currently, the Texas Workers' Compensation Insurance Fund (fund) provides workers' compensation insurance to Texas businesses and their employees and to Texas employers that operate in other states. Its purpose is to serve as a competitive force in the marketplace, guarantee the availability of workers' compensation insurance in this state, and serve as an insurer of last resort. Since January 1, 1992, the fund has written over 250,000 policies that provide coverage to more than 35,000 businesses. Consequently, the fund has become the largest workers' compensation insurer in the state. H.B. 3697 amends regulations regarding the operation and disposition of surpluses of the fund.

Authorizes the fund to price workers' compensation insurance policies to insureds in the fund's competitive programs, as well as to insureds to whom policies are offered by the fund. Authorizes the system to provide lower premium payments by insureds based on the fund's evaluation of the underwriting characteristics of the individual risk and the appropriate premium to be charged for the policy coverages, rather than by insureds who present higher than normal risks within a class.

Requires the comptroller and the Texas Department of Insurance (TDI) to cooperate in preparing a list of the insurers and certified self-insurers who paid a maintenance tax surcharge for calendar years 1991-1997. Requires the list to include the amount of the maintenance tax surcharge paid by each insurance company and certified-self insurer. Requires the fund to issue separate checks to each insurer and certified self-insurer for each year in which the tax was paid. Sets forth calendar years in which the maintenance tax surcharge is to be paid. Entitles each policyholder not insured by the fund to receive a proportionate share of the amount of the tax paid by the workers' compensation insurer that provided coverage during each 12-month recoupment period beginning June 1, 1992, and ending May 31, 1998. Entitles policyholders to receive a refund of the proportionate share of the maintenance tax surcharge as determined by certain policies. Sets forth requirements regarding TDI's furnishing a report to the fund. Sets forth confidentiality requirements for the reports.

Requires the fund to enter in a joint venture with the Research and Oversight Council on Workers' Compensation by providing data for interim studies. Requires funding for the studies to be provided by the fund, to improve worker safety, reduce cost, and improve quality of health care delivered to injured workers.

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