

# Summary of Enactments 81st Legislature

Regular Session  
1st Called Session  
2009



Texas Legislative Council  
November 2009



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2009**

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# Foreword

The Summary of Enactments of the 81st Legislature provides synopses of all bills enacted and all joint resolutions proposing amendments to the Texas Constitution passed by the legislature during the 2009 Regular Session and 1st Called Session. When a measure has been vetoed by the governor, the reason for the veto, as stated in the governor's veto proclamation, is included with the synopsis.

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

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

Other sources of information on legislation include:

Sunset bills (list)—[www.sunset.state.tx.us/legislation09.htm](http://www.sunset.state.tx.us/legislation09.htm)

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

Proposed constitutional amendments

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

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

Paper copies of enrolled bills and resolutions from the 81st Legislature, Regular Session and 1st Called Session, may be obtained from house and senate document distribution offices until October 2010. House measures are available from the House Document Distribution Office, located in Room B.324 of the Robert E. Johnson, Sr., Legislative Office Building, 1501 N. Congress Avenue (P.O. Box 12128, Austin, Texas 78711; (512) 463-1144). Senate measures are available from the Senate Bill Distribution office, located in Room 190 in the Sam Houston State Office Building, 201 E. 14th Street (P.O. Box 12068, Austin, Texas 78711; (512) 463-0252). The public may also obtain copies of all enrolled bills and resolutions from the Legislative Reference Library, located in Room 2N.3 of the Capitol (P.O. Box 12488, Austin, Texas 78711; (512) 463-1252).



# Introduction

The regular session of the 81st Legislature convened on January 13, 2009, and adjourned *sine die* on June 1, 2009. Of the 1,459 bills enacted during the session, 39 bills, as well as several items of appropriation in the General Appropriations Act, were subsequently vetoed by Governor Rick Perry. Lawmakers also passed 9 joint resolutions proposing 11 amendments to the Texas Constitution. The proposed amendments will be offered for approval on the November 3, 2009, election ballot.

Following *sine die* adjournment of the regular session, the 81st Legislature met in one called session to consider funding for transportation and delaying sunset review for a number of governmental entities.

		Filed	Passed	Vetoed*
<b>Bills</b>	Regular	7,419	1,459	39
	1st C.S.	24	2	0
<b>Joint Resolutions</b>	Regular	190	9	0
	1st C.S.	3	0	0

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



# Enactments of the 81st Legislature

## Agriculture

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

### General

**House Bill 375****Effective:** 5-27-09**House Author:** Miller, Sid**Senate Sponsor:** Estes

House Bill 375 amends the Agriculture Code to include elk and elk hybrids in the uniform definition of “livestock.”

**House Bill 1684****Effective:** See below**House Author:** Brown, Betty et al.**Senate Sponsor:** Estes

House Bill 1684 amends the Government Code to require the Office of Rural Community Affairs (ORCA) to establish and administer a program to provide loan repayment assistance to veterinarians who agree to practice veterinary medicine on livestock or deer in a designated rural area. The bill authorizes ORCA's governing board to provide such assistance for up to four years to repay any education loan, except a loan in default, that has been received by the veterinarian through any lender for education at any veterinary school that awards a degree that meets the study requirements to obtain a license to practice veterinary medicine in Texas. The bill sets forth the required components of the agreement a person must execute to qualify, including a requirement that a loan recipient practice for one full year in a designated area for each year of repayment assistance. The agreement must require a promissory note. Amounts under such notes are to be deposited in the permanent endowment fund for the rural communities health care investment program. The bill requires, of the amount available for distribution from the fund not used to pay expenses of fund management, one-half to be appropriated for loan repayment assistance and one-half for loan reimbursement and stipend programs to assist communities in recruiting health professionals to practice in medically underserved areas. Provisions relating to that fund and repayment assistance take effect September 1, 2009, but only if the comptroller of public accounts has published in the Texas Register a determination that a specific appropriation has been made for the bill's implementation. The rest of the bill takes effect August 31, 2009.

**House Bill 1881****Effective:** 9-1-09**House Author:** Miller, Sid et al.**Senate Sponsor:** Estes et al.

House Bill 1881 amends the Agriculture Code to require the Texas Department of Agriculture (TDA) to create and administer an equine incentive program, applicable to Appaloosa, paint, and quarter horses. It requires the owner of a stallion that has bred more than five mares during the 12-month period preceding the filing of an annual breeding report to the applicable breeder's association, unless the owner opts not to participate in the program, to submit a duplicate report to the TDA for the sixth and any subsequent mare bred by the stallion and to pay an

## Agriculture

equine incentive program fee of not less than \$30 per mare bred, as determined by the TDA, in connection with each such duplicate report. An owner opting against participation must give written notice to the TDA not later than the 30th day before the annual breeding report is due. An owner of a stallion that has bred fewer than six mares may participate in the program by submitting a duplicate breeding report and paying the incentive fee for each mare bred by the stallion. The bill requires the TDA by rule to provide for the use of fee revenue to grant equine incentive awards to the owners of eligible foals that participate in horse events in Texas, based on a related point system. A foal is eligible for an award if an incentive fee has been paid on behalf of the foal's dam.

### **House Bill 1908**

**Effective:** 5-27-09

**House Author:** King, Tracy

**Senate Sponsor:** Hinojosa

House Bill 1908 amends the Agriculture Code to designate the Texas Department of Agriculture (TDA) as the lead agency for education and training regarding food safety, to require TDA to assist the fresh fruit and vegetable industries with food safety issues, and to authorize TDA to provide assistance to federal agencies in their implementation of voluntary guidelines relating to sound agricultural practices.

The bill requires TDA to coordinate, plan, and approve training and awareness programs for producers and packers of fresh fruits and vegetables and specifies informational and educational requirements for such a program. The bill requires TDA to coordinate the planning and implementation of the programs with Texas colleges and universities, the Texas AgriLife Extension Service, Texas AgriLife Research, the Department of State Health Services, and private industry.

### **House Bill 2042**

**Effective:** 5-20-09

**House Author:** Flynn

**Senate Sponsor:** Deuell

Previous law required a sheriff, if a search in the county register did not reveal the owner of an impounded stray livestock or exotic fowl, to advertise the impoundment in a newspaper of general circulation in the county at least twice during the 15 days after the date of impoundment. House Bill 2042 amends the Agriculture Code to allow a sheriff, as an alternative, to advertise the impoundment on the county's Internet website for at least 15 days after the date of impoundment.

### **House Bill 2527**

**Effective:** 9-1-09

**House Author:** Aycock

**Senate Sponsor:** Hegar

Current law prohibits a person from offering for sale or selling ammonium nitrate or ammonium nitrate material unless the person holds a certificate of registration issued by the Texas Feed and Fertilizer Control Service. House Bill 2527 amends the Agriculture Code to extend that prohibition to producing, storing, or transferring such items without the requisite certificate. The bill specifies the information that must be included in an application for a certificate submitted by the owner of an ammonium nitrate facility. The bill establishes that the Agriculture Code provisions on commercial fertilizer preempt and supersede any ordinance, order, or rule adopted by a political subdivision relating to the regulation, registration, packaging, labeling, sale, distribution, use, or application of commercial fertilizer.

### **House Bill 2925**

**Effective:** See below

**House Author:** Herrero et al.

**Senate Sponsor:** Whitmire

House Bill 2925 revises provisions of the Agriculture Code relating to weights and measures. It replaces specific terminology contained in prior law, such as language relating to pumps,

and refers uniformly to a weighing or measuring device as either a scale or an instrument used to dispense or deliver a commodity by weight, volume, flow rate, or other measure. The bill removes provisions relating to the appointment of officials known as sealers and their testing, inspection, and marking of such devices. Sealing practices are replaced by the certification of state and local standards of weights and measures consistent with federal standards of the National Institute of Standards and Technology (NIST). The bill transfers certain functions of sealers to the Texas Department of Agriculture (TDA), and amends various provisions relating to licensed inspectors of weights and measures. It authorizes an inspector to halt the use of a device if the device needs repair or cannot be repaired. The bill revises inspection, testing, and correction schedules and amends certain penalty provisions. It authorizes the TDA to exempt a device from an otherwise applicable TDA requirement relating to weights and measures if the TDA determines that imposing or enforcing the requirement is not cost effective, feasible, or substantially beneficial to or protective of consumers.

House Bill 2925 expands the rulemaking authority of the commissioner of agriculture relating to the sale of motor fuels to apply to all motor fuels, rather than just those containing ethanol or methanol. It revises associated fee provisions to require fee collection from distributors, jobbers, suppliers, and wholesalers, as well as from dealers as previously required. The bill requires the TDA to adopt minimum motor fuel quality and testing standards that are consistent with applicable minimum standards of the NIST in the case of motor fuels that are blended with ethanol and consistent with applicable minimum standards of the American Society for Testing and Materials in the case of other motor fuels. It authorizes the TDA to collect samples and conduct testing at any location where motor fuel is kept, transferred, sold, or offered for sale to verify compliance with minimum standards. The bill includes related procedures and establishes an offense for refusal to allow sample collection or testing. The TDA, if it has reason to believe that motor fuel is in violation of specified laws or rules relating to sale and regulation of fuel mixtures, may issue and enforce an order to stop the sale of the fuel. The bill increases, from \$500 to \$5,000 per day per violation, the authorized administrative penalty for violation of the law on fuel mixtures, and requires the TDA to provide a toll-free telephone number for use by the public in reporting a violation. Certain provisions relating to motor fuel quality and testing, including stop-sale orders, take effect January 1, 2010. The remainder of the bill takes effect September 1, 2009.

**House Bill 3496**  
**Effective:** 6-19-09

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

House Bill 3496 amends the Agriculture Code to establish the Texas nursery and floral account in the general revenue fund, and authorizes the money in the account to be used only by the Texas Department of Agriculture (TDA) to make grants to promote and market the Texas nursery and floral industries and for related administration. It adds to the registration and registration renewal fees for a florist, nursery owner, nursery dealer, or nursery agent an optional additional 15 percent to fund the account. The bill requires the TDA to establish and coordinate the Texas Nursery and Floral Advisory Council, consisting of seven members appointed by the commissioner of agriculture who have each been engaged in the nursery, floral, or landscaping business for at least five years. The council, which is excluded from statutes governing state agency advisory committees, is assigned to advise the TDA on the most effective methods of promoting and marketing.

**Senate Bill 948**

**Effective:** 9-1-09

**Senate Author:** Estes

**House Sponsor:** Aycock

Senate Bill 948 amends the Agriculture Code to include, as an agricultural business under the Texas Agricultural Finance Act and thus eligible for loan assistance and financial assistance under that act, a business that holds a deer breeder's permit.

**Senate Bill 1016**

**Effective:** 9-1-09

**Senate Author:** Estes et al.

**House Sponsor:** Flynn et al.

Senate Bill 1016 amends the Agriculture Code, Alcoholic Beverage Code, Election Code, Government Code, Labor Code, Natural Resources Code, Occupations Code, and Transportation Code to make numerous changes relating to the Texas Department of Agriculture (TDA) and other agricultural matters. It continues the TDA until September 1, 2021, and revises various statutes to incorporate standard provisions applicable to agencies under sunset review. The bill revises eligibility requirements for the commissioner of agriculture to authorize the occupancy of that position by a person who, if not otherwise eligible, has worked for at least five preceding calendar years for an agricultural producer association. It eliminates provisions requiring the TDA to report annually on gifts and grants.

The bill increases membership on the board of directors of the Texas Agricultural Finance Authority (TAFE) and transfers the appointment of board members from the governor to the commissioner. It gives the Texas Public Finance Authority (TPFA) the exclusive power to act on behalf of TAFE in issuing debt, and requires the TAFE board in consultation with TPFA to adopt rules containing criteria for evaluating the creditworthiness of loan applicants and the financial feasibility of debt-funded projects. The bill reorganizes and adds to TAFE financial assistance programs and repeals the preference for assistance to value-added agricultural businesses. The former linked deposit program becomes the interest rate reduction program, with goals that are more general than under previous law. The bill sets a maximum loan amount of \$500,000 for that program, eliminating dollar limits that applied previously to specific types of loans. The bill adds a young farmer interest rate reduction program, with the same maximum loan amount, and a young farmer grant program, authorizing grants of between \$5,000 and \$20,000 and requiring a matching investment by the recipient. Both programs target farmers who are at least 18 but less than 46 years of age. The previous young farmer loan guarantee program becomes the agricultural loan guarantee program, under which tiered loan guarantee limits are to be set by the TAFE board. The bill authorizes the board to establish a program to certify commercial lenders participating in that program.

Senate Bill 1016 creates the Texas Rural Investment Fund to be used by the TDA to pay for grants or loans to public or private entities in rural communities to stimulate local entrepreneurship, job creation or retention, new capital investment, strategic economic development planning, individual economic and community development leadership training, housing development, or innovative workforce education. A rural community under such provisions refers to a municipality with a population of less than 50,000 or a county with a population of less than 200,000. The bill also creates a rural economic development and investment program for attracting new private enterprises including manufacturing, freight storage, and distribution warehouses, water or waste disposal facilities, transportation infrastructure, and land, easements, or rights-of-way. Financial assistance under the program may go to a municipality with a population of not more than 50,000, a county with a population of not more than 75,000, or an economic development corporation or community development financial institution that primarily represents such a municipality or county.



The bill modifies general TDA provisions relating to licensing, registration, inspections, complaints, and enforcement. It increases the maximum administrative penalties for various Agriculture Code violations. It authorizes the TDA in specified cases to obtain criminal history record information from the Department of Public Safety.

Senate Bill 1016 modifies the state's regulatory system for public weighers to provide for the performance of public weigher responsibilities by businesses certified by the TDA rather than by elected or appointed officials. It removes a requirement that cooperative marketing associations file articles of incorporation with the TDA and pay related filing fees. The bill authorizes the TDA to develop an outreach program to promote better health and nutrition and prevent obesity among Texas children. It creates a Texas Bioenergy Policy Council and a related consortium, the Texas Bioenergy Research Committee. The bill abolishes the Texas-Israel Exchange Fund Board and the associated fund, but authorizes the TDA to establish the Texas-Israel Exchange Advisory Committee to support joint agricultural research and development with Israel. Prior law provided for a mandatory wine marketing advisory committee and a wine industry development advisory committee appointed at the discretion of the commission. The bill combines the functions of the committees into one committee and makes its appointment mandatory.

The bill modifies the composition of the governing body of the Texas Beef Council and gives the council the authority to administer in Texas the beef check off program established by federal law. The bill establishes that a livestock association authorized to inspect livestock under federal law has no duty to verify ownership at the point of sale.

In provisions relating to handling and marketing perishable commodities, the bill eliminates the mandatory licensing of certain cash dealers in such commodities. It revises provisions relating to claims against other licensees under produce recovery laws. The bill amends provisions relating to the Produce Recovery Fund Board and the State Seed and Plant Board, to eliminate board appointments by the governor and to instead rest appointment powers with, respectively, the commissioner of agriculture and with the commissioner and specified university presidents. The bill makes modifications to laws relating to quarantines, including quarantines relating to the Mexican fruit fly, and reduces requirements relating to labeling of rose plants and rose plant shipments.

Amendments relating to the citrus budwood certification program make it a Class C misdemeanor offense if a person uses, for commercial purposes, citrus budwood that TDA rules require to be certified but that is not certified or does not come from a designated foundation grove. The bill also authorizes assessment of an administrative penalty for the above-described prohibited activity. It provides for a nonprofit Texas Citrus Pest and Disease Management Corporation, Inc., governed by a 15-member board to plan, implement, and operate programs to control and suppress the Asian citrus psyllid and the disease known as citrus greening. The corporation's board is subject to sunset review, with an applicable expiration date, for the board and the related law, of September 1, 2021.

Provisions relating to pesticide and herbicide regulation, with respect to horticultural diseases and pests, amend the TDA's inspection powers and remove a requirement that the TDA in certain cases before adopting rules conduct at least five regional hearings throughout the state. Provisions relating to structural pest control, meaning pest control in or at buildings and other structures, revise and clarify who is construed to be in such a business or subject to regulation under the Texas Structural Pest Control Act. The bill provides that manual laborers and clerical employees who do not identify pests, make inspections or recommendations, apply pesticides or similar substances regulated by the TDA, or make or provide certain estimates, bids, or contracts are not engaged in the pest control business. It provides that a certified commercial applicator or technician license must be associated with a business license holder,

but establishes that a certified commercial applicator, certified noncommercial applicator, or licensed technician need not obtain a separate license for each branch office of an employer. The bill modifies provisions relating to pest control information that must be made available for indoor treatments at various indoor locations. It authorizes the TDA to enter reciprocal licensing agreements, regarding structural pest control, with other states that have substantially equivalent license requirements.

The bill continues the Prescribed Burning Board, applies to that board the same sunset date as that of the TDA, and revises provisions relating to sanctions under the prescribed burning laws and to a certified and insured prescribed burn manager. The bill authorizes a certified and insured prescribed burn manager to conduct a burn in a county in which a state of emergency or disaster has been declared by the governor or president unless the declaration expressly prohibits all outdoor burning.

**Senate Bill 1806**

**Effective:** 9-1-09

**Senate Author:** Zaffirini

**House Sponsor:** Gonzalez Tourelles

Senate Bill 1806 amends the Property Code to establish that a licensed veterinarian has a lien on a large animal and the proceeds from the disposition of the animal to secure the cost of veterinary care the veterinarian provided to it. The bill specifies that such a lien attaches on the 20th day after the date the veterinarian first provides care, attaches regardless of whether the veterinarian retains possession of the animal, takes priority over all other liens on the animal for the period during which the veterinarian retains possession of the animal, and has priority with respect to other liens if the veterinarian does not retain possession. Large animals, under the bill, consist of cattle, hogs, sheep, goats, horses, mules, asses, llamas, alpacas, farm elk, and exotic livestock.

## **Prevention, Management, and Eradication Programs**

**House Bill 865**

**Effective:** 9-1-09

**House Author:** Swinford

**Senate Sponsor:** Hegar

House Bill 865 amends the Government Code to establish the Texas Invasive Species Coordinating Committee to facilitate state efforts to prevent and manage invasive species in Texas, to serve as a catalyst for associated cooperation among state agencies, and to fulfill certain other functions related to the issue. The member agencies of the committee are the Texas Department of Agriculture, the Parks and Wildlife Department, the State Soil and Water Conservation Board, the Texas AgriLife Extension Service, the Texas Forest Service, the Texas Water Development Board, and any other state agency whose request for membership is approved by those six agencies. The bill provides that the committee is administratively attached to the State Soil and Water Conservation Board. It makes the committee subject to the Texas Sunset Act, with a sunset expiration date of September 1, 2013. The bill requires the committee to hold its first meeting and adopt bylaws not later than February 1, 2010.

**House Bill 1580**

**Effective:** 5-27-09

**House Author:** Flynn et al.

**Senate Sponsor:** Hegar

House Bill 1580 amends the Agriculture Code to continue the board of directors of the official cotton growers' boll weevil eradication foundation until September 1, 2021. It requires the foundation to conduct a study of the effects of incomplete cotton stalk destruction and volunteer cotton control on boll weevil eradication activities and to submit annual recommendations to the board and to the Texas Department of Agriculture (TDA) for a cotton stalk destruction deadline

for each pest management zone. The bill requires the TDA to set a cotton stalk destruction deadline for each zone and to establish and collect a hostable cotton fee, per acre per week, for fields in which hostable cotton stalks, hostable volunteer cotton, or other hostable noncommercial cotton remains past the deadline. Collected fees, directed to the comptroller of public accounts, may be appropriated only for treating hostable cotton or for other expenses related to boll weevil eradication. The administrative committee that governs a pest management zone may request a deadline extension if adverse weather conditions or other good cause exists, and if the committee makes no request or its request is denied, an individual cotton grower may apply for an extension. The bill requires the foundation to submit to the TDA an estimate of the amount by which an extension will increase the cost of administering the boll weevil eradication program. Material remaining in the field for more than 30 days after the deadline or any extension is subject to 150 percent of the hostable cotton fee, and unless the fee is paid on or before the 45th day after the date of TDA notice that the fee is due, the TDA may destroy any cotton or cotton stalks that remain in the field. Under prior law, the TDA has had authority to destroy or treat volunteer or other noncommercial cotton. The bill makes such TDA destruction or treatment a requirement in the case of hostable cotton and requires the TDA to adopt rules providing for the regulation and control of volunteer and other noncommercial cotton in pest management zones and to give a grower or owner a specified time to undertake required destruction. Failure to accomplish such destruction subjects the grower or owner to a volunteer cotton fee set by the TDA.

House Bill 1580 authorizes the foundation, with the approval of its board and the commissioner of agriculture, to transfer proceeds from the collection of assessments in one eradication zone to another eradication zone, with certain conditions. The bill authorizes the commissioner to adopt certain rules that provide for an alternative method, manner, and mechanism to impose and collect assessments. It requires the TDA to submit administrative committee recommendations on cotton pest control to the foundation and requires the foundation to estimate the amount by which the implementation of each recommendation would increase the cost of administering the eradication program.

**House Bill 1949**

**Effective:** 9-1-09

**House Author:** Rios Ybarra et al.

**Senate Sponsor:** Hinojosa

House Bill 1949 amends the Agriculture Code to authorize the Texas Department of Agriculture (TDA), in addition to its existing authority to inspect vehicles for insect pests or plant diseases, to seek an agriculture warrant with respect to a plant pest or plant disease to conduct an inspection of physical areas, containers, buildings, or items that are reasonably likely to contain a plant pest, a plant disease, or an infected or potentially infected plant; set a trap for certain plant pests; examine records pertaining to the detection, treatment, purchase, or sale of plants; or test, treat, identify, quarantine, take samples of, seize, or destroy infected or potentially infected plants. The bill sets forth who can issue an agricultural warrant, the conditions that must be met for issuance, and application procedures. The bill authorizes a TDA employee to serve and execute the warrant and to undertake any action authorized by the warrant, and requires a sheriff or constable, on request by TDA, to accompany and assist the TDA employee in serving or executing the warrant. The bill establishes that an agriculture warrant is valid until the 61st day after the date the warrant is issued, authorizes multiple executions of the warrant before the date the warrant expires, and provides that a warrant may be renewed or extended under certain conditions.

The bill prohibits an agriculture warrant from authorizing the entry into or inspection of the interior of any occupied residential dwelling and from being issued in blank. The bill creates a Class B misdemeanor offense for a person who intentionally interferes with the execution of an agriculture warrant.

**House Bill 3330**

**Effective:** 9-1-09

**House Author:** Aycock

**Senate Sponsor:** Estes

House Bill 3330 amends the Agriculture Code to authorize the Texas Animal Health Commission by rule to establish a disease surveillance program for elk. The rules must be designed to protect the health of the elk population in Texas and must require each person who moves elk in Texas to have the elk tested for chronic wasting disease or other diseases as determined by the commission. The rules also must include provisions for testing, identification, transportation, and inspection under the program. The bill makes it a Class C misdemeanor offense to knowingly violate a commission rule relating to the program, unless it is shown at trial that the defendant has been previously convicted of such an offense, in which event it is a Class B misdemeanor.

**House Bill 4006**

**Effective:** 9-1-09

**House Author:** Hardcastle

**Senate Sponsor:** Estes

House Bill 4006 amends the Agriculture Code to add bovine trichomoniasis, equine herpes virus-1, and equine viral arteritis to the list of diseases that must be reported to the Texas Animal Health Commission by a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal within 24 hours after diagnosis of the disease among livestock, exotic livestock, bison, domestic fowl, or exotic fowl.

**House Bill 4577**

**Effective:** 9-1-09

**House Author:** Martinez, "Mando" et al.

**Senate Sponsor:** Hinojosa

House Bill 4577 amends the Agriculture Code to authorize the Texas Department of Agriculture (TDA) to adopt rules that provide for a program to manage or eradicate exotic citrus diseases, including citrus canker and citrus greening. The bill authorizes TDA to seize a citrus plant, citrus plant product, or citrus substance that TDA determines is located within proximity to a plant that is infected by a disease dangerous to any agricultural or horticultural product and is likely to be infected by that disease, regardless of whether the plant currently exhibits symptoms of the disease. The bill requires TDA to notify the owner and authorizes TDA to provide for compensation to an owner of such a destroyed citrus plant, citrus plant product, or citrus substance.

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

House Bill 205 - Local Government

House Bill 1530 - State Government

House Bill 1918 - State Government

House Bill 2318 - Energy Resources

House Bill 3144 - Taxes and Tax Administration

Senate Bill 343 - Health and Safety

Senate Bill 876 - Environment

Senate Bill 958 - Taxes and Tax Administration

Senate Bill 1693 - Environment

## Alcoholic Beverages

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

### **House Bill 1084**

**Effective:** 9-1-09

**House Author:** Truitt

**Senate Sponsor:** Gallegos

House Bill 1084 amends the Alcoholic Beverage Code to increase from three gallons to nine gallons the maximum amount of wine the holder of a winery permit or an out-of-state winery direct shipper's permit may deliver to the same consumer in Texas within a calendar month and to establish 36 gallons as the maximum amount of wine the holder of such a permit may deliver to the same consumer in Texas within any 12-month period.

### **House Bill 1505**

**Effective:** 9-1-09

**House Author:** Ortiz, Jr., et al.

**Senate Sponsor:** Hinojosa

House Bill 1505 amends the Alcoholic Beverage Code to specify that a provision relating to certain advertising and promotion activities in a public entertainment facility does not restrict or govern the promotion, sponsorship, or advertising of an entertainment event or the promotion or advertising of an alcoholic beverage brand or product at a facility owned by a municipality or county that is financed with public securities, the interest on which is exempt from federal income taxation. The bill establishes that financial arrangements between a concessionaire operating at such a facility and a person operating the concession facilities under a contract with the license or permit holder or the municipality or county does not constitute and is not evidence of subterfuge ownership prohibited by state law.

### **House Bill 1974**

**Effective:** 5-13-09

**House Author:** Hamilton

**Senate Sponsor:** Fraser

House Bill 1974 amends the Alcoholic Beverage Code to authorize the holder of a distiller's and rectifier's permit to dispense free distilled spirits for consumption and to conduct distilled spirits samplings on the permitted premises. The bill places certain restrictions on the advertising and conduct of such a sampling, and clarifies that the holder of a permit during a sampling is not the holder of a permit authorizing the sale of alcoholic beverages for on-premises consumption and is not considered to have received any revenue from the on-premises sale of alcoholic beverages.

### **House Bill 2237**

**Effective:** 9-1-09

**House Author:** Hamilton

**Senate Sponsor:** Watson

House Bill 2237 amends the Alcoholic Beverage Code to authorize the Texas Alcoholic Beverage Commission by rule to allow a wine and beer retailer's permittee or the permittee's officer to possess and use distilled spirits or liquor containing alcohol in excess of 17 percent by volume on the licensed premises for cooking purposes and to allow the holder of a mixed beverage permit or an officer, agent, or employee of the permit holder to possess and use alcoholic beverages that are not covered by the supplier's invoice on the permitted premises for cooking purposes.

## Alcoholic Beverages

### **House Bill 2560**

**Effective:** 5-20-09

**House Author:** Kuempel

**Senate Sponsor:** Seliger

House Bill 2560 amends the Alcoholic Beverage Code to prohibit the Texas Alcoholic Beverage Commission or its administrator from accepting the voluntary cancellation or suspension of an alcoholic beverage permit or allowing such a permit to be renewed or transferred if the permit holder is delinquent in paying an account for liquor and provides that a person whose permit is cancelled or has expired is not eligible to hold any other alcoholic beverage permit or license until the person has cured any such delinquency.

### **House Bill 2594**

**Effective:** 5-5-09

**House Author:** Thompson

**Senate Sponsor:** Gallegos

House Bill 2594 amends the Alcoholic Beverage Code to authorize a holder of a wholesaler's permit to sell, offer for sale, or deliver liquor to a retailer anytime, rather than between 5 a.m. and 9 p.m. on any day, except Sunday and Christmas Day. The bill authorizes the holder of a general, local, or branch distributor's license to sell, offer for sale, or deliver beer 24 hours a day, rather than between 5 a.m. and midnight, Monday through Saturday, and between midnight and 1 a.m. and between noon and midnight on Sunday.

### **House Bill 3413**

**Effective:** 9-1-09

**House Author:** Thompson

**Senate Sponsor:** Averitt

House Bill 3413 amends the Alcoholic Beverage Code to authorize the holder of a wholesaler's permit who is primarily engaged in the wholesale sale of distilled spirits and wine to sell branded or unbranded glassware to retailers if the glassware is not marketed or sold in a manner to influence a retailer to purchase any quantity of alcoholic beverages, to affect the terms by which a retailer may purchase alcoholic beverages, or that threatens the independence of a retailer. The bill makes provisions requiring cash payment or restricted credit terms for liquor sales and cash payment for beer or malt beverage sales applicable to payment for branded or unbranded glassware. For purposes of provisions relating to the territorial limits on the sale of beer and the Beer Industry Fair Dealing Law, the bill establishes that the sale by the holder of a distributor's license of a nonalcoholic beverage produced or sold by a malt beverage manufacturer and bearing the name, emblem, logo, or brand of a malt beverage manufacturer is the same as a sale of beer.

### **Senate Bill 529**

**Effective:** 9-1-09

**Senate Author:** Nelson

**House Sponsor:** Truitt

Senate Bill 529 amends the Alcoholic Beverage Code to authorize the holder of a winery permit to manufacture fruit brandy and use that brandy on the winery permit holder's permitted premises for fortifying purposes only or sell that brandy to other winery permit holders. The bill also authorizes a winery permit holder to import or buy fruit brandy, rather than manufacture and import grape brandy, from an authorized manufacturer and to use that brandy on the winery permit holder's permitted premises for fortifying purposes only.

### **Senate Bill 693**

**Effective:** 6-19-09

**Senate Author:** Van de Putte

**House Sponsor:** Kuempel

Previous law established a defense to prosecution for selling alcohol to a minor that the minor falsely represented himself or herself to be at least 21 years of age by displaying an apparently valid Texas driver's license or identification card issued by the Texas Department of Public Safety that contains a physical description consistent with the minor's appearance. Senate

Bill 693 amends the Alcoholic Beverage Code to expand the types of apparently valid proof of identification to include identification that contains a photograph consistent with the minor's appearance, states that the minor is at least 21 years of age, and is issued by a governmental agency. Such proof of identification may include, in addition to the state-issued driver's license or identification card, a passport or a military identification card.

**Senate Bill 711****Effective:** 9-1-09**Senate Author:** Nelson**House Sponsor:** Geren

Senate Bill 711 amends the Alcoholic Beverage Code to create a winery festival permit that authorizes the permit holder, who must also hold a winery permit, to sell wine at a civic or wine festival, farmers' market, celebration, or similar event, with certain restrictions. The bill requires the holder of a winery festival permit, before offering wine for sale and in accordance with rules adopted or procedures established by the Texas Alcoholic Beverage Commission, to notify the commission of the date on which and location where the permit holder will offer wine for sale, and establishes a permit fee of \$50. The bill makes provisions relating to the sale of wine on the permitted premises of a winery permit holder applicable to the sale of wine under these provisions and authorizes the winery permit of the holder of a winery festival permit to be canceled or suspended for a violation occurring in connection with activities conducted under these provisions.

**Senate Bill 731****Effective:** 9-1-09**Senate Author:** Jackson, Mike**House Sponsor:** Hardcastle

Senate Bill 731 amends the Alcoholic Beverage Code to authorize the holder of a wholesaler's permit, a general class B wholesaler's permit, or a local class B wholesaler's permit to sell ale and malt liquor to a holder of a private club registration permit.

**Senate Bill 2558****Effective:** Vetoed**Senate Author:** Gallegos**House Sponsor:** Thompson

Senate Bill 2558 amends the Alcoholic Beverage Code to authorize the holder of certain alcoholic beverage licenses or permits to conduct a product instruction event for the purpose of promoting one or more malt beverages, the sale of which is authorized in Texas, to consumers and retailers' employees of legal drinking age at the premises of a retailer holding a license or permit to sell alcoholic beverages for on-premises or off-premises consumption and on a brand-identified promotional vehicle that is owned, rented, or leased by the license or permit holder conducting the event while the vehicle is located on the retailer's premises. The bill sets forth requirements for such an event and authorizes a retailer to host not more than two events each calendar year.

Reason Given for Veto: "Senate Bill No. 2558 would allow beer and malt beverage tastings to be held in a branded vehicle on the premises of a retailer with a permit to sell alcohol, therefore allowing alcohol consumption in a vehicle. The Texas Alcoholic Beverage Commission would be required to increase its on-site inspections to ensure the proper precautions are taken to prevent serving to minors and over-consumption.

"Senate Bill No. 2558, especially the requirement that these events be held in a branded promotional truck, also gives an unfair competitive advantage to large brewers, as smaller operations would be unable to afford to purchase or lease a brand-identified promotional vehicle."

## Alcoholic Beverages

### **Senate Bill 2580**

**Effective:** 9-1-09

**Senate Author:** Lucio

**House Sponsor:** Geren

Senate Bill 2580 amends the Alcoholic Beverage Code to affirm that protections provided to beer distributors relating to territorial limits on the sale of beer and under provisions of the Beer Industry Fair Dealing Law apply regardless of whether there is a transfer or change of ownership of a brand at the manufacturing level. The bill establishes a four-year limitation period on a suit of action arising under provisions relating to intra-industry relationships and provides for the accrual of such a cause of action if an agreement between a manufacturer and a distributor is terminated in connection with a change in the brand's ownership.



## Appropriations and State Finance

This chapter includes the General Appropriations Act for the state fiscal biennium beginning September 1, 2009, and legislation on supplemental appropriations and claims against the state. Related bills that are summarized in other chapters are listed at the end of this chapter.

### **House Bill 2729**

**Effective:** 9-1-09

**House Author:** Pitts et al.

**Senate Sponsor:** Ogden

House Bill 2729 provides for the direct payment out of the General Revenue Fund Account, the General Revenue Account-Solid Waste Disposal Fees Fund, and the State Highway Fund for the payment of certain verified itemized claims and judgments against the State of Texas. The bill requires each claim or judgment to be verified and substantiated by the administrator of the fund or account against which the claim or judgment is to be charged and to be approved by the attorney general and the comptroller of public accounts. The bill provides a deadline of August 31, 2010, for the necessary verification, substantiation, and approval to occur. The bill requires each claim or judgment to contain all information specified by the comptroller of public accounts and, at a minimum, to contain the specific reason for the claim or judgment.

House Bill 2729 authorizes and directs the comptroller of public accounts in certain cases to issue one or more warrants on the state treasury in favor of each of the individuals, firms, or corporations named or claim numbers identified in the bill, in an amount not to exceed the amount specified in the bill and to mail or deliver to each of the parties one or more warrants in payment of all claims included in the bill.

### **House Bill 4583**

**Effective:** 6-19-09

**House Author:** Pitts

**Senate Sponsor:** Ogden

House Bill 4583 requires all state revenue to be deposited to the credit of the undedicated portion of the general revenue fund unless specifically exempted under the provisions of the bill. The bill provides for the abolition of certain funds, accounts, and revenue dedications created, re-created, or dedicated in the state treasury by an act of the 81st Legislature, Regular Session, and creates, re-creates, dedicates, or re-dedicates certain of those funds, accounts, and dedications of revenue in the general revenue fund. The bill exempts certain unappropriated money from use for general governmental purposes.

House Bill 4583 amends the Government Code to establish provisions relating to the deposit of American Recovery and Reinvestment Act of 2009 money as part of a fund in the state treasury outside the general revenue fund. The bill outlines the requirements of state agencies that receive money under the recovery act and the use of money deposited to the fund. The comptroller of public accounts is authorized to issue guidelines for state agencies regarding the implementation of the American Recovery and Reinvestment Act of 2009 fund.

### **House Bill 4586**

**Effective:** 6-19-09

**House Author:** Pitts et al.

**Senate Sponsor:** Ogden

House Bill 4586 establishes provisions relating to making supplemental appropriations and reductions in appropriations and giving direction and adjustment authority and prescribing limitations regarding appropriations. The bill includes provisions for the following entities and agencies: Cancer Prevention and Research Institute; Health and Human Services Commission; Department of State Health Services; Department of Aging and Disability Services; Department of Assistive and Rehabilitative Services; Department of Family and Protective Services; Texas Southern University; University of Texas Medical Branch; University of North Texas System;

## Appropriations and State Finance

University of Houston; Texas Tech University Health Sciences Center; The University of Texas at Austin; Texas State University System; Texas State Technical College System; University of Texas Health Science Center at Houston; University of Texas M.D. Anderson Cancer Center; University of North Texas Health Science Center at Fort Worth; Navarro College; Texas A&M International University; University of Texas at Tyler - Palestine Campus; Texas Facilities Commission; Texas Ethics Commission; Texas State Library and Archives Commission; Texas Preservation Board; Texas Historical Commission; Texas Education Agency; Texas Forest Service; Texas Department of Criminal Justice; Water Development Board; Soil and Water Conservation Board; Texas Department of Transportation; Texas Racing Commission; Comptroller of Public Accounts; Office of the Attorney General; Texas Youth Commission; State Auditor's Office; General Land Office; Texas Commission on Environmental Quality; Texas Parks and Wildlife Department; Department of Public Safety; Texas Workforce Commission; Employees Retirement System; Texas Department of Licensing and Regulation; Texas Public Finance Authority; and the Office of the Governor.

The bill also establishes provisions for higher education group insurance contributions, the federal American Recovery and Reinvestment Act of 2009, appropriations for general costs caused by natural disasters, wildfires, and flooding, appropriations for disaster relief and advanced clean energy projects, reimbursement to the general revenue fund, debt service payments for non-self supporting general obligation water bonds, appropriations for a single retention payment for work performed by state employees, and contingent appropriations for H.B. 1511, H.B. 1684, S.B. 174, S.B. 1313, S.B. 1362, S.B. 2323, and S.B. 2534.

### **Senate Bill 1**

**Effective:** 9-1-09

**Senate Author:** Ogden

**House Sponsor:** Pitts

Senate Bill 1, the General Appropriations Act, appropriates approximately \$182.3 billion for the FY2010-FY2011 state fiscal biennium beginning September 1, 2009. That amount includes all funding sources, excluding interagency contracts and adjustments for appropriations. Of the legislatively approved amount, nearly \$87.1 billion, or 47.7 percent, is derived from general revenue, both dedicated and nondedicated. Another \$65.6 billion, or 36 percent, represents federal funding, and \$29.7 billion, or 16.3 percent, comes from other funds. (Figures and percentages do not add up due to rounding.) The \$182.3 billion budgetary total for FY2010-FY2011 represents a \$12.6 billion, or 7.4 percent, increase over the FY2008-FY2009 budget.

Legislative appropriations for major governmental functions and services for FY2010-FY2011 compared with appropriations for the preceding fiscal biennium are as follows: General government receives \$4.1 billion, an increase of 7.9 percent. Total funding for health and human services is \$59.6 billion, an increase of 16.6 percent. The legislature appropriates \$75.4 billion for both public and higher education, a 23.8 percent increase. The judiciary is appropriated \$669.2 million, a 16.7 percent increase. Public safety and criminal justice receives \$10.8 billion, a 10.2 percent increase. Natural resources is funded at \$3.4 billion, a 9.7 percent increase. Business and economic development is appropriated \$20.7 billion, an increase of 2.5 percent. Regulatory functions are funded at \$892.1 million, an increase of 20.6 percent. The legislature is appropriated \$354.9 million, an increase of 8.7 percent. Funds appropriated under the federal American Recovery and Reinvestment Act of 2009 total approximately \$5.7 billion.

The governor vetoed approximately \$386.1 million in all funding sources from Senate Bill 1, of which \$97.2 million was funding from general revenue. The appropriations vetoed by the governor represent contingency riders or contingent appropriations for bills that either did not pass or were vetoed by the governor.

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

House Bill 1 (1st C.S.) - Transportation

Senate Bill 883 - Transportation



## Business and Commerce

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

### General

#### **House Bill 422**

**Effective:** 6-19-09

**House Author:** Guillen

**Senate Sponsor:** Lucio

House Bill 422 amends the Tax Code to require the comptroller of public accounts to include, on each application for a tax permit or license issued by the comptroller, a statement warning that the applicant may be required to obtain an additional permit or license from the state or from a local governmental entity to conduct business. The bill prescribes the content of the statement, including online information listing Internet links relating to state licenses, permits, and registrations. The bill requires the comptroller to modify each application, as necessary to comply with its provisions, not later than the 60th day after the bill's effective date.

#### **House Bill 523**

**Effective:** 1-1-10

**House Author:** Giddings

**Senate Sponsor:** Fraser

House Bill 523 amends the Business & Commerce Code to prohibit a person from printing an individual's driver's license number on a receipt that evidences payment for a sale of goods or services and is provided to the individual. The bill provides a maximum civil penalty of \$500 for each calendar month in which a violation of this provision occurs, prohibits the penalty from being imposed for more than one violation per month, and authorizes the attorney general or prosecuting attorney to bring suit to recover the penalty.

#### **House Bill 3186**

**Effective:** 9-1-09

**House Author:** McCall

**Senate Sponsor:** Duncan

House Bill 3186 amends the Business & Commerce Code to specify that the prohibition against selling, leasing, or otherwise disclosing an individual's biometric identifier to another person and certain requirements relating to the storage, transmission, protection, and destruction of a biometric identifier apply to an identifier that is captured for a commercial purpose. The bill specifies that an individual's consent to the disclosure of a biometric identifier is for identification purposes in the event of the individual's disappearance or death and that the exception to the prohibition against disclosure of an identifier made by or to a law enforcement agency for a law enforcement purpose is in response to a warrant. The bill requires the person who possesses the individual's biometric identifier to destroy it within a reasonable time, but not later than the first anniversary of the date the purpose for collecting the identifier expires. If the identifier is used in connection with an instrument or document required by another law to be maintained for a longer period, the person in possession of the identifier must destroy it within a reasonable time, but not later than the first anniversary of the date the instrument or document is no longer required to be maintained by law. The bill specifies that the purpose of a biometric identifier captured for a commercial purpose and collected for security purposes by an employer is presumed to expire on termination of the employment relationship and requires a

person who before the bill's effective date possesses an identifier that is required to be destroyed to destroy the identifier on or before October 1, 2009.

**Senate Bill 28**

**Effective:** 9-1-09

**Senate Author:** Zaffirini

**House Sponsor:** Deshotel

Senate Bill 28 amends the Business & Commerce Code to add provisions relating to zombies and botnets. The bill defines a "zombie" as a computer that, without the knowledge and consent of the computer's owner or operator, has been compromised to give access or control to a program or person other than the computer's owner or operator. A "botnet" is defined as a collection of two or more zombies. The bill prohibits a person who is not the owner or operator of a computer from knowingly causing or offering to cause the computer to become a zombie or part of a botnet; prohibits a person from knowingly creating, having created, using, or offering to use a zombie or botnet to perform certain actions; and prohibits a person from purchasing, renting, or otherwise gaining control of a zombie or botnet created by another person or providing to another person access to or use of a zombie or botnet. The bill permits a civil action to be brought against a person who violates the bill's provisions by a person who is acting as an Internet service provider and whose network is used to commit a violation, or by a person who has incurred a loss or disruption of the conduct of the person's for-profit or not-for-profit business activities as a result of the violation. The bill entitles a person bringing an action to obtain injunctive relief, damages, or both injunctive relief and damages, and it prescribes the amount of damages. The bill authorizes the court to increase an award of damages to an amount not to exceed three times the applicable damages if the court finds that the violations constitute a pattern or practice. The bill entitles a plaintiff who prevails in an action to recover reasonable costs of litigation and declares that a remedy authorized by the bill's provisions is in addition to any other procedure or remedy provided for by law. The bill establishes that its provisions may not be construed to impose liability on certain service providers with respect to a violation committed by another person.

**Senate Bill 1592**

**Effective:** 6-19-09

**Senate Author:** Fraser

**House Sponsor:** Deshotel

Senate Bill 1592 amends the Business & Commerce Code to authorize a secured party of a utility security instrument to assign the holder's security interests or liens and provides that an assignee's failure to make the application or notify the debtor of the assignment does not create a cause of action against the assignee or the security-interest holder or affect the validity or perfection of the security interest assigned to the assignee. The bill amends the Parks and Wildlife Code and the Transportation Code to provide the same authorization to a recorded security interest owner and assignees in a vessel or outboard motor and to the recorded security interest owner and assignees in a motor vehicle, respectively.

**Senate Bill 1699**

**Effective:** 9-1-09

**Senate Author:** Fraser

**House Sponsor:** Giddings

Senate Bill 1699 amends the Business & Commerce Code to specify that the fee for filing and indexing with the secretary of state an initial financing statement relating to a secured transaction is \$60 if the debtor is a transmitting utility. The bill changes the fee for a certificate of filing for a utility security instrument and for obtaining a copy of any utility security instrument filed with the secretary of state.

Senate Bill 1699 amends the Agriculture Code to provide that the amount of the fee for the secretary of state to issue to a member of the public a certificate identifying any agricultural

chemical and seed lien or animal feed lien on file and the fee for a copy of any notice of claim of such a lien is the same as the amount of the fees specified above for a utility security instrument, rather than requiring those fees to be established by the secretary of state in an amount necessary to cover administration costs.

Senate Bill 1699 amends the Property Code to require a filing officer to issue a certificate showing whether certain notices relating to federal liens or certificates are on file on a date and time specified by the filing office, but not earlier than three business days before the date the filing office receives the request, rather than on the date and hour stated in the filing officer's certificate. The bill provides that the amount of the fee for such a certificate and the fee for a copy of any notice of federal lien furnished under these provisions is the same as the amount of the fees specified above for a utility security instrument. The bill establishes that Business & Commerce Code provisions relating to the request for and availability of information from a filing office and the sale or license of records apply to a federal lien under provisions of the Uniform Federal Lien Registration Act. The bill establishes that Business & Commerce Code provisions relating to the request for and availability of information from a filing office and the sale or license of records apply to a federal lien under provisions of the Uniform Federal Lien Registration Act.

## **Business Organization and Regulation**

### **House Bill 10**

**Effective:** 6-19-09

**House Author:** Solomons

**Senate Sponsor:** Averitt

House Bill 10 amends the Finance Code to enact the Texas Secure and Fair Enforcement (S.A.F.E.) for Mortgage Licensing Act of 2009 and establish licensure and registration requirements for residential mortgage loan originators in Texas. The bill exempts certain individuals and entities from its provisions; grants broad regulatory authority to administer, interpret, and enforce its provisions to the banking commissioner of Texas, the savings and mortgage lending commissioner, the consumer credit commissioner, and the credit union commissioner, as applicable; and authorizes the Finance Commission of Texas to implement rules as necessary to comply with the act and as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

In addition to establishing minimum standards and requirements for licensing and license renewals, the bill requires a licensed residential mortgage loan originator to enroll with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry, requires a non-federally insured credit union that employs loan originators to register those employees with the registry, and requires each independent contractor loan processor or underwriter licensed as a residential mortgage loan originator to have and maintain a valid unique identifier issued by the registry. For purposes of criminal and other background checks, the bill requires an applicant for a license as a residential mortgage loan originator to furnish information concerning the applicant's identity, including fingerprints and personal history information, in a form prescribed by the registry.

House Bill 10 provides that federal and state confidentiality of information requirements and privileges continue to apply to information or material after disclosure to the registry, and it authorizes sharing of information and material with federal and state regulatory officials through agreements or sharing arrangements without loss of privilege or confidentiality protections afforded by federal or state laws. The bill excludes from these provisions information relating to the employment history of, and publicly adjudicated discipline and enforcement actions against, a residential mortgage loan originator that is included in the registry for public access.

House Bill 10 establishes reporting requirements for each licensed residential mortgage loan originator and each regulatory official with respect to the registry and requires the establishment of a process by which licensed residential mortgage loan originators may dispute information submitted by the regulatory official to the registry. The bill requires a residential mortgage loan originator's unique identifier to be clearly shown on each loan application form, solicitation, or advertisement, and any other document required by the rulemaking authority. The bill prohibits an individual who is engaged exclusively in loan processor or underwriter activities from representing to the public that the individual can or will perform any of the activities of a residential mortgage loan originator without the required license. The bill sets forth other specific prohibited acts and practices.

House Bill 10 authorizes a regulatory official to ensure the act's effective supervision and enforcement by denying, suspending, revoking, conditioning, or declining to renew a license; ordering restitution; imposing an administrative penalty; or issuing cease and desist orders or other directives. The bill caps the amount of an administrative penalty at \$25,000 per violation and sets forth requirements for establishing the penalty's amount.

House Bill 10 sets forth the general duties of each regulatory official and authorizes such officials to establish a relationship with or contract with the registry or a designated entity to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to regulation under the Texas S.A.F.E. Mortgage Licensing Act.

House Bill 10 extends the licensing and registration requirement for residential mortgage loan originators to a mortgage loan originator making, transacting, or negotiating an extension of credit in a manufactured home credit transaction; making, transacting, or negotiating a property tax loan for a principal dwelling; or originating a residential mortgage loan in the sale of a motor vehicle to be used as a principal dwelling. The bill also extends the registration requirement to a mortgage broker acting as a residential mortgage loan originator and to an employee of a mortgage banker, and it clarifies the respective powers and duties of the credit union commissioner and the savings and mortgage lending commissioner with respect to employees of credit union subsidiary organizations who are mortgage brokers licensed to act as residential mortgage loan originators and such employees' compliance with mortgage broker laws and the Texas S.A.F.E. Mortgage Licensing Act.

House Bill 10 requires an exclusive agent for a registered financial services company performing the services of a mortgage broker to have enrolled with the registry and to have provided to the savings and mortgage lending commissioner the exclusive agent's unique identifier before the agent may be permitted to solicit, process, negotiate, or place a mortgage loan.

House Bill 10 requires each commissioner specified as a regulatory official to maintain a state-licensed residential mortgage loan originator recovery fund, sets forth required and authorized uses of the fund, and authorizes the fund's investment and reinvestment in the same manner as Employees Retirement System of Texas funds are invested. The bill requires an applicant for an original or renewed residential mortgage loan originator license to pay, in addition to the original or renewal application fee, a fee for deposit in the fund. The bill requires any fund balance in excess of \$2.5 million at the end of the calendar year to be available to the consumer credit commissioner to offset expenses of participating in and sharing information with the national registry. The bill sets forth the statute of limitations on filing for recovery, procedures for recovery, and recovery limits for a residential mortgage loan applicant seeking to recover actual damages from the fund. The bill authorizes the consumer credit commissioner to revoke a residential mortgage loan originator license on proof that the consumer credit commissioner has made a payment from the fund toward satisfaction of a claim against a licensed residential



mortgage loan originator, to seek to collect the amount paid and any collection costs and interest accrued, and to probate a license revocation order. The bill sets forth other disciplinary actions the consumer credit commissioner may undertake and establishes subrogation and rulemaking provisions.

House Bill 10 amends the Government Code to make conforming changes relating to the consumer credit commissioner's access to criminal history record information from the Department of Public Safety regarding certain licensees and license applicants.

House Bill 10 authorizes the finance commission, as soon as practicable after June 19, 2009, to adopt rules and establish interim procedures for licensing residential mortgage loan originators and approving or denying license applications and to establish expedited review and licensing procedures for persons authorized by law to engage in mortgage loan origination activities immediately before that date. The bill provides for a waiver of prelicensing education course and written test requirements for an applicant who, on June 19, 2009, is acting as a state-licensed residential mortgage loan originator and is in good standing with the commissioner. The bill delays the required compliance with the federal act until July 31, 2010, or a later date approved by the secretary of the U.S. Department of Housing and Urban Development (HUD), and for an individual authorized to engage in residential mortgage loan origination activities in Texas as of July 31, 2009, until July 31, 2011, or a later date approved by the HUD secretary.

**House Bill 1031**

**Effective:** 9-1-09

**House Author:** Miller, Sid

**Senate Sponsor:** Nelson

House Bill 1031 amends the Health and Safety Code to clarify the meaning of "perpetual care" by incorporating language into the statement a corporation operating a perpetual care cemetery must include in each sales contract, certificate of ownership, or other instrument of conveyance of the corporation's exclusive right of sepulture specifying that the corporation's perpetual care obligation includes the maintenance, repair, and care of roads on cemetery property.

**House Bill 1787**

**Effective:** 1-1-10

**House Author:** Solomons et al.

**Senate Sponsor:** Wentworth

House Bill 1787 amends the Business Organizations Code to establish as a qualification for an entity's registered agent on whom process, notice, or demand may be served that the individual or organization has consented to serve as the entity's registered agent and to specify that an organization representing an entity as its registered agent is an organization other than the entity to be represented. The bill specifies the circumstances that constitute an entity's affirmation that the person named as registered agent has consented to serve in that capacity. The bill authorizes a person designated or appointed as an entity's registered agent in a registered agent filing without the person's consent to terminate that designation or appointment by filing a statement of rejection of appointment with the filing officer, and establishes that the person's designation or appointment and the designation of the registered office terminate on the filing officer's acceptance of that statement. The bill requires the secretary of state, on such termination, to notify the represented entity of the need to designate or appoint a new registered agent and registered office. The bill prohibits the filing officer from charging a fee for filing the statement. The bill establishes that the designation of the registered office terminates on a certain day after the secretary of state receives notice under provisions relating to the resignation of a registered agent.

House Bill 1787 specifies the duties of a registered agent and provides that a person named as a registered agent without the person's consent is not required to perform those duties. The bill makes provisions relating to liability for false filing instruments applicable to a false

statement in a registered agent filing that names a person as a registered agent without the person's consent and limits the liability of a person designated or appointed as the registered agent of a represented entity.

**House Bill 2127**

**Effective:** 9-1-09

**House Author:** Giddings

**Senate Sponsor:** West

House Bill 2127 amends the Business & Commerce Code to increase from 5 to 10 the number of plastic bulk merchandise containers a person who is in the business of recycling, shredding, or destroying such containers must purchase from an individual to be required to obtain certain verifying information from the individual and establishes that the containers are purchased at the same time. The bill makes it a Class C misdemeanor to violate those requirements, punishable by a maximum fine of \$350 if the total purchase price of the containers to which the offense relates is less than \$1,000, or a maximum fine of \$700 if the total purchase price is \$1,000 or more, with a subsequent conviction incurring a maximum fine of twice the maximum amount of the fine prescribed for the first offense.

**House Bill 2128**

**Effective:** 9-1-09

**House Author:** Giddings

**Senate Sponsor:** West

House Bill 2128 amends the Business & Commerce Code to authorize the attorney general or appropriate prosecuting attorney, in addition to suing to collect a civil penalty, to investigate an alleged violation of requirements imposed on a person in the business of recycling, shredding, or destroying plastic bulk merchandise containers to obtain, verify, and maintain a record of having obtained and verified a seller's proof of ownership and identity before making certain purchases. The bill also authorizes the attorney general or appropriate prosecuting attorney to recover reasonable expenses incurred in recovering such a civil penalty.

**House Bill 2735**

**Effective:** 9-1-09

**House Author:** Flynn

**Senate Sponsor:** Estes

House Bill 2735 amends the Finance Code to continue the Credit Union Department and the Credit Union Commission until September 1, 2021, and to add or amend various across-the-board sunset provisions.

House Bill 2735 requires the commission to adopt, and the commissioner to enforce, reasonable rules requiring a regulated credit union to provide an annual report to the credit union's members regarding the credit union's financial condition and management and specifies the information to be included in the report. In adopting such rules, the commission must ensure that a credit union updates the report before the credit union's annual organizational meeting, makes the report available to members throughout the year on the credit union's website if the credit union maintains a website, and provides the report to credit union members by an alternative method if the credit union does not have a website.

House Bill 2735 requires the commission to adopt rules regarding the purpose, structure, and use of advisory committees by the commission and requires an advisory committee to be structured and used in an advisory capacity with no rulemaking or policymaking responsibilities. The bill requires the commission by rule to establish a process by which the commission periodically evaluates an advisory committee to ensure its continued necessity and authorizes the commission to retain or develop committees as appropriate to meet changing needs. An advisory committee must comply with the open meetings law.

House Bill 2735 requires a regulated credit union to give notice to the credit union's members of the availability on a member's request of documents related to the credit union's finances and management. The notice must be given via the credit union's website if the credit union

maintains a website and in a newsletter twice a year if the credit union distributes a newsletter. The bill requires the commission to adopt reasonable rules to implement these provisions, including rules prescribing an alternative method for credit unions that do not maintain an Internet website or distribute a newsletter to provide their members with the required notice of the documents' availability.

House Bill 2735 authorizes the commissioner, if it appears to the commissioner that a person who is not authorized to engage in the credit union business is violating a rule or statute relating to the regulation of credit unions, to issue without notice and hearing an order to cease and desist from continuing a particular action to enforce compliance with the applicable state statute or rule. The bill requires the commissioner, if a person against whom an order is made requests a hearing, to set and give notice of a hearing before the commissioner or a hearings officer and establishes that an order becomes final unless the person to whom the order is issued requests a hearing not later than the 30th day after the date the order is issued.

**House Bill 2774**

**Effective:** See below

**House Author:** Truitt

**Senate Sponsor:** Wentworth

House Bill 2774 amends the Finance Code to add provisions relating to the self-directed and semi-independent status of state financial regulatory agencies and to revise provisions relating to the licensing and regulation of certain persons involved in residential mortgage lending. House Bill 2774 establishes that state financial regulatory agencies—the Texas Department of Banking (DOB), Office of Consumer Credit Commissioner (OCCC), Department of Savings and Mortgage Lending (DSML), and Credit Union Department (CUD)—are self-directed and semi-independent agencies. The bill establishes that the Finance Commission of Texas is the policy-making body for DOB, DSML, and OCCC, and the Credit Union Commission is the policy-making body for CUD. The bill provides that only those policy-making bodies are authorized to adopt the annual budget for each financial regulatory agency under their control, each agency is responsible for its costs of operation, and an agency is prohibited from causing the general revenue fund to incur any cost. The bill authorizes an agency to set amounts of fees, penalties, charges, and revenues necessary to carry out its purpose, requires that such funds be deposited in an account in the Texas Treasury Safekeeping Trust Company, and requires the comptroller of public accounts to contract with the agency for the maintenance of the deposit accounts. The bill removes the agencies from the legislative budgeting process.

House Bill 2774 requires the state auditor to enter into a contract and schedule with each agency to conduct audits and requires the agency to reimburse the state auditor for all costs incurred in performing the audits and to provide to the governor a copy of any audit performed. The bill sets forth recording and reporting requirements for financial regulatory agencies relating to the maintenance of financial and statistical information, including the submission of biennial and annual reports to the governor and the legislature describing all of the agency's financial activities and certain other information for specified periods of time. The bill authorizes a financial regulatory agency to enter into contracts and prohibits those contracts from creating a debt or liability to Texas, another entity, the agency's policy-making body, or employees of the agency or body, and it sets forth provisions relating to the authority of such an agency to acquire and sell property.

House Bill 2774 requires the office of the attorney general to represent a financial regulatory agency in any litigation and authorizes the attorney general to assess and collect from the agency reasonable attorney's fees associated with any litigation. The bill provides that a financial regulatory agency is a governmental body for the purposes of statutory open meetings and public information provisions and is a state agency for the purposes of the Administrative Procedure Act

and miscellaneous statutory provisions relating to state licenses and permits. The bill provides that an agency employee is a member of the Employees Retirement System of Texas and that the agencies' transition to independent status has no effect on employee membership or any benefits under that system. The bill prohibits a financial regulatory agency from accepting a gift, grant, or donation from a party to an enforcement action or to pursue a specific investigation or enforcement action, and sets forth requirements relating to the reporting of gifts, grants, or donations.

House Bill 2774 requires the finance commission to have charge and control of the Finance Commission Building and use of staff, equipment, and facilities of the finance agencies and sets forth the deed specifications of those properties. The bill requires the Credit Union Commission to have charge and control of the Credit Union Department Building and use of staff, equipment, and facilities of the department and sets forth the deed specifications of those properties.

House Bill 2774 appropriates to each financial regulatory agency certain amounts out of the general revenue fund for the two-year period following September 1, 2009, and authorizes expenditures of the appropriation as the financial regulatory agency directs. The bill requires the agency to repay the amount of the appropriation to the general revenue fund according to a certain timetable. The bill prohibits the transfer of an agency to self-directed and semi-independent status and the expiration of self-directed and semi-independent status from canceling, suspending, or preventing any debt owed to or by the agency; any fine, tax, penalty, or obligation of any party; any contract or other obligation of any party; or any action taken by the agency in the administration or enforcement of the agency's duties. The bill requires each financial regulatory agency to continue to exercise the powers and duties granted to the agency in the agency's enabling legislation, establishes that title to all supplies, materials, records, equipment, books, papers, and facilities used by each financial regulatory agency is transferred to each respective agency in fee simple, and provides for the severability of the bill's provisions.

House Bill 2774 requires the savings and mortgage lending commissioner to participate in the Nationwide Mortgage Licensing System and Registry as provided by the Texas Secure and Fair Enforcement (S.A.F.E.) for Mortgage Licensing Act of 2009. The bill authorizes the finance commission to adopt rules as required to carry out the intentions of the federal S.A.F.E. for Mortgage Licensing Act of 2008 and, on the commissioner's recommendation, to adopt rules to promote a fair and orderly administration of the mortgage broker recovery fund consistent with the purposes of the Mortgage Broker License Act.

House Bill 2774 changes the name of the mortgage broker advisory committee to the mortgage industry advisory committee, requires the savings and mortgage lending commissioner to appoint all six members to the committee, and revises the composition and duties of the committee. The bill authorizes the commissioner to collect a maximum \$50 fee for any returned check or credit card charge back. The bill revises provisions relating to the eligibility for obtaining a license as a mortgage broker and a loan officer from DSML.

House Bill 2774 provides that the financial requirements for holding a mortgage broker or loan officer license must be met through participation in the mortgage broker recovery fund and removes provisions requiring a mortgage broker to maintain net assets or a surety bond in specified amounts as a financial requirement. The bill specifies that the license term is for a maximum of two years, provides as one of the alternative conditions for eligibility for renewal of such licenses that the licensee maintain specified licensure in Texas under the Insurance Code, and increases from \$175 to \$275 the license renewal fee for a loan officer's license. The bill adds to the grounds on which the commissioner may deny the renewal of a mortgage broker license or a loan officer license. The bill repeals requirements for the prominent display of a mortgage broker license certificate, a branch office certificate, or a loan officer license certificate,

as applicable, in the license holder's place of business. Current law provisions relating to the renewal of a loan officer license and a mortgage broker license are set to expire January 1, 2011. On that date, new provisions relating to the renewal of those licenses take effect, capping the terms of their validity at two years and authorizing renewal on or before expiration if the mortgage broker or loan officer meets certain conditions.

House Bill 2774 sets forth new requirements for annual registration fees for a financial services company based on the number of exclusive agents the company has acting in Texas. The bill authorizes the commissioner to require reimbursement in an amount not to exceed \$325 per examiner per day for onsite examination or investigation of a mortgage broker if records are located out of state or where the review is deemed necessary beyond the routine examination process. The bill sets forth hearing and notice requirements for disciplinary actions taken by the commissioner, removes a requirement that an administrative penalty collected from a person who violated a cease and desist order be deposited in the recovery fund, and authorizes the commissioner to collect and deposit court costs collected pursuant to a final order.

House Bill 2774 adds administration of the recovery fund to the commissioner's duties and clarifies that the fund is to be used only to reimburse residential mortgage loan applicants for actual damages and out-of-pocket losses stemming from acts committed by a licensed mortgage broker or loan officer that constitute a violation of certain provisions. The bill requires payments from the recovery fund to be reduced by the amount of any recovery from the mortgage broker or loan officer or from any person or entity making restitution to the applicant on behalf of the mortgage broker or loan officer, authorizes the recovery fund to be used at the commissioner's discretion to reimburse expenses incurred to secure and destroy residential mortgage loan documents that have been abandoned by a current or former individual or entity under the regulatory authority of DSML, and entitles the commissioner, as fund manager, to reimbursement for reasonable and necessary costs and expenses incurred in the management of the fund.

House Bill 2774 changes the additional fee paid by an applicant for an original license or for a license renewal for deposit into the recovery fund from \$20 to an amount determined by the commissioner, not to exceed \$20. The bill requires that, if the balance remaining in the recovery fund at the end of the calendar year is more than \$3.5 million, the commissioner may use the amount of money in excess to offset the expenses of participating in and sharing information with the Nationwide Mortgage Licensing System and Registry, and it repeals a provision that required transferring excess funds to the general revenue fund. The bill removes the requirement for license holders to pay an additional fee if the year-end fund balance is less than \$500,000. The bill prohibits the filing of an application for the recovery of actual damages from the recovery fund after certain dates and establishes that this statute of limitations does not apply to subrogation claims brought by the commissioner for recovery of money paid out of the recovery fund.

House Bill 2774 revises the procedures by which a residential mortgage loan applicant seeks recovery from the fund. The bill requires the commissioner, in the event there are concurrent claims that exceed the limits on the amount payable for each claim, to prorate recovery based on the amount of damage suffered by each claimant.

House Bill 2774 authorizes the commissioner to seek to collect from the mortgage broker or loan officer the amount paid from the fund on behalf of the mortgage broker or loan officer and any costs associated with investigating and processing the claim or with collection of reimbursement for payments from the fund, plus interest at the current legal rate until the amount has been repaid in full. The bill requires any amount that is recovered by the commissioner to be deposited to the credit of the fund. The bill makes repayment a condition for restoring a person's eligibility to receive a new license after a revocation. The bill makes provisions regarding the

commissioner's subrogation on the payment of an amount from the recovery fund applicable to an applicant for that recovery, rather than to a judgment creditor, and requires the applicant to assign all of the applicant's right, title, and interest in any subsequent judgment against the licensee up to the amount paid by the commissioner. The bill expands the conditions that constitute a waiver of rights by an applicant for reimbursement to include a failure to comply with a rule adopted by the finance commission relating to the recovery fund.

House Bill 2774 takes effect September 1, 2009, except for provisions relating to the mortgage broker advisory committee, which take effect April 1, 2010, and as otherwise provided above.

**House Bill 2779**

**Effective:** 4-1-10

**House Author:** Truitt

**Senate Sponsor:** Wentworth

House Bill 2779 amends the Finance Code to provide for the regulation of certain mortgage banker employees who are residential mortgage loan originators by the savings and mortgage lending commissioner of the Finance Commission of Texas. The bill requires the finance commission to adopt rules for the registration of mortgage brokers in accordance with the intentions of the federal Secure and Fair Enforcement (S.A.F.E.) for Mortgage Licensing Act of 2008 and sets out licensure requirements for a residential mortgage loan originator. The bill requires a residential mortgage loan originator, in addition to other requirements, to be licensed by the finance commission, to be enrolled with the Nationwide Mortgage Licensing System and Registry, and to comply with the requirements of the Texas Secure and Fair Enforcement (S.A.F.E.) for Mortgage Licensing Act of 2009 and rules adopted by the finance commission under that act.

House Bill 2779 sets out provisions relating to license application, fees, and denial. The bill provides that a person whose appeal is denied is not eligible to be licensed for two years after the denial is final, but it permits the finance commission to shorten this time. It provides for license renewal and provisional and probationary licenses. The bill requires a mortgage banker to file with the commissioner annually a confidential call report stating the condition of the mortgage banker and the mortgage banker's operations and including financial statements and production activity volumes.

House Bill 2779 authorizes the commissioner to conduct an inspection or investigation of a residential mortgage loan originator to ensure compliance with commission rules adopted under the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act and the Texas S.A.F.E. Mortgage Licensing Act of 2009 and sets forth procedures for an inspection or investigation. It also authorizes the commissioner to conduct an undercover investigation if necessary to prevent immediate harm and carry out purposes of finance commission rules. The bill specifies that information obtained in an investigation is confidential, unless otherwise provided by law, but grants the commissioner discretion in sharing the information with a state or federal agency if the commissioner determines there is a valid reason for doing so. The bill gives the commissioner subpoena authority and the authority to petition a Travis County district court to enforce the subpoena.

House Bill 2779 authorizes the commissioner to impose an administrative penalty capped at \$2,500 per day and order other disciplinary action and, if there is reasonable cause, to issue without notice and hearing a cease and desist order. The bill provides that a person against whom such an order is issued is entitled to a hearing before the commissioner or an administrative law judge. The bill authorizes the commissioner to impose an administrative penalty capped at \$1,000 for each day of a cease and desist order violation. The bill authorizes the commissioner, with at least a 10-day notice to the residential mortgage loan originator, to suspend the residential mortgage loan originator's license without a hearing if the residential mortgage loan originator

fails to pay an administrative penalty that has become final or fails to comply with an order of the commissioner that has become final. The bill authorizes an appeal of this order of suspension and provides for the procedure and conditions of such an appeal.

House Bill 2779 authorizes the commissioner to order a residential mortgage loan originator to make restitution for any amount received in violation of the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act. It authorizes a residential mortgage loan applicant injured by a residential mortgage loan originator's violation of the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act to bring an action for recovery of actual monetary damages, reasonable attorney's fees, and court costs and authorizes the commissioner, the attorney general, or a residential mortgage loan applicant to bring an action to enjoin a violation of the act by a residential mortgage loan originator. The bill places the burden of proving an exemption in a proceeding or action on the person claiming the benefit of the exemption.

House Bill 2779 provides that on disbursement of mortgage proceeds to or on behalf of the residential mortgage loan applicant, the residential mortgage loan originator who assisted the applicant in obtaining the loan is considered to have completed the performance of services for the applicant and owes no additional duties or obligations to the loan applicant. The bill creates a Class B misdemeanor offense for a person who is an employee of a mortgage banker and not exempt under the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act and who acts as a residential mortgage loan originator without first obtaining a license, and it enhances the penalty for a subsequent conviction for such an offense to a Class A misdemeanor. The bill authorizes the commissioner to issue without notice and hearing a cease and desist order against an unlicensed person who the commissioner has reasonable cause to believe has engaged in, or is about to engage in, an act or practice for which a license is required. The bill authorizes the commissioner to assess an administrative penalty capped at \$1,000 per day for each such violation. The bill sets out provisions and requirements for a hearing if requested by a person against whom such a cease and desist order is made.

House Bill 2779 provides that certain employees of mortgage bankers are not required to comply with the residential mortgage loan originator licensing requirements until the later of July 31, 2010, or a subsequent date that is approved by the secretary of the U.S. Department of Housing and Urban Development under the authority granted under the federal S.A.F.E. Mortgage Licensing Act of 2008.

House Bill 2779 also amends Finance Code provisions relating to the regulation of mortgage bankers. The bill requires mortgage bankers to submit a list of the banker's employees who are residential mortgage loan originators along with the statement the banker is required to file with the savings and mortgage lending commissioner in order to register under the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act. The bill adds to the grounds on which the savings and mortgage lending commissioner, after considering a complaint, may revoke a mortgage banker's registration the commissioner's conclusion that the banker has engaged in a negligent course of conduct exhibited through pattern or practice.

**House Bill 3547**  
**Effective:** 9-1-09

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

House Bill 3547 amends the Health and Safety Code to authorize the Texas Commission on Environmental Quality (TCEQ) to issue a notice of violation to an owner or operator of a dry cleaning facility or a dry cleaning drop station that is not properly registered with TCEQ. The bill requires the notice to inform the owner or operator of the nature of the violation and to state that TCEQ may order the dry cleaning facility or the dry cleaning drop station to cease

operation if the violation is not corrected within 30 days after the receipt of the notice. The bill authorizes TCEQ to order the dry cleaning facility or dry cleaning drop station to cease operation if the owner or operator does not correct the violation within the prescribed time.

**House Bill 3762**

**Effective:** See below

**House Author:** Flynn

**Senate Sponsor:** Deuell

House Bill 3762 amends provisions of the Finance Code relating to the regulation of prepaid funeral benefits. Effective June 1, 2010, the bill requires the Finance Commission of Texas to adopt rules for recordkeeping by permit holders, clarifies the Texas Department of Banking's authority to require annual reports from a permit holder, and requires the department to examine each permit holder's records at least once every 18-month period or more frequently under certain conditions. The bill allows a record to be maintained and provided for examination in electronic format if the record is reliable and readily retrievable, and it requires the department to develop an examination manual in consultation with a newly created advisory committee.

House Bill 3762 creates separate permit categories. To obtain a permit to sell insurance-funded prepaid funeral benefits contracts, a person must be a funeral provider, an insurance company, or the insurance holding company for an insurance company; to obtain a permit to sell trust-funded prepaid funeral benefits contracts, a person must be a funeral provider. The bill expands notice requirements following a transfer of a permit holder's business ownership to include the issuer of an insurance policy funding a contract as a notice recipient and requires the commissioner to act on the proposed transferee's application for a permit before the 16th day after receipt of application if the proposed transferee is not a permit holder.

Effective June 1, 2010, the bill requires a seller to provide to each potential buyer of a prepaid funeral benefits contract a department-approved brochure describing the statutory and regulatory provisions governing such contracts, requires the department to establish and maintain a website that provides consumer information, and requires any sales literature or websites promoting such sales to include a reference or link to the website. The bill requires a funeral provider designated in a prepaid funeral benefits contract who is not the licensed seller to agree, by signing the contract, to discharge the provider's responsibilities as specified in the bill.

The bill authorizes a purchaser to agree to advance funds for all or part of the estimated cost of cash advance items included in a contract whose prices are neither fixed nor guaranteed but are determined at the time of delivery or provision in connection with at-need performance of the funeral; requires the items to be grouped together and segregated from prepaid funeral benefits in the contract; sets out the funeral provider's obligation, after the contract beneficiary's death, to apply the proportionate part of the proceeds derived from advance payment of cash advance items to the items' current purchase price; and authorizes modification of the cash advance items after the beneficiary's death under certain conditions.

The bill removes the 15-day waiting period after the date of purchase before the purchaser may waive the purchaser's rights to cancel a contract, and it changes the period during which a seller must notify the department of any change in the designation of one or more agents from the 10-day period before the change to the 10-day period after the change.

House Bill 3762 sets forth a funeral provider's responsibilities under a prepaid funeral benefits contract; sets forth form and content requirements for an insurance policy used to fund prepaid funeral benefits, including a requirement to state that the contract's cancellation does not automatically cancel the policy and a limitation on a policy's aggregate initial face value; allows premiums for such a policy to be collected only by a licensed insurance agent appointed by the company issuing the policy; and establishes that the premiums' receipt by the agent is considered receipt by the company.



House Bill 3762 establishes separate provisions for the cancellation of an insurance-funded prepaid funeral benefits contract to clarify the difference between such cancellation and the cancellation of a trust-funded contract. The bill prohibits a purchaser's assignment of ownership and rights to benefits under an insurance policy to the seller, funeral provider, or affiliated trustee from being made irrevocable except under certain conditions.

House Bill 3762 requires the commissioner, not later than November 1, 2009, to appoint an advisory committee to review and make recommendations regarding the department's technical procedures and processes to regulate insurance-funded prepaid funeral benefits and monitor compliance of sellers of insurance-funded contracts.

House Bill 3762 expands the prepaid funeral contract guaranty fund to include insurance-funded contracts, requires the department to maintain separate accounts within the fund for trust-funded contracts and insurance-funded contracts, and under certain conditions, authorizes borrowing between accounts to facilitate resolution of claims against an account with an insufficient balance. The bill requires the department to collect up to \$1 from a seller for each insurance-funded contract sold during each calendar year and to deposit the assessments in the insurance-funded contract account until the account reaches \$1 million. The bill increases the membership on the advisory council supervising the fund's operation and maintenance to provide for representation of sellers of trust-funded and insurance-funded prepaid funeral benefits contracts, increases the term limits for the industry and consumer representatives, and limits a member's personal liability for damages arising from an official act or omission unless the act or omission is corrupt or malicious. The bill requires the attorney general to defend an action brought against a member from an official act or omission and authorizes the commissioner on the fund's behalf to contract with the attorney general for legal services not covered under these provisions. The bill authorizes the advisory council, when the insurance-funded contract account balance is insufficient to pay that claim, to assess each permit holder with outstanding insurance-funded contracts an amount based on the holder's proportionate share of all such outstanding contracts as of the end of the preceding calendar year.

House Bill 3762 lists the entities authorized to make a claim against the fund and sets out the permissible uses of the fund. The bill prohibits a claim from being approved for a loss to the extent the claim is insured, bonded, or otherwise covered, protected, or reimbursed from other sources. The bill establishes that a person receiving a benefit from the guaranty fund is considered to have assigned to the fund the rights under, and any cause of action relating to, the prepaid funeral benefits contract to the extent of the benefit received. The bill authorizes the commissioner to require a payee to execute a formal assignment of the person's rights and cause of action to the fund as a condition of receiving a right or benefit. The bill authorizes the commissioner, on the fund's behalf, to bring an action against any person and to hire and pay any person the commissioner considers appropriate to collect a subrogated account.

House Bill 3762 authorizes the commissioner to issue an emergency cease and desist order or an order to seize prepaid funeral accounts and records that takes effect immediately on finding of a threat of immediate and irreparable harm to the public or to a beneficiary under a prepaid funeral benefits contract, and it provides the opportunity for a hearing to stay the order at the request of the person named in the order. The bill authorizes the commissioner, after issuing an order to seize accounts or records, to initiate an administrative claim for ancillary relief.

House Bill 3762 amends the Insurance Code to establish that provisions relating to policy forms do not apply to the modification of a previously approved insurance policy form for the sole purpose of adding a specific statement required by the Finance Code. The bill takes effect September 1, 2009, except as otherwise noted above.

**House Bill 4103**

**Effective:** 9-1-09

**House Author:** Weber

**Senate Sponsor:** Hegar

House Bill 4103 amends the Business Organizations Code and the Texas Non-Profit Corporation Act to authorize a management committee of a nonprofit corporation to be composed entirely of persons who are not directors of the corporation, if the corporation is a religious institution and if provided for by the corporation's certificate of formation or bylaws.

**Senate Bill 776**

**Effective:** 9-1-09

**Senate Author:** Averitt

**House Sponsor:** Orr

Senate Bill 776 amends the Business & Commerce Code to prohibit a for-profit entity or individual from using a public donations receptacle to collect donated clothing or household goods for subsequent sale unless the entity or individual attaches a notice to the receptacle. The bill prohibits such an entity or individual who makes, or directs another person to make, a telephone, door-to-door, or mail solicitation requesting donations of clothing or household goods from subsequently selling the items unless the solicitor provides the appropriate disclaimer, as prescribed by the bill, to each person solicited before accepting a donation. The bill establishes that its provisions do not limit the authority of a local government to adopt an ordinance or regulation relating to the use of public donations receptacles as a collection point for donated clothing or household goods if the ordinance or regulation is compatible with and equal to or more stringent than a requirement prescribed by these provisions. The bill creates a civil penalty not to exceed \$500 for each violation of the disclosure requirements, with each sale of a donated item considered a separate violation, with a limit of \$2,000 on the total amount of the penalty for items sold during a single transaction. The bill requires a court to consider the amount necessary to deter future violations when determining the civil penalty imposed and authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring an action to recover the penalty.

**Senate Bill 1442**

**Effective:** 9-1-09

**Senate Author:** Fraser

**House Sponsor:** Giddings

Senate Bill 1442 amends the Business Organizations Code to make technical corrections, eliminate certain redundant or outdated provisions, fill gaps in coverage, conform the code to the language of source statutes, and make clarifying amendments relating to the transition provisions for electing governance by the code. In addition, the bill removes the prohibition against a domestic entity operating as a railroad company; prohibits a certificate representing an ownership interest in a domestic entity from being issued in a bearer form; authorizes the governing persons, owners, or members of a domestic entity to adopt certain provisions in the entity's governing documents for managing the entity during an emergency; and sets out the effects of the emergency provisions. The bill provides that a certificate issued by the secretary of state stating that a domestic filing entity is in existence or that a foreign filing entity is in existence or registered may be relied on as conclusive evidence of those statements and that such reliance is subject to any qualification in the certificate. The bill requires a certificate of correction to correct an inaccurate filing instrument to be signed by the person authorized by law to sign the instrument to be corrected, rather than by the person authorized to act on behalf of the entity; establishes the conditions constituting a waiver of notice of a meeting of the owners, members, or governing persons of a domestic entity by a person participating or attending the meeting who is entitled to such notice; and provides for the electronic transmission of a consent by an owner, member, or governing person of a filing entity to an action required or authorized to be taken under this code or certain governing documents of the entity.

Senate Bill 1442 specifies the supplemental information that must be included in an application for registration of certain foreign limited liability companies, modifies provisions relating to amendments to the registration of a foreign filing entity that is a limited partnership and to a voluntary withdrawal of the registration, provides for the automatic withdrawal of a registration under certain conditions, and makes clarifying changes to a provision relating to the procedures for reinstating a registration. The bill includes owning, without more, real or personal property in Texas in the activities that do not constitute a transaction of business in Texas, sets out provisions relating to the conversion and continuance of a domestic or non-United States entity, and modifies the information that must be included in a plan of conversion and a certificate of conversion. The bill provides for the filing of a petition by the beneficial owner of an ownership interest in certain domestic entities to request a finding and determination of the fair value of ownership interests in the entity, amends the rights of a dissenting owner following the termination of those rights, and modifies the requirements for a certificate of termination of a domestic filing entity, the reinstatement of a terminated domestic filing entity, and the involuntary winding up and termination of a partnership or limited liability company. The bill authorizes the secretary of state to issue certain evidence or acknowledgement of the filing of an instrument authorized to be filed with the secretary and makes this provision and provisions relating to information disclosed by interrogators and relating to appeals from the secretary of state inapplicable to a domestic real estate investment trust.

Senate Bill 1442 amends provisions relating to the classes or series of shares a for-profit corporation is required to authorize in its certificate of formation and the designations, preferences, limitations, and rights of a class or series, and it authorizes a for-profit corporation to place shares in escrow or make other arrangements to restrict the transfer of the shares and make credit distributions with respect to the shares against their purchase price under certain conditions. The bill authorizes the corporation to pursue remedies relating to a contract for future services or benefits or a promissory note if services are not performed, the note is not paid, or benefits are not received. The bill removes language that allows the scrip issued by a for-profit corporation entitling the holder to a certificate for a full share or an uncertificated full share of assets of the corporation, in the event of winding up and termination, to be issued in bearer form.

The bill sets out provisions relating to outstanding shares issued by a for-profit corporation, provides requirements for such a corporation to establish a procedure for recognizing as a shareholder the beneficial owner of shares registered in the name of a nominee, modifies the voting options for shareholders entitled to vote in each election of a for-profit corporation's directors, and amends provisions relating to the special voting rights of directors and to contracts or transactions involving interested directors and officers.

Senate Bill 1442 provides that certain provisions governing the rights of a third party in a secured transaction do not apply to a membership interest in a limited liability company and specifies that this exclusion expressly permits the enforcement of any provision of a company agreement that would otherwise be ineffective under provisions governing the rights of a third party in a secured transaction. The bill prohibits the foreclosure of a charging order lien on a judgment debtor's membership interest in a company, amends a prohibition against a limited liability company making a distribution to a member of the company under certain conditions to exclude specified types of compensation and payments, authorizes a limited liability company agreement to establish or provide for the establishment of a record date with respect to allocations and distributions, and includes a signature or written consent of governing persons or committee members as a form of authorization of a contract or transaction involving interested governing persons or officers of a limited liability company.

## Business and Commerce

Senate Bill 1442 sets out provisions relating to the creation of a series limited liability company, authorizes a limited liability partnership to have elected or appointed officers, amends a provision establishing a partner's protection from personal liability in such a partnership, requires a certificate from the comptroller of public accounts stating that a domestic or foreign partnership has satisfied all state tax liability to be filed with the partnership's notice of withdrawal of its registration certificate, and requires a tax clearance letter from the comptroller stating that a foreign partnership has satisfied all franchise tax liability and may be reinstated to be filed with the partnership's certificate of reinstatement. The bill excludes certain compensations and payments from a provision limiting a limited partnership's distribution to a partner, prohibits the foreclosure of a charging order lien on a judgment debtor's partnership interest, and includes as a condition for a limited partnership's reinstatement of its certificate or registration by the secretary of state that the partnership has paid all taxes, penalties, and interest due and accruing before its certificate or registration was terminated or revoked. The bill establishes that certain provisions governing the rights of a third party in a secured transaction do not apply to a general or limited partnership interest in a company and specifies that this exclusion expressly permits the enforcement of any provision of a partnership agreement that would otherwise be ineffective under laws governing the rights of a third party in a secured transaction. The bill amends provisions relating to contracts or transactions involving interested trust managers and officers and repeals a provision relating to the permissible purpose of a for-profit corporation related to railroads.

Senate Bill 1442 amends the Business & Commerce Code to make technical corrections and remove redundant or outdated provisions. The bill amends provisions relating to the rights of third parties in a secured transaction to specify that the authorization of certain account debtors to discharge their obligations by paying the assignor after meeting certain notification requirements, and restrictions on the assignment of a promissory note, health-care-insurance receivables, and certain general intangibles, do not apply to an interest in a partnership or limited liability company. The bill removes the requirement that a certificate for an assumed business or professional name include the address of the registrant's registered office in Texas and the name of its registered agent at that address and amends provisions that establish the place of filing such a certificate. The bill authorizes the City of Midlothian, rather than the Midlothian Trade Zone Corporation, to apply for and accept a grant of authority to operate and maintain certain foreign trade zones in Midlothian and other subzones in Ellis County.

Senate Bill 1442 amends the Texas Professional Association Act to require that the articles of dissolution of a professional association delivered to the secretary of state be accompanied by a certificate from the comptroller stating that all state taxes administered by the comptroller have been paid and amends the Texas Revised Limited Partnership Act to include in the required actions to cancel a certificate of a limited partnership or the registration of a foreign limited partnership the submission to the secretary of state of a certificate from the comptroller stating that all state taxes administered by the comptroller have been paid.

### **Senate Bill 1620**

**Effective:** 9-1-09

**Senate Author:** Wentworth

**House Sponsor:** Paxton

Senate Bill 1620 amends the Finance Code to clarify that a property tax lender may conduct business in a location in which any other business is conducted or in combination with or at the same location as another business unless the consumer credit commissioner determines that the other business's conduct has concealed an evasion under the Property Tax Lender License Act and orders the lender to desist from such conduct. The bill establishes procedures for the examination of a lender's place of business and the investigation of the lender's transactions

to the extent that such transactions and related records pertain to regulated elements of the business. The lender must give the commissioner or a representative free access to specified locations and allow the copying of an item the bill permits to be investigated. Refusal to allow an examination or investigation is grounds for the suspension or revocation of the lender's license. The bill authorizes the commissioner or representative to examine persons under oath during an examination. It establishes other investigatory powers, including the verification of a lender's net assets. Other amendments to the Finance Code provide that information or material obtained or compiled by the commissioner in relation to an examination of license holders or registrants under certain laws relating to loans, interest, financial transactions, and debtor assistance is confidential. The bill creates exceptions authorizing disclosure for law enforcement and administrative hearing purposes or if the license holder or registrant has consented to the release of, or has published, the information. The bill amends the Tax Code to require the Finance Commission of Texas by rule to prescribe the form and content of the sworn taxpayer document and the certified tax collector statement that are involved in authorizing another party to pay one's delinquent property taxes on real property.

**Senate Bill 1701****Effective:** 9-1-09**Senate Author:** Fraser**House Sponsor:** Giddings

Senate Bill 1701 amends the Business & Commerce Code to specify that the definition of "business opportunity" does not include an arrangement defined as a franchise by 16 C.F.R. Part 436, relating to disclosure requirements and prohibitions concerning franchising and business opportunity ventures, and its subsequent amendments, rather than 16 C.F.R. Section 436.2(a), defining the term "franchise" as used in that part, and subsequent amendments, if certain conditions are met.

**Business Transactions****House Bill 2438****Effective:** 9-1-09**House Author:** McCall**Senate Sponsor:** Carona

House Bill 2438 amends the Finance Code to provide that a retail installment transaction in which a retail buyer purchases a commercial vehicle is subject only to certain specifically enumerated statutes. The bill prohibits a retail seller from accepting a trade-in motor vehicle for a motor vehicle sold under a retail installment contract unless the seller provides to the retail buyer, before the buyer signs the contract, a completed disclosure of trade-in equity form. The bill requires the Finance Commission of Texas to adopt by rule a standard form for such disclosure; sets forth minimum requirements for the form; and exempts a retail seller from having to comply with the above requirement until the commission prescribes the form. The retail seller is solely responsible for the form's content and delivery and an assignee of a retail installment contract may not be held responsible for a retail seller's failure to comply.

House Bill 2438 specifies that an advertised price regarding a motor vehicle installment sale does not necessarily establish a cash price and increases from 15 to 16 the minimum number of days of a month that may be considered a full month for the purpose of computing the time price differential for motor vehicle retail installment contracts with equal monthly successive payments. The bill authorizes a retail seller to advance money to retire the retail buyer's outstanding obligation under a retail installment transaction, to include in the contract any money advanced to retire such obligation or to retire an amount owed against a trade-in vehicle or a vehicle declared a total loss by an insurer only if the advance is included as an itemized charge, and to disclose money advanced in any manner permitted by the federal Truth in Lending Act.

## Business and Commerce

House Bill 2438 requires a retail seller of motor vehicles to pay in full the outstanding balance of a trade-in vehicle not later than the 25th day after the date the buyer signs the retail installment contract and receives delivery of the motor vehicle and the retail seller receives both delivery of the trade-in vehicle and the documents to transfer title from the buyer. A person required to hold a license for motor vehicle installment sales must ensure that each office at which retail installment transactions are made, serviced, held, or collected is licensed or otherwise authorized to engage in such activity.

House Bill 2438 extends the authority of the consumer credit commissioner or the commissioner's representative to administer oaths and examine persons under oath on certain matters to apply during an investigation as well as during an examination, and extends the period for a license holder's mandatory retention of the records of each retail installment transaction from the third anniversary of the date the last payment was made on the transaction to the fourth anniversary of that transaction date, if that anniversary date is later than the second anniversary of the date on which the final entry is made in the record.

### **House Bill 2556**

**Effective:** 9-1-09

**House Author:** Solomons

**Senate Sponsor:** Carona

House Bill 2556 amends the Finance Code to authorize a retail seller and prospective retail buyer to enter into a conditional delivery agreement under the terms of which the retail seller allows the retail buyer the use and benefit of a motor vehicle for a specified term not to exceed 15 days. The bill makes such an agreement void on the execution of a retail installment contract between the two parties for the sale of the motor vehicle, prohibits such an agreement from conferring any rights of ownership, including ownership of that motor vehicle, and sets forth the obligations of each party with respect to the return of the vehicle in question and of any trade-in vehicle, down payment, or other consideration tendered by the prospective buyer under the agreement in the event that the seller and buyer do not subsequently enter into a retail installment contract.

House Bill 2556 authorizes the consumer credit commissioner to review the terms of such an agreement if the buyer and seller do not subsequently enter into a retail installment contract and to assess an administrative penalty against the seller if the seller fails to meet certain conditions. The bill authorizes either the seller or the buyer to appeal a determination by the commissioner and provides for a hearing of the appeal under the Administrative Procedure Act.

House Bill 2556 prohibits a retail installment contract from being conditioned on the subsequent assignment of the contract to a holder and grants the commissioner exclusive jurisdiction to enforce provisions relating to this prohibition, except as otherwise provided by the bill.

### **House Bill 3129**

**Effective:** 6-19-09

**House Author:** King, Tracy

**Senate Sponsor:** Wentworth

House Bill 3129 amends the Occupations Code to specify that provisions of the Business & Commerce Code relating to the cancellation of certain consumer transactions do not apply to a good or service provided by the holder of a license issued under provisions regulating plumbers, air conditioning and refrigeration contractors, or electricians if the transaction is initiated by the consumer. The bill makes those provisions inapplicable to a transaction that involves a breach of express warranty or a negligent installation in violation of a building code applicable to the good or service sold to the consumer.

**House Bill 3621****Effective:** 9-1-09**House Author:** Solomons**Senate Sponsor:** Carona

House Bill 3621 amends the Finance Code to remove the \$50 cap on the documentary fee for documentary services relating to a motor vehicle retail installment contract and instead prohibits the fee from exceeding a reasonable amount for the documentary services agreed to by the retail seller and retail buyer or, for a commercial vehicle retail installment contract, from exceeding an amount agreed to in writing by the retail seller and buyer. The bill requires a retail seller to post a prescribed documentary fee notice so that it is clearly visible in each place where a vehicle sale is finalized. The bill also requires a retail seller, before increasing the maximum amount of the retail seller's documentary fee, to notify the consumer credit commissioner of the maximum amount that the seller intends to charge. The consumer credit commissioner may review the amount of a documentary fee for reasonableness and, if the commissioner determines that a fee is not reasonable, may require a reduction in or suspension of the fee. The bill authorizes the Finance Commission of Texas to adopt rules, including rules relating to the standards for a reasonableness determination or disclosures, to enforce provisions relating to the documentary fee.

**Senate Bill 1965****Effective:** 9-1-09**Senate Author:** Harris**House Sponsor:** Geren et al.

Senate Bill 1965 amends the Finance Code to establish that a retail transaction in which a retail buyer purchases a commercial vehicle is subject only to the statutory provisions enumerated in the bill.

Senate Bill 1965 excludes insurance on a commercial vehicle securing a retail installment contract from the types of coverage considered collateral protection insurance, exempts a contract for a commercial vehicle from requirements regarding the form prescribed for a contract for a retail installment transaction, and exempts a buyer's order or retail installment contract for a commercial vehicle from certain notice requirements relating to the documentary fee to be included in the principal balance of a retail installment contract for other motor vehicles.

Senate Bill 1965 defines a "commercial vehicle" according to use, weight, and ownership; establishes a presumption that a motor vehicle is not a commercial vehicle if the vehicle is not described by that definition or is of a type typically used for personal, family, or household use, as determined by finance commission rule; and authorizes a retail seller or contract holder to whom a retail buyer represents in writing that a motor vehicle is not for personal, family, or household use or that the vehicle is for commercial use to rely on that representation unless the seller or holder knows that the representation is not true.

Senate Bill 1965 authorizes the following additional amounts to be included, either as itemized charges or in the cash price, in a retail installment contract for a commercial vehicle:

- any fees prescribed by law
- any amounts charged by a titling or registration service relating to the sale
- any other amount agreed to by the retail buyer and retail seller
- an amount paid as consideration for the contract holder's agreement to waive all or part of the difference between the amount owed under the contract and the amount paid under a physical damage insurance policy maintained by the retail buyer in the event the vehicle is a total loss, all or part of the amount owed in the event of the retail buyer's death, or one or more payments owed in the event of the retail buyer's disability

A retail installment contract for a commercial vehicle, in addition to other charges for insurance coverage authorized by law, also may include a charge for insurance coverage relating

to the commercial vehicle, the use of the commercial vehicle, or the retail installment contract, but such coverage may be provided only by an insurer authorized to do business in Texas or, if permitted under law, a surplus lines insurer eligible to provide the insurance.

Senate Bill 1965 prohibits a retail installment contract for a commercial vehicle from authorizing the holder to accelerate the maturity of all or a part of the amount owed under the contract unless the retail buyer or the buyer's affiliate is in default in its obligations under another financing agreement or leasing agreement held by the same holder or an affiliate of the holder.

**Senate Bill 1966**

**Effective:** 9-1-09

**Senate Author:** Harris

**House Sponsor:** Hopson

Senate Bill 1966 amends the Finance Code to authorize a retail seller, in connection with a motor vehicle retail installment sales transaction, to offer to the retail buyer a debt cancellation agreement under which the retail seller agrees to cancel all or part of the retail buyer's obligation to repay an extension of credit from the retail seller upon the total loss or theft of the motor vehicle. The bill prohibits the retail seller from requiring the purchase of such an agreement as a condition for entering into a retail installment transaction for the purchase of a motor vehicle and requires the retail seller to provide to the retail buyer, a separate notice to that effect. The bill also establishes that a debt cancellation agreement is not considered an insurance product and is not subject to regulation under the Insurance Code.

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

Senate Bill 1574 - Local Government

House Bill 415 - Human Services

House Bill 2918 - Occupational Regulation

Senate Bill 778 - Occupational Regulation



## Civil Remedies and Procedures

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

**House Bill 108**  
**Effective:** 6-19-09

**House Author:** Phillips  
**Senate Sponsor:** Estes

House Bill 108 amends the Civil Practice and Remedies Code to remove the county clerk and the clerk's successors from the list of persons that a district court may appoint in certain actions as receiver for the mineral interest or leasehold interest under a mineral lease owned by a nonresident or absent defendant. The bill removes the county clerk from the list of persons that a district court may appoint in certain actions as receiver for the royalty interest owned by a nonresident or absent defendant.

**House Bill 396**  
**Effective:** 9-1-09

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

House Bill 396 amends the Property Code to require a person who files a notice for record of lis pendens to serve a copy of the notice on each party to the action who has an interest in the real property affected by the notice not later than the third day after the date the person files the notice. The bill authorizes a party to an action in connection with which a notice of lis pendens has been filed to apply to the court to expunge the notice and to file evidence with the motion, and requires notice of the motion to expunge to be served on each affected party on or before the 20th day before the motion hearing date. The bill requires a court to order the notice of lis pendens expunged if the court makes a determination relating to the validity of the real property claim or providing notice to each party by the prescribed deadline and sets forth the effects of an order expunging a notice of lis pendens. The bill authorizes a court to require the party prevailing in the expunction hearing to submit an undertaking to the court.

**House Bill 453**  
**Effective:** 6-19-09

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

House Bill 453 amends the Transportation Code to authorize a county law enforcement agency to use funds received from the sale of a motor vehicle abandoned as a result of a vehicular pursuit involving the law enforcement agency to compensate property owners whose property was damaged as a result of the pursuit, regardless of whether the agency would be liable under the Texas Tort Claims Act. The bill prohibits a payment for such compensation from exceeding the net proceeds received from the sale of the vehicle, \$1,000 per property owner whose property is damaged, or the amount of the property owner's insurance deductible. The proposed payment of compensation must be considered by the commissioners court before a law enforcement agency may compensate a property owner.

**House Bill 533**  
**Effective:** 6-19-09

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

House Bill 533 amends provisions of the Civil Practice and Remedies Code relating to the civil liability for the trafficking of persons. The bill makes a defendant who engages in the trafficking of persons or intentionally or knowingly benefits from participating in a venture that traffics another person liable to the person trafficked for damages arising from the trafficking or venture. The bill establishes that it is not a defense to liability that the defendant has been

acquitted or has not been prosecuted or convicted in a criminal proceeding for the trafficking of persons, or has been convicted of a different offense or of a different type or class of offense, for the alleged conduct involving trafficking persons. The bill sets forth the damages required to be awarded to a claimant who prevails in a civil liability trafficking suit, establishes that a cause of action created by the liability for trafficking of persons is cumulative of any other remedy provided by common law or statute, and establishes that a person found civilly liable for the trafficking of persons or liable under other law for any amount of damages arising from the trafficking is jointly liable with any other defendant for the entire amount of damages arising from the trafficking.

**House Bill 556**  
**Effective:** 9-1-09

**House Author:** Kuempel  
**Senate Sponsor:** Harris

Previous law authorized a court to award costs and reasonable attorney's fees to the prevailing party in a suit for the possession of real property between a person claiming possession under record title to the property and one claiming possession by adverse possession if the prevailing party recovered possession from a person unlawfully in actual possession. House Bill 556 amends the Civil Practice and Remedies Code to require a court to award costs and reasonable attorney's fees to the prevailing party if the court finds that the person unlawfully in actual possession made a claim of adverse possession that was groundless and made in bad faith and to authorize the court to award costs and reasonable attorney's fees to the prevailing party in the absence of such a finding.

**House Bill 669**  
**Effective:** 9-1-09

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

House Bill 669 amends the Civil Practice and Remedies Code to exempt a person claiming a mechanic's, contractor's, or materialman's lien from liability for making, presenting, or using a fraudulent document or other record in connection with the assertion of a lien or claim filed against real or personal property unless the person acts with intent to defraud.

**House Bill 670**  
**Effective:** 5-13-09

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

House Bill 670 amends provisions of the Civil Practice and Remedies Code and Code of Criminal Procedure relating to a journalist's qualified testimonial privilege in civil and criminal proceedings. The bill prohibits a judicial, legislative, administrative, or other body from compelling a journalist to testify regarding or to produce or disclose in an official proceeding any confidential or nonconfidential information, document, or item obtained or prepared while the person was acting as a journalist or to produce or disclose in an official proceeding the source of any such material. The bill prohibits a subpoena or other compulsory process from compelling the parent, subsidiary, division, or affiliate of a communication service provider or news medium to disclose the information, documents, or items, or the source of such material, that is privileged from disclosure under the provisions of the bill.

House Bill 670 sets out a general limited disclosure provision authorizing a court, in a civil proceeding, to compel a journalist, a journalist's employer, or a person with an independent contract with a journalist to testify regarding or to produce or disclose any information, document, or item or the source of any such material obtained while the person was acting as a journalist if the person seeking such material or its source makes a clear and specific showing that certain circumstances relating to the information and subpoena exist. The bill provides that the publication or dissemination by a news medium or communication service provider of

privileged information, documents, or items is not a waiver of the journalist's privilege in a civil proceeding. In a criminal proceeding, a journalist may be compelled to testify regarding or to disclose the confidential source of any information, document, or item obtained while acting as a journalist if the person seeking the testimony, production, or disclosure makes a clear and specific showing that the source of such material was observed by the journalist committing a felony criminal offense, confessed to the journalist the commission of such an offense, or is a person for whom probable cause exists that the person participated in such an offense, and the subpoenaing party has exhausted reasonable efforts to obtain from alternative sources the confidential source. A journalist may also be compelled to testify regarding or disclose the confidential source if disclosure of the confidential source is reasonably necessary to stop or prevent reasonably certain death or substantial bodily harm. The bill sets forth the circumstances under which a journalist may be compelled to testify, if the information, document, or item was disclosed or received in violation of a grand jury oath given to either a juror or a witness, and requires the applicable elected attorney to sign an application for a subpoena of a journalist.

House Bill 670 provides for privilege concerning unpublished information, documents, or items and nonconfidential sources, authorizing a court, in a criminal proceeding, after service of subpoena and an opportunity to be heard, to compel a journalist, a journalist's employer, or a person with an independent contract with a journalist to testify regarding or to produce or disclose any unpublished information, document, or item obtained while the person was acting as a journalist, other than material relating to privileged confidential sources, if the person seeking such material shows that all reasonable efforts have been exhausted to obtain the information from alternative sources and makes a showing regarding the relevance of the material to the official proceeding or to the investigation or prosecution of a criminal case. The bill provides that the publication or dissemination by a news medium or communication service provider of privileged information, documents, or items is not a waiver of the journalist's privilege regarding sources and unpublished information, documents, or items and requires the subpoenaing party to pay a journalist a reasonable fee for the journalist's time and costs incurred in providing the subpoenaed material in a criminal proceeding. The bill's provisions relating to a journalist's qualified testimonial privilege in criminal proceedings do not apply to any information, document, or item that has at any time been published or broadcast by the journalist.

**House Bill 783**

**Effective:** 6-19-09

**House Author:** Pickett

**Senate Sponsor:** Shapleigh

House Bill 783 amends the Civil Practice and Remedies Code to establish that an electric utility that signs an agreement with a municipality, county, or political subdivision to allow recreational use of land that the utility owns, occupies, or leases has limited liability to a third party to the extent the municipality, county, or political subdivision purchases an applicable general liability insurance policy insuring the electric utility for liability arising from the condition of the premises for such recreational use. The bill further establishes that the provision applies only to an electric utility located in a county with a population of 600,000 or more and located on the international border, or in a municipal management district located in a municipality with a population of more than 1.9 million.

**House Bill 1083**

**Effective:** 6-19-09

**House Author:** Elkins

**Senate Sponsor:** Wentworth

House Bill 1083 amends the Civil Practice and Remedies Code to prohibit a court from ordering mediation in an action that is subject to the Federal Arbitration Act except as provided by agreement of the parties.

**House Bill 1804**

**Effective:** 9-1-09

**House Author:** Hughes

**Senate Sponsor:** Watson

House Bill 1804 amends the Civil Practice and Remedies Code to make the provision designating the secretary of state as an agent for service of process on a defendant who is a nonresident in a suit to collect delinquent property taxes applicable regardless of whether the defendant has resided in Texas. The bill requires duplicate copies of the process to be served on the secretary of state not later than the 20th day before the date of return stated in the process, requires the process to include the name and address of the nonresident's home or home office, and requires the secretary of state, immediately after being served, to mail a copy of the process to the nonresident at that address and certify compliance with provisions relating to service of process to the court that issued the process.

**House Bill 1995**

**Effective:** 9-1-09

**House Author:** McCall et al.

**Senate Sponsor:** Fraser

House Bill 1995 amends the Civil Practice and Remedies Code to establish immunity from civil liability for any act or omission resulting in the death or injury to a patient for a volunteer audiologist or speech-language pathologist who conducts a speech, language, or hearing evaluation or screening if certain conditions are met. The bill clarifies that the immunity does not apply to an act or omission that is intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

**House Bill 3246**

**Effective:** 9-1-09

**House Author:** Brown, Fred

**Senate Sponsor:** Watson

House Bill 3246 amends the Civil Practice and Remedies Code to provide that a writ of attachment is available to a plaintiff who has general grounds for issuance of the writ and who institutes a suit for personal injury arising as a result of conduct violating provisions of the Penal Code relating to sexual assault of a child, aggravated sexual assault of a child, continuous sexual abuse of a young child or children, or indecency with a child. The bill authorizes a court to issue a writ of attachment in such a suit in an amount the court determines to be appropriate to provide for the counseling and medical needs of the plaintiff and requires a plaintiff or the plaintiff's agent or attorney who applies for such writ of attachment to file with the court an affidavit stating the grounds for issuance and the amount of the demand.

**Senate Bill 627**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Solomons

Senate Bill 627 amends the Civil Practice and Remedies Code to modify provisions relating to the liability of in-home service companies and residential delivery companies for negligent hiring and to enact those modified provisions as the Sue Weaver Act. The bill requires such a company, before associating with or hiring an officer, employee, or prospective employee in a position whose duties include entry into a person's residence, to obtain from the Department of Public Safety (DPS) or a private vendor all criminal history record information relating to the individual, or to ascertain that the individual holds in good standing an occupational license issued by a licensing authority that performed a criminal history background check before license issuance or renewal. The bill establishes that for liability purposes it is rebuttably presumed that a company did not negligently hire an employee if, at the time the person was hired, the company obtained the criminal history record information from DPS and that the information showed an absence of certain criminal convictions or deferred adjudications. The bill amends the Government Code to make conforming changes.

**Senate Bill 918**  
**Effective:** 9-1-09

**Senate Author:** Harris  
**House Sponsor:** Leibowitz

Current law requires that venue in a proceeding brought by the attorney general alleging breach of a fiduciary duty by a fiduciary or managerial agent of a charitable trust be a court of competent jurisdiction in Travis County or in the county where the defendant resides or has its principal office and entitles the attorney general, if successful in the proceeding, to recover certain costs and fees incurred in bringing the suit. Senate Bill 918 amends the Property Code to apply that venue requirement and fee entitlement to such a proceeding alleging a breach of a fiduciary duty by a charitable entity. The bill authorizes a court to award the attorney general court costs and reasonable and necessary attorney's fees as may seem equitable and just in a proceeding in which the attorney general intervenes, other than in a breach of a fiduciary duty proceeding.

**Senate Bill 1153**  
**Effective:** 9-1-09

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

Senate Bill 1153 amends the Civil Practice and Remedies Code to provide that a landowner is not liable for damages arising from an incident or accident caused by livestock of the landowner due to an act or omission of a firefighter or a peace officer who has entered the landowner's property with or without the permission of the landowner, regardless of whether the damage occurs on the landowner's property.

**Senate Bill 1201**  
**Effective:** 9-1-09

**Senate Author:** Carona  
**House Sponsor:** Lewis

Senate Bill 1201 amends the Civil Practice and Remedies Code to clarify who may act as a third-party professional in an action or arbitration proceeding for damages arising out of the provision of certain professional services. The bill adds registered landscape architect to the definition of "licensed or registered professional." The bill requires the plaintiff, in any such action or arbitration, to file an affidavit of a third-party licensed architect, licensed professional engineer, registered landscape architect, or registered professional land surveyor who is competent to testify, holds the same professional license or registration as the defendant, and is knowledgeable in the area of practice of the defendant and offers testimony based on the person's knowledge, skill, experience, education, training, and practice. The bill requires the affidavit to set forth for each theory of recovery for which damages are sought the negligence, if any, or other action, error, or omission of the professional claimed as existing and the factual basis for each such claim.

**Senate Bill 1650**  
**Effective:** 9-1-09

**Senate Author:** Duncan  
**House Sponsor:** Hartnett

Senate Bill 1650 amends the Civil Practice and Remedies Code to authorize a person, in a matter subject to the Federal Arbitration Act, to take an appeal or writ of error to the court of appeals from the judgment or interlocutory order of a district court, county court at law, or county court under the same circumstances that an appeal from a federal district court's order or decision would be permitted by federal law.

**Senate Bill 1930**  
**Effective:** 9-1-09

**Senate Author:** Watson  
**House Sponsor:** Brown, Fred

Senate Bill 1930 amends the Civil Practice and Remedies Code to require a court in a civil action against a defendant in which a plaintiff, as defined by the bill, seeks recovery of damages

or other relief based on the sexual abuse of a minor to inform the plaintiff as early as possible in the proceedings that the plaintiff may use a confidential identity in that civil action; to allow the plaintiff to use a confidential identity in all petitions, filings, and other documents presented to the court; and to use the confidential identity in all of the court's proceedings and records relating to the action. The bill entitles only certain persons in such a civil action to know the true identifying information about the plaintiff and requires the court to prohibit such a person from divulging the information to anyone without a written order of the court. The bill prohibits the supreme court from amending or adopting rules in conflict with these provisions.

**Senate Bill 2141**

**Effective:** Vetoed

**Senate Author:** Wentworth

**House Sponsor:** Hughes

Current law provides that a person must bring a suit for damages for certain claims against a registered or licensed architect, engineer, interior designer, or landscape architect in Texas not later than 10 years after the substantial completion of a real property improvement or the beginning of the operation of equipment attached to real property in an action arising out of a defective or unsafe condition of the real property, improvement, or equipment. Senate Bill 2141 amends the Civil Practice and Remedies Code to clarify that the 10-year limitation is a statute of repose and that the provisions relating to the designation of a responsible third party and authorizing a claimant to join such third party under certain circumstances do not apply to a claim barred by such statute of repose.

Reason Given for Veto: "Senate Bill No. 2141 clarifies the statute of repose that holds that lawsuits against engineers and architects must be filed within 10 years of substantial completion of a project. However, this bill would prohibit engineers and architects from being designated responsible third parties in litigation if the statute of repose has lapsed. Current law allows all potential responsible third parties to be designated as such, and juries are required to apportion fault among all potential parties at fault, including designated responsible third parties. This bill would distort the method of apportioning fault by not allowing potentially responsible architects and engineers to be included in the charge submitted to the jury, potentially allowing other defendants to be held accountable for faults that were not their own."

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

House Bill 2086 - Criminal Justice

House Bill 2128 - Business and Commerce

Senate Bill 1211 - Health and Medical Occupations

Senate Bill 2279 - Courts

## Corrections

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

### General

#### **House Bill 93**

**Effective:** 9-1-09

**House Author:** Hodge et al.

**Senate Sponsor:** Hinojosa

Current law authorizes the Texas Department of Criminal Justice (TDCJ) to forfeit all or any part of an inmate's accrued good conduct time, none of which may be restored, if an inmate commits an offense or violates a rule of TDCJ during the actual term of imprisonment in TDCJ or in a transfer facility. House Bill 93 amends the Government Code to authorize TDCJ to alternatively place such inmate's good conduct time in suspension and to authorize TDCJ to reinstate the good conduct time. The bill requires TDCJ to establish a policy regarding the suspension of good conduct time and sets forth the required contents of the policy.

#### **House Bill 1233**

**Effective:** 6-19-09

**House Author:** Menendez

**Senate Sponsor:** Van de Putte

House Bill 1233 amends provisions of the Health and Safety Code and the Code of Criminal Procedure relating to the court-ordered administration of psychoactive medication to certain criminal defendants. The bill makes provisions authorizing a court to order the administration of psychoactive medication applicable to certain patients ordered by a criminal court to receive inpatient mental health services who have remained confined in a correctional facility for a certain period exceeding 72 hours while awaiting transfer for competency restoration treatment and who present a danger to the patient or others in the correctional facility as a result of a mental disorder or mental defect.

The bill makes provisions relating to court-ordered medication after a determination of incompetency applicable to a defendant who either remains confined in a correctional facility for a period exceeding 72 hours while awaiting transfer, is committed to an inpatient facility for the purpose of competency restoration, is confined in a correctional facility while awaiting further criminal proceedings following competency restoration treatment, or is released on bail because the court has made the determination that the defendant is incompetent to stand trial. The bill specifies that an order for court-ordered medication based on a defendant's confinement while awaiting transfer authorizes the initiation of any appropriate mental health treatment for the defendant but does not constitute authorization to retain the defendant in a correctional facility for competency restoration treatment.

#### **House Bill 1711**

**Effective:** See below

**House Author:** Turner, Sylvester et al.

**Senate Sponsor:** Whitmire

House Bill 1711 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to develop and implement, not later than January 1, 2010, a comprehensive plan to reduce recidivism and ensure the successful reentry and reintegration of offenders into the community following an offender's release or discharge from a correctional facility. The bill requires the plan to provide for offender assessments, programs that address offender needs,

transition programs, the identification of local program and service providers with whom TDCJ may contract to implement the plan, and the sharing of information necessary to address the needs of each offender, and sets forth requirements for the implementation, content, and design of plan programs. The bill requires TDCJ to enter into a memorandum of understanding with specified entities to establish a reentry task force and to coordinate the work of the task force with the Office of Court Administration, and authorizes the task force to identify gaps in services for certain released or discharged offenders and to coordinate with local reentry and reintegration program providers to make recommendations for the provision of services to those offenders. The bill authorizes TDCJ to contract and coordinate with private vendors, units of local government, or other entities to implement the reentry and reintegration plan and provides for the accountability of any contract.

House Bill 1711 requires TDCJ, not later than January 1, 2010, to adopt and implement policies that encourage family unity and participation during confinement and post-release or post-discharge transition to the community, respectively, and requires TDCJ to conduct and coordinate research that examines the impact of an offender's confinement on the well-being of the offender's child.

House Bill 1711 requires TDCJ to conduct and coordinate research to determine whether the reentry and reintegration plan and the policies to encourage family unity and participation reduce recidivism rates, and to deliver a report of the results at specified intervals to the lieutenant governor, the speaker of the house, and appropriate legislative committees.

The bill takes effect June 19, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**House Bill 1728**

**Effective:** 9-1-09

**House Author:** Madden

**Senate Sponsor:** Whitmire

House Bill 1728 amends the Government Code to authorize the inspector general of the Texas Department of Criminal Justice to issue an administrative subpoena to a communications common carrier or an electronic communications service provider for business records that disclose information about the carrier's or provider's customers or service users and that are material to a criminal investigation of an escape, a potential escape, or the offense of providing a prohibited substance or item to a person in the custody of certain adult or juvenile correctional or detention facilities.

**House Bill 1914**

**Effective:** See below

**House Author:** McReynolds et al.

**Senate Sponsor:** Nichols

Previous law created the Private Sector Prison Industries Oversight Authority to approve, certify, and oversee the operation of private sector prison industries programs in the Texas Department of Criminal Justice (TDCJ), the Texas Youth Commission, and county correctional facilities. House Bill 1914 amends the Government Code to abolish the Private Sector Prison Industries Oversight Authority on the date on which the Texas Board of Criminal Justice is designated as the certificate holder for Texas by the federal Bureau of Justice Assistance, and to transfer all powers, duties, obligations, rights, contracts, appropriations, records, real or personal property, and personnel of the authority to the board. In addition to standard across-the-board sunset provisions regarding board membership qualifications and training requirements, the bill requires the board to ensure that private sector prison industries programs are operated in a manner that is designed to avoid the loss of existing jobs for Texas employees who are not incarcerated or imprisoned. The bill sets forth limitations on contracts entered into or renewed by a governmental entity and an employer for a program relating to a determination by the



board that the contract has negatively affected or would negatively affect any Texas employer and includes provisions relating to the procedure to be used by the board in making such a determination.

House Bill 1914 requires a governmental entity, not later than the 60th day before the entity intends to enter into a contract with an employer for a private sector prison industries program, to notify certain legislative, labor, and business entities, as well as any employer that employs persons in Texas who are not incarcerated or imprisoned and who perform work in the same job descriptions as participants in the program covered by the contract or who are otherwise engaged in the manufacture of the same or a substantially similar product as will be manufactured under the contract. The bill amends the Labor Code to require the Texas Workforce Commission to adopt rules necessary to implement the notification process of a governmental entity to such Texas employers as soon as practicable after the effective date of the bill and not later than January 1, 2010. The bill revises the authorized uses of money in the private sector prison industry account, requires the comptroller of public accounts, on each certification by TDCJ that an amount has been deposited to the credit of the general revenue fund from program participants' wage deductions, to transfer an equivalent amount from the general revenue fund to the account until the balance in the account is \$1 million, rather than \$2 million, and prohibits the balance of the account from exceeding \$1 million.

House Bill 1914 reduces from 5,000 to 750 the maximum number of participants the board is authorized to allow in the private sector prison industries program at any one time but provides a temporary exemption from that limitation under certain conditions. The bill prohibits the board from authorizing the operation of more than 11 cost accounting centers at any one time. It requires the board to adopt rules requiring a contract entered into by a governmental entity concerning a program to include job descriptions for any work that will be performed by participants and a description of any product that will be manufactured, to charge a program employer or other participating entity the fair market value for the lease of any property under the contract, and to make certain program information publicly available.

House Bill 1914 takes effect June 19, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**House Bill 2161**

**Effective:** See below

**House Author:** Turner, Sylvester et al.

**Senate Sponsor:** Whitmire

House Bill 2161 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ), before discharging or releasing an inmate, to timely submit to the Department of Public Safety (DPS) on behalf of the inmate a request for the issuance of a personal identification certificate if the inmate does not have a valid certificate, driver's license, or commercial driver's license. The bill sets forth provisions relating to the responsibilities of TDCJ, DPS, and the bureau of vital statistics of the Department of State Health Services (DSHS) in issuing a personal identification certificate to an inmate and in verifying the inmate's identity, requires TDCJ to reimburse DPS and DSHS for costs incurred by those agencies in performing responsibilities, and authorizes TDCJ to charge an inmate for costs or for specified fees related to the issuance of a certificate. The bill specifies that the above provisions do not apply to an inmate who is not legally present in the United States or who was not a resident of Texas before being placed in TDCJ custody.

House Bill 2161 amends the Transportation Code to provide that a personal identification certificate or original or renewal driver's license or commercial driver's license issued to a person residing in a correctional facility, halfway house, or community residential facility expires on the first birthday of the license holder occurring after the first anniversary of the

date of issuance unless an earlier date is otherwise provided. The bill establishes a \$5 fee for a personal identification certificate issued on behalf of an inmate before discharge or release and requires DPS to establish the fee for a personal identification certificate, driver's license, or commercial driver's license issued to a person who resides in a correctional facility, halfway house, or community residential facility.

House Bill 2161 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**House Bill 3649**  
**Effective:** 6-19-09

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

House Bill 3649 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to establish a policy that permits an inmate to receive, by mail, reference books and other educational materials from specified volunteer organizations. The bill requires TDCJ to adopt rules as necessary to implement the policy, including rules that provide for screening of packages, that prohibit inmates from receiving books that might assist them in committing crimes, and that set parameters for the types of books inmates may receive.

**House Bill 3653**  
**Effective:** 9-1-09

**House Author:** Marquez et al.  
**Senate Sponsor:** Davis, Wendy et al.

House Bill 3653 amends the Government Code, the Human Resources Code, and the Local Government Code to regulate the use of restraints to control the movement of a pregnant woman or pregnant child in the custody of the Texas Department of Criminal Justice, the Texas Youth Commission, or a municipal or county jail. The bill prohibits these entities from using restraints to control the movement of a pregnant woman or child at any time during which the woman or child is in labor or delivery, or is recovering from delivery, unless a designated official of the entity determines that the use of restraints is necessary to ensure the safety and security of the woman or child, her infant, or others, or to prevent a substantial risk that the woman or child will attempt escape. If a determination to use restraints is made under the bill's provisions, the bill requires the type and manner of restraint to be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

**House Bill 3654**  
**Effective:** 9-1-09

**House Author:** Marquez et al.  
**Senate Sponsor:** Davis, Wendy et al.

House Bill 3654 amends the Government Code to require the Commission on Jail Standards to adopt reasonable rules and procedures establishing minimum requirements for county jails to determine if a prisoner is pregnant and to ensure that the jail's health services plan addresses a pregnant prisoner's medical and mental health care needs. The bill creates an additional category for prisoners who are known to be pregnant in the monthly jail population report required to be submitted to the commission by each county.

**House Bill 3671**  
**Effective:** 9-1-09

**House Author:** Sheffield  
**Senate Sponsor:** Hegar

House Bill 3671 amends the Code of Criminal Procedure to remove a provision requiring a county that transfers a defendant to the Texas Department of Criminal Justice (TDCJ) to deliver to an officer designated by TDCJ a copy of the record of arrest for each offense.

**House Bill 3689****Effective:** 6-19-09**House Author:** McClendon et al.**Senate Sponsor:** Hinojosa

House Bill 3689 amends provisions of the Human Resources Code, Code of Criminal Procedure, Education Code, Family Code, and Health and Safety Code relating to the functions and continuation of the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and to the functions of the Office of Independent Ombudsman for TYC. The bill continues TYC and TJPC until September 1, 2011, applies across-the-board sunset provisions to all three entities, prescribes the criteria on which the Sunset Advisory Commission is required to focus in reviewing those entities, and requires the ombudsman's office to be reviewed during the periods in which TYC is reviewed.

House Bill 3689 requires TYC to develop a comprehensive reentry and reintegration plan to reduce recidivism and ensure the successful reentry and reintegration of children into the community following a child's release from TYC, and requires the plan to provide for child assessments, programs and services that address the needs of committed and released children, and information sharing. The bill sets forth program requirements and authorizes TYC to contract and coordinate with private vendors, units of local governments, or other entities to implement the reentry and reintegration plan. The bill requires TYC to conduct research to determine whether the plan reduces recidivism rates and requires TYC to deliver, at specified intervals, a report of the results to the lieutenant governor, the speaker of the house of representatives, and appropriate legislative committees. It requires TYC to provide certain courts with information on a child's progress during TYC commitment.

House Bill 3689 requires TYC and the ombudsman's office to enter into a memorandum of understanding concerning sharing information and the procedures for handling overlapping monitoring duties and activities performed by each entity. The bill adds certain facilities to the investigative scope of the TYC office of inspector general and authorizes the special prosecution unit, on request of a district or county attorney, to assist in certain prosecutions concerning TYC, in addition to conducting such prosecutions as authorized under current law.

House Bill 3689 requires TYC to implement a comprehensive reading and behavior plan for students in TYC educational programs which must incorporate a reading plan that includes a battery of reading assessments that meet certain requirements and a positive social behavior plan that involves the adoption and evaluation of positive behavior supports. The bill sets forth provisions relating to the adoption, administration, and assessment of the comprehensive plan and requires TYC to report to the legislature by specified dates concerning the effectiveness and implementation of the separate plans.

House Bill 3689 changes the composition of TJPC while retaining the total number of members. The bill adds certain secure and nonsecure juvenile correctional facilities operated by or under contract with a governmental unit to the juvenile facilities for which TJPC must provide minimum standards, and requires TJPC, juvenile court judges, and juvenile boards to annually inspect each nonsecure juvenile correctional facility to determine whether the facility is suitable for the confinement of children. The bill includes provisions regarding the registration of nonsecure juvenile correctional facilities with TJPC and regarding the certification standards for persons employed in those facilities. The bill requires a juvenile probation department to complete a risk and needs assessment for each child under its jurisdiction and to report data from the assessment to TJPC. It requires TJPC to collect comprehensive data concerning the outcomes of local probation programs throughout Texas and to deliver a quarterly report beginning on January 1, 2010, on the final outcome of any complaint received concerning the abuse, neglect, or exploitation of a juvenile in any juvenile justice program or facility.

House Bill 3689 authorizes TJPC to contract with a local mental health and mental retardation authority possessing an unutilized or underutilized residential treatment facility to establish a residential treatment facility for juveniles with mental illness or emotional injury who are ordered to reside and receive education services at the facility as a condition of juvenile probation, prescribes requirements for such a facility in the provision of educational services, and requires the State Board of Education to grant a school charter to such a facility that provides adequate and sufficient educational opportunities and services to juveniles.

House Bill 3689 authorizes TJPC to revoke or suspend a juvenile probation officer's certification or reprimand a certified officer if a panel determines that the certification threatens juveniles in the juvenile justice system, and to place on probation a person whose certification is suspended. The bill requires TJPC, not later than September 1, 2010, to establish one or more basic probation services funding formulas and one or more community corrections funding formulas that must include each grant for which TJPC, on or before September 1, 2009, established an allocation formula.

House Bill 3689 requires the executive directors of TJPC and TYC to jointly appoint a strategic planning committee to develop the biennial coordinated strategic plan for the juvenile justice system provided by state law, sets forth the committee's membership, and adds to the list of information required to be included in the plan.

House Bill 3689 requires TJPC, TYC, various other state agencies, and local juvenile probation departments to adopt a memorandum of understanding to institute a continuity of care and service program for juveniles with mental impairments in the juvenile justice system to be coordinated and monitored by the Texas Correctional Office on Offenders with Medical or Mental Impairments.

**Senate Bill 727**

**Effective:** See below

**Senate Author:** Patrick, Dan

**House Sponsor:** Vaught

Senate Bill 727 amends provisions of the Code of Criminal Procedure, Family Code, and Government Code relating to the creation of DNA records for the DNA database system. The bill requires a judge granting community supervision to a defendant convicted of a felony to require the defendant to provide a DNA sample for the purpose of creating a DNA record of the defendant and imposes on the defendant a \$34 court cost relating to DNA testing on placement of the community supervision. The bill requires a child adjudicated as having engaged in conduct constituting the commission of certain serious or violent felony offenses and placed on probation to provide a DNA sample for the purpose of creating a DNA record of the child and requires the child, parent, or other person responsible for the child's support to pay a \$50 DNA testing fee if the disposition of the case includes a commitment to a facility operated by or under contract with the Texas Youth Commission (TYC) or a \$34 DNA testing fee if the disposition of the case does not include such a commitment and the child is required to submit a DNA sample. The bill provides for the collection of a DNA sample if an individual is received into custody by TYC, the disbursement of the fees, and the waiving of fees under certain circumstances.

Senate Bill 727 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**Senate Bill 1009**

**Effective:** 9-1-09

**Senate Author:** Deuell

**House Sponsor:** Harper-Brown

Senate Bill 1009 amends the Government Code to continue the Commission on Jail Standards until September 1, 2021. In addition to across-the-board sunset provisions, the bill requires the commission to develop a comprehensive set of risk factors to use in assessing the overall risk

level of each jail under the commission's jurisdiction and use the set of risk factors to guide the inspections process for such jails by establishing a risk assessment plan for assessing the overall risk level of each jail and by regularly monitoring those overall risk levels. The bill expands the commission's general duties to include adopting a policy for gathering and distributing to jails certain information regarding jail administration, compliance, and operation; reporting to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with statutes relating to the examination and transfer of defendants suspected of having mental illness or mental retardation; adopting reasonable rules and procedures establishing minimum requirements for jails regarding pregnant prisoners; and providing guidelines to sheriffs regarding contracts for food services to or the operation of a commissary in a jail under the commission's jurisdiction. The bill requires the monthly jail population report submitted by each county to the commission to include the total of prisoners confined in the county jail who were known or determined to be pregnant. The bill requires the commission to provide information to the public about whether jails are in compliance with state law and the rules, standards, and procedures of the commission.

**Senate Bill 1844**  
**Effective:** 6-19-09

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

Senate Bill 1844 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to transfer 50 percent of commissions paid to TDCJ by a vendor providing pay telephone service to eligible inmates confined in TDCJ facilities to the compensation to victims of crime fund and the other 50 percent to the undedicated portion of the general revenue fund, except that TDCJ must transfer the first \$10 million of the commissions collected in any given year to the compensation to victims of crime fund.

**Senate Bill 1847**  
**Effective:** 6-19-09

**Senate Author:** Hegar  
**House Sponsor:** Moody

Senate Bill 1847 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to ensure that the same programs and services that are available to or in which participation is mandatory for an inmate released on parole or to mandatory supervision are available to a wrongfully imprisoned person when the person is discharged from TDCJ.

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

**House Bill 221**  
**Effective:** 9-1-09

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

House Bill 221 amends provisions of the Government Code and Code of Criminal Procedure relating to delaying parole eligibility for an individual convicted of a sexual assault, aggravated sexual assault, or murder offense who evades arrest. The bill delays the earliest date on which an inmate who is serving a sentence for such an offense is eligible for parole by three years from the date the inmate completes the sentence for every 12 months that elapse between the date an arrest warrant is issued for the inmate following an indictment for the offense and the date the inmate is arrested for the offense and requires a judge in the trial of such an offense to make an affirmative finding of fact regarding the number of months that elapsed, if any, between those dates and to enter the affirmative finding in the judgment in the case.

House Bill 221 amends the Penal Code to increase the penalty for an offense of evading arrest or detention from a Class B misdemeanor to a Class A misdemeanor and to enhance the penalty for a subsequent offense of such evasion to a state jail felony.

**House Bill 2153**

**Effective:** 9-1-09

**House Author:** Edwards et al.

**Senate Sponsor:** Shapiro

House Bill 2153 amends provisions of the Code of Criminal Procedure relating to registration requirements imposed on sex offenders. The bill includes provisions relating to the venue for the prosecution of an offense under the sex offender registration program, expands the sex offender registration form requirement to include listing the address of a current or future residence or a detailed description of each geographical location at which the offender currently resides or will reside in the future, imposes a deadline by which a sex offender must verify registration form information with the applicable local law enforcement agency, and prohibits a person required to register as a sex offender from refusing or failing to provide necessary registration form information. The bill sets forth reporting requirements and related deadlines for a sex offender released from a penal institution without any form of supervision who does not move to the address indicated on the registration form or does not indicate an address on the form and for a sex offender who resides for more than seven days at a location to which a physical address has not yet been assigned.

**House Bill 2289**

**Effective:** 9-1-09

**House Author:** Madden et al.

**Senate Sponsor:** Whitmire

House Bill 2289 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to establish a procedure through which an inmate being discharged from TDCJ or being released on parole or to mandatory supervision is discharged or released from the facility in which the inmate is serving the inmate's sentence or from a facility designated as a regional release facility that is nearest to the facility in which the inmate is serving the inmate's sentence. The bill requires TDCJ to designate six or more facilities operated by TDCJ as regional release facilities from which an inmate may be discharged or released rather than being released from the facility in which the inmate is serving the inmate's sentence, but authorizes TDCJ to release the inmate from a regional release facility other than the one nearest to the facility in which the inmate is serving the inmate's sentence in certain circumstances. The bill requires TDCJ to establish and implement the discharge and release procedure as soon as possible after the effective date of the bill and not later than September 1, 2010.

**House Bill 3148**

**Effective:** Vetoed

**House Author:** Smith, Todd

**Senate Sponsor:** West

House Bill 3148 amends the Code of Criminal Procedure to exempt certain young persons who are convicted of an offense involving consensual sex from the requirement of registering as a sex offender in Texas. The bill sets forth eligibility requirements for a person to petition a court for an order exempting the person from sex offender registration requirements and modifies the age difference between a defendant and victim or intended victim in provisions requiring an affirmative finding regarding an age-based offense. The bill transfers the duties of the Council on Sex Offender Treatment in determining the minimum required registration period for each reportable conviction or adjudication under the Texas sex offender registration program in compliance with federal law to the Department of Public Safety.

Reason Given for Veto: "House Bill No. 3148 would amend current Texas law that allows some sex offenders, in very limited circumstances, to petition a court to be exempt from registering as a sex offender. While House Bill No. 3148 was intended to more narrowly define who could seek a court's exemption from sex offender registration, I believe the bill fails to adequately protect young victims.

"Specifically, the bill would allow an individual who has completed deferred adjudication for the offense of indecency with a child, and who was younger than 21 years old at the time of the offense, to be eligible to petition a court for an exemption from sex offender registration, regardless of the age of the victim.

“While other provisions of the criminal code provide some protections against very young victims being re-victimized in the event that a court were to improvidently exempt their abusers from sex offender registration, I am not willing to take that gamble with the lives of young Texans.”

**House Bill 3226**

**Effective:** 6-19-09

**House Author:** Madden et al.

**Senate Sponsor:** Seliger

House Bill 3226 amends the Government Code to authorize the Texas Department of Criminal Justice (TDCJ) to issue to an inmate who is eligible for release on parole or to mandatory supervision or to a releasee payment for the cost of temporary post-release housing that meets any conditions or requirements imposed by a parole panel and is located in the county of legal residence of the inmate or releasee. The bill prescribes a limit on the amount of payment, requires TDCJ to issue the payment out of certain funds appropriated by the legislature to TDCJ, and requires the executive director of TDCJ to implement the issuance of such payment and ensure that the food, hygiene, and clothing needs of the inmate or releasee are adequately met during the payment period. The bill requires TDCJ to submit a report to the Criminal Justice Legislative Oversight Committee that includes the total number of inmates and releasees to whom payment is issued, the total dollar amount of payments issued, and the county of release and the county of legal residence of each inmate or releasee receiving payment. The bill modifies the conditions that are required to be met before a parole panel is authorized to release an inmate on parole to specify that the condition that arrangements have been made for the inmate’s employment or for the inmate’s maintenance and care may include the issuance of payment for the cost of temporary post-release housing. The bill applies only to an inmate released on parole on or after January 1, 2010.

**Senate Bill 223**

**Effective:** Vetoed

**Senate Author:** West

**House Sponsor:** Thompson

Senate Bill 223 amends the Code of Criminal Procedure to authorize the governor to pardon a person after the person’s successful completion of a term of deferred adjudication community supervision. The bill entitles a person who is arrested and placed on deferred adjudication community supervision for the offense to have all records and files relating to the arrest expunged if the judge subsequently discharges the person and dismisses the proceedings and the person is subsequently pardoned for the offense. Senate Bill 223 takes effect September 1, 2009, contingent on voter approval of the constitutional amendment proposed by Senate Joint Resolution 11.

Reason Given for Veto: “Senate Bill No. 223 would have given a governor the authority to grant a pardon to a person who had received a judgment of deferred adjudication in a criminal case. Before the authority could take effect, however, the voters also would have to pass a constitutional amendment granting that authority to a governor. The joint resolution that would have allowed the people of Texas to grant that authority to a governor did not pass during the 81st Legislative Regular Session, and Senate Bill No. 223 provided that, without the passage of the amendment, Senate Bill No. 223 had no effect.

“Senator Royce West, Representative Senfronia Thompson and others have worked diligently to seek the passage of a good bill.

“Currently, only a person who has been convicted of a crime is eligible for clemency consideration. A person who has received a judgment of deferred adjudication is not a convicted person, leaving a person who received a lesser form of punishment ineligible to receive clemency. That is not right or equitable.

“Because the statutory authority must be re-enacted by a future legislature along with a joint resolution for a constitutional amendment that is approved by the people of Texas, I reluctantly veto Senate Bill No. 223 because it has no effect.”

**Senate Bill 689**

**Effective:** 9-1-09

**Senate Author:** Shapiro et al.

**House Sponsor:** Pena et al.

Senate Bill 689 amends the Code of Criminal Procedure and the Government Code to prohibit certain defendants who are released to community supervision or on parole and required to register as a sex offender from using the Internet to access obscene material or commercial networking sites and to communicate with individuals who are younger than 17 years of age. The bill provides that a court may modify these terms under certain circumstances. The bill provides for the release of all relevant information contained in the computerized central database maintained under the sex offender registration program that is not considered public information to certain law enforcement personnel, authorizes the release of information relating to online identifiers to commercial social networking sites and sets forth procedures for and limitations on the use of this information by the site or the site's agent. The bill expands the personal information about an offender required to be included on a sex offender registration form and required to be omitted in prerelease and change of address notification to the superintendent of a public school district or administrator of a private or secondary school within the public school district. The bill sets forth provisions requiring a person subject to sex offender registration to notify certain authorities of a change in the person's online identifier.

**Senate Bill 1206**

**Effective:** Vetoed

**Senate Author:** Hinojosa

**House Sponsor:** Edwards

Senate Bill 1206 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ), if a parole panel requires as a condition of release that an inmate complete a specific TDCJ rehabilitation program before release, to place the inmate in the specified program or, with parole panel approval, in a different program. The bill requires a parole panel that makes such a requirement to specify a range of dates, based on the date the inmate is likely to have completed the program, during which TDCJ may release the inmate if the inmate has successfully completed the program and satisfied all other conditions of release. The specified range of dates may not begin earlier than the 45th day before any applicable release date established for the inmate and must be at least 30 days.

Reason Given for Veto: "Senate Bill No. 1206 would fundamentally alter the roles and responsibilities of the Board of Pardons and Paroles (Board) and the Texas Department of Criminal Justice (TDCJ) by allowing TDCJ to release an inmate prior to the date established by the Board for release on parole. Senate Bill No. 1206 allows TDCJ to determine that the inmate has successfully completed a rehabilitation program and has met certain conditions for release on parole as specified by the Board.

"TDCJ's primary function is to manage inmates in state prisons, state jails and private correctional facilities, not to decide when to release those inmates.

"I do not think these changes are necessary, and I am wary of the manner in which such changes would be accomplished. Reducing appropriations to TDCJ through a rider in the General Appropriations Act would put TDCJ under budgetary pressure when determining whether inmates have successfully completed rehabilitation programs and satisfied their conditions of release. Additionally, the cost savings estimates of this bill are calculated on the basis of a per diem cost, while most related operational costs for TDCJ are fixed.

"But because I appreciate the goal of Senate Bill No. 1206 to not hold inmates longer than necessary, I am directing the Board and TDCJ to work together to ensure that offenders are not held for extended periods after successfully completing a rehabilitation program required by the Board as a condition for parole. They must set up procedures that provide for TDCJ to notify the Board of the successful completion of parole release requirements so that the Board may act to effect the release to parole."



**Senate Bill 1832****Effective:** 9-1-09**Senate Author:** Patrick, Dan**House Sponsor:** Zerwas

Senate Bill 1832 amends the Government Code to make an inmate serving a sentence for the offense of sexual performance by a child or for the offense of criminal solicitation ineligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event in less than two calendar years. The bill prohibits an inmate who is serving a sentence for or who has previously been convicted of a first-degree felony for criminal solicitation from being released to mandatory supervision. The bill amends the Code of Criminal Procedure to make a defendant adjudged guilty of a first-degree felony for criminal solicitation ineligible for judge-ordered community supervision.

**Senate Bill 2048****Effective:** 6-19-09**Senate Author:** Williams**House Sponsor:** Riddle

Senate Bill 2048 amends the Code of Criminal Procedure to authorize the commissioners court in a county with a population of 100,000 or more to designate the office of the sheriff of the county or the office of a chief of police of a municipality in that county to serve as a mandatory countywide registration location for persons subject to the sex offender registration program. The bill requires a person subject to such program to register or verify registration only with the centralized registration authority for the county, regardless of whether the person resides in any municipality located in that county, and requires the centralized registration authority, if the person resides in a municipality and the municipality's local law enforcement authority does not serve as the person's centralized registration authority, to provide notice of a person's registration or verification of registration to the local law enforcement authority within a certain time frame. The bill provides that if a sex offender registrant resides in a county with a centralized registration authority or resides in another state but works or attends school in such a county, the central registration authority serves as that person's primary registration authority, regardless of whether the person resides, works, or attends school, as applicable, in any municipality in that county.

**Senate Bill 2340****Effective:** 6-19-09**Senate Author:** Averitt**House Sponsor:** Homer

Senate Bill 2340 amends the Local Government Code to authorize a county commissioners court to establish and operate an electronic monitoring program for certain defendants who are required by a county court to participate in such a program to discharge a fine or costs or as an alternative to serving all or part of a sentence in county jail. The bill sets forth provisions relating to the oversight and operation of such an electronic monitoring program, to the payment to a private vendor for the vendor's services in operating such a program, and to contracting for electronic monitoring technology.

The bill amends the Code of Criminal Procedure to establish that a defendant participating in an electronic monitoring or house arrest program discharges a sentence in the same manner as if the defendant were confined in county jail, rather than without deductions, good conduct time credits, or commutations. It authorizes a county court, for a defendant who is sentenced to confinement for an offense committed on or after September 1, 2009, to revoke the defendant's participation in an electronic monitoring program and require the defendant to serve the remainder of the sentence in county jail if the defendant violates a monitoring condition imposed by a court. The bill removes a provision capping the deduction from a defendant's sentence for manual labor and other deductions at two-thirds of the sentence, includes a defendant confined

## Corrections

in county jail after conviction of a misdemeanor to the defendants authorized to volunteer for certain sheriff-operated work programs, and allows a court or sheriff to deduct one day from a defendant's sentence for each day of volunteer work. State law requires a county court that releases a defendant without bond who is financially unable to make bond pending appeal to require the defendant to participate in an electronic monitoring program or other specified program. The bill permits, rather than prohibits, receipt of credit toward completion of a sentence by an eligible defendant who is participating in a work release, electronic monitoring, or community service program during the pendency of an appeal.

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

House Bill 107 - Criminal Justice

House Bill 867 - State Government

House Bill 1003 - Criminal Justice

House Bill 3228 - Criminal Justice

House Bill 3316 - Criminal Justice

House Bill 3438 - State Government

House Bill 4451 - Human Services

Senate Bill 1149 - State Government

Senate Bill 2228 - State Government

## Courts

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

### General

#### **House Bill 144**

**Effective:** 6-19-09

**House Author:** McClendon

**Senate Sponsor:** Wentworth

House Bill 144 amends the Government Code to require the clerk of a district court, statutory probate court, or county court at law in Bexar County to collect an additional filing fee of not more than \$15 in each civil case filed in the court to fund the construction, renovation, or improvement of the facilities that house the Bexar County civil and criminal courts. The additional fee does not apply to a suit affecting the parent-child relationship for the adoption of a child or the termination of parental rights. The bill makes its provisions relating to the additional fee applicable only to the collection of fees for the 12-month period beginning October 1, and makes the collection of such fees contingent on the commissioners court's adoption and filing of a resolution authorizing the fee and a resolution requiring the county to match the construction, renovation, or improvement expenditures. The bill continues such a resolution from year to year until October 1, 2024, sets forth procedures for rescinding a resolution, and abolishes a fee established under a particular resolution on the earlier of the date the resolution is rescinded or October 1, 2024.

#### **House Bill 666**

**Effective:** 9-1-09

**House Author:** Gutierrez et al.

**Senate Sponsor:** Uresti

House Bill 666 amends the Code of Criminal Procedure to increase from \$50 to \$60 the court cost that a person is required to pay to help fund drug court programs on conviction of an offense that is punishable as a Class B misdemeanor or any higher category of offense and that is an intoxication and alcoholic beverage offense or an offense under the Texas Controlled Substances Act. The bill makes conforming changes to the Government Code.

#### **House Bill 1750**

**Effective:** 6-19-09

**House Author:** Bonnen

**Senate Sponsor:** Huffman

House Bill 1750 amends the Government Code to authorize the Commissioners Court of Brazoria County to select criminal law magistrates for Brazoria County and sets forth provisions regarding the appointment, salary, qualifications, benefits, powers, duties, and judicial immunity of such a magistrate. The bill provides that a criminal law magistrate has concurrent jurisdiction with the judges of the justice of the peace courts of Brazoria County and sets forth provisions relating to witnesses who appear or are summoned to appear before such a magistrate. The bill makes a conforming change to the Code of Criminal Procedure.

**House Bill 1793**

**Effective:** 9-1-09

**House Author:** Farrar et al.

**Senate Sponsor:** Zaffirini

House Bill 1793 amends the Government Code to require each judge of a court with jurisdiction to hear a complaint against a child alleging a violation of certain misdemeanor offenses to complete during every judicial academic year that ends in a 0 or a 5 training on understanding relevant issues of child welfare and the federal Individuals with Disabilities Education Act. The bill requires the court of criminal appeals to adopt the rules necessary to provide for such training not later than March 10, 2010, and authorizes the court, in adopting the rules, to consult with the supreme court and with professional groups and associations in Texas that have expertise in the subject matter to obtain recommendations for instructional content. A judge who is in office on the bill's effective date is not required to complete the judicial training before September 1, 2010.

**House Bill 2435**

**Effective:** 9-1-09

**House Author:** Phillips

**Senate Sponsor:** Hinojosa

House Bill 2435 amends the Civil Practice and Remedies Code to authorize a civil or family law arbitration trial by a special judge to be held in a public courtroom and a public employee to be involved in the trial during regular work hours if ordered by the judge who referred the case to the special judge.

**House Bill 3417**

**Effective:** 9-1-09

**House Author:** Oliveira et al.

**Senate Sponsor:** Lucio

House Bill 3417 amends the Government Code to expand a Cameron County criminal law hearing officer's limited concurrent jurisdiction over criminal cases filed in the district courts, statutory county courts, and justice courts of Cameron County to include hearing, considering, and ruling on certain writs of habeas corpus and, on motion of the district attorney, dismissing a criminal case when the arresting agency has not timely filed the offense report with the district attorney and reducing the amount of bond on prisoners held at the county jail whose cases have not been filed in a district court or a statutory county court.

**House Bill 3464**

**Effective:** 9-1-09

**House Author:** Keffer

**Senate Sponsor:** Averitt

House Bill 3464 amends the Local Government Code to move jurisdiction over a trial for the enforcement of certain development regulations in Hood County from a district court to a justice court.

**House Bill 3637**

**Effective:** 9-1-09

**House Author:** Hughes

**Senate Sponsor:** Wentworth

House Bill 3637 amends provisions of the Code of Criminal Procedure and Government Code to create the county and district court technology fund funded by a \$4 county and district court technology fee required to be paid by a defendant on conviction in a county court, statutory county court, or district court. The bill provides for the collection of the fee for deposit in the technology fund and for the administration of the fund. The bill authorizes a technology fund to be used only to finance the cost of continuing education and training for county court, statutory county court, or district court judges and clerks regarding technological enhancements for those courts and the cost of the purchase and maintenance of technological enhancements for those courts.

House Bill 3637 amends the Local Government Code to clarify that the clerk of a district court is required to collect filing fees for certain civil actions and proceedings used in programs that provide basic civil legal services for indigents in addition to the consolidated civil fee collected on the filing of any civil suit. The bill increases from \$5 to \$10 the amount of the additional filing fee collected in a statutory or constitutional county court for certain civil actions and proceedings for use in programs that provide basic civil legal services for indigents, increases from \$2 to \$6 the amount of the additional filing fee collected in a justice of the peace court for certain civil actions and proceedings for use in such programs, and makes conforming changes to the Government Code. The bill decreases from 2.4 million to 1.3 million the minimum population of a county for which special provisions related to funds paid into the registry of any court applies.

House Bill 3637 amends the Government Code to authorize a county court or county court at law in which an appeal of an eviction suit is filed, on a written application of any party to the suit, to appoint certain qualified attorneys or counsels who are willing to provide pro bono legal services to help a party who was in possession of the residence at the time the eviction suit was filed in the justice court and who has perfected the appeal on an approved pauper's affidavit. The bill provides for the venue and for the termination of such appointed counsel, prohibits appointed counsel from receiving attorney's fees unless otherwise provided, and requires the court to provide for a method of service of written notice on the parties of the right to the appointment of counsel.

House Bill 3637 requires the clerk of a county court, statutory county court, or district court to collect an additional filing fee of not more than \$10 in each civil case filed in the court to be deposited in a county court record preservation account. Money in the account may be used only to digitize court records and protect the records from natural disasters.

**House Bill 4529**  
**Effective:** 6-19-09

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

House Bill 4529 amends the Government Code to require the clerk of each court that has an official court reporter and that serves a county located on the Texas-Mexico border that contains a municipality with a population of 500,000 or more to collect a court reporter service fee of \$30, rather than \$15, as a court cost in each civil case filed with the clerk.

**House Bill 4833**  
**Effective:** See below

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

House Bill 4833 amends provisions of the Government Code and Human Resources Code relating to the creation of district courts and statutory county courts and to the composition of juvenile boards in certain counties. Effective on the date specified, the bill creates the 431st Judicial District in Denton County on January 1, 2011, the 432nd Judicial District in Tarrant County on September 1, 2009, the 436th Judicial District in Bexar County on October 1, 2009, the 437th Judicial District in Bexar County on December 15, 2009, the 438th Judicial District in Bexar County on September 1, 2010, the 439th Judicial District in Rockwall County on November 1, 2010, and the 441st Judicial District in Midland County on September 1, 2009. The bill requires the 432nd and 437th District Courts to give preference to criminal matters, the 436th District Court to give preference to juvenile matters, and the 438th District Court to give preference to civil matters. The bill modifies the terms of the 110th District Court.

House Bill 4833 creates three additional statutory county courts at law in Bexar County on September 1, 2009, to be designated as the County Court at Law No. 13 of Bexar County, Texas, the County Court at Law No. 14 of Bexar County, Texas, and the County Court at Law

No. 15 of Bexar County, Texas. The bill requires the County Court at Law No. 13 of Bexar County to give preference to certain cases involving family violence and assault. The bill sets forth provisions regarding the following with respect to the additional courts: the courts' terms, the appointment or election of a special judge, the required attendance of the criminal district attorney, the appointment of a court coordinator or administrative assistant for the court, and the official court reporter's fee. The bill exempts the additional courts from provisions regarding the execution of a bond by and the removal from office of a statutory county court judge.

House Bill 4833 creates the County Court at Law of Bosque County on October 1, 2009, and sets forth provisions regarding the court's jurisdiction and terms, the judge's qualifications and compensation, the court's administrative and clerical personnel, the composition of the juries, and the use of jurors. The bill creates the Fannin County Court at Law on September 1, 2009, and sets forth provisions regarding the court's jurisdiction. The bill creates the County Court at Law of Navarro County on January 1, 2011, or on an earlier date determined by the county commissioners court. The bill sets forth the following with respect to the County Court at Law of Navarro County, a county court at law in Hunt County, and, effective January 1, 2011, the Van Zandt County Court at Law: the courts' jurisdiction, the judges' qualifications and compensation, the prohibition against the judges' private practice of law, the role of the district clerk and county clerk, the official court reporters' compensation, and the transfer and use of jurors summoned for a county court at law or a district court in the county to another court for service. The bill creates the County Court at Law No. 7 of Hidalgo County on September 1, 2011, and the County Court at Law No. 8 of Hidalgo County on September 1, 2012.

House Bill 4833 amends the Human Resources Code to expand, effective October 1, 2009, the composition of the Bosque, Comanche, and Hamilton Counties juvenile board to include the judge of the County Court at Law in Bosque County. The bill requires the Hunt County Juvenile Board to designate a juvenile court judge as the board's chairman and its chief administrative officer and authorizes, rather than requires, each judge on the board to appoint a citizen to serve on the advisory council. Effective January 1, 2011, the bill expands the composition of the Van Zandt County Juvenile Board to include the judge of the Van Zandt County Court at Law.

Previous law provided that the voters of Hale and Swisher Counties elect a district attorney for the 64th Judicial District who represents the state in that district court in those counties. House Bill 4833 amends the Government Code to remove Swisher County from that provision, to require the county attorney in Swisher County to represent the state in all matters pending before the district court in Swisher County, and to include the Swisher County attorney within the scope of certain statutory provisions regarding the compensation, expenses, and limitations on law practice of professional prosecutors.

House Bill 4833 amends the Health and Safety Code to authorize the commissioners court of a county to establish a veterans court program, which must have certain essential characteristics, for persons who are veterans or current members of the United States armed forces, who have a certain mental illness, and who are arrested for or charged with any misdemeanor or felony offense. The bill requires the court in which a criminal case is pending to dismiss the action against a defendant if the defendant successfully completes a veterans court program and the court determines that dismissal is in the best interest of justice. The bill sets forth the duties of a veterans court, the authority of counties to establish a regional veterans court program, oversight of the programs by committees assigned by the lieutenant governor and the speaker of the house of representatives, and program participation fees.

House Bill 4833 amends the Code of Criminal Procedure to modify the conditions that must be met for a person to be eligible for expunction of files and arrest records to include a dismissal

or quashal of the indictment or information because the person completed a pretrial intervention program operated by a community supervision and corrections department.

Except as otherwise provided, House Bill 4833 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**Senate Bill 333**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Jackson, Jim

Senate Bill 333 amends the Code of Criminal Procedure to require the custodian of a municipal or county treasury in a county that maintains a certified breath alcohol testing program but does not use the services of a certified technical supervisor to retain \$22.50 of each court cost collected from the consolidated fees paid on conviction of an intoxication or alcoholic beverage offense other than a Class C misdemeanor to defray the costs of maintaining and supporting the program.

**Senate Bill 408**

**Effective:** See below

**Senate Author:** Carona

**House Sponsor:** Hughes

Senate Bill 408 amends provisions of the Civil Practice and Remedies Code and Government Code to authorize a person to take, and a court of appeals to hear, an appeal or writ of error from a final judgment of the district or county court if the judgment or amount in controversy exceeds \$250, rather than \$100.

Senate Bill 408 amends the Government Code to authorize a county court or county court at law in which an appeal of an eviction suit is filed, on a written application of any party to the suit, to appoint certain qualified attorneys or counsels who are willing to provide pro bono legal services to help a party who was in possession of the residence at the time the eviction suit was filed in the justice court and who has perfected the appeal on an approved pauper's affidavit. The bill provides for the venue and for the termination of such appointed counsel, prohibits appointed counsel from receiving attorney's fees unless otherwise provided, and requires the court to provide for a method of service of written notice on the parties of the right to an appointment of such counsel.

Senate Bill 408 clarifies that an appeal from a small claims court to a county court or county court at law is handled in the manner provided by law for appeals from justice courts, and authorizes a person to appeal the final judgment of the county court or county court at law on the appeal to the court of appeals, rather than providing that such judgment is final.

Senate Bill 408 provides that a decision of a local administrative unit relating to financial assistance under the Temporary Assistance to Needy Families (TANF) program that is appealed to the Health and Human Services Commission by an applicant for or recipient of assistance is subject to certain conditions that determine when the applicant or recipient has exhausted all administrative remedies and is entitled to judicial review. The bill clarifies that benefits provided under the TANF program are included within the meaning of "public assistance benefits."

Senate Bill 408 amends Health and Safety Code provisions relating to appeals of court decisions divesting animal owners of such ownership based on animal cruelty.

Senate Bill 408 amends the Probate Code to update provisions related to jurisdiction of probate proceedings and proceedings regarding powers of attorney and trusts. The bill sets forth provisions regarding general probate court jurisdiction and appeals; matters related to probate proceedings in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, and in a county in which there is no such statutory probate court but there is such a county court at law; original jurisdiction for probate proceedings;

jurisdiction of a contested probate proceeding in a county with no statutory probate court or statutory county court; jurisdiction of a contested probate proceeding in a county with no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction; exclusive jurisdiction of probate proceedings in a county with a statutory probate court; jurisdiction of a statutory probate court with respect to trusts and powers of attorney; and concurrent jurisdiction of statutory probate courts and district courts. Effective January 1, 2014, the bill repeals those provisions and adds them to the Estates Code. The bill amends the Government Code to make conforming changes. The bill amends the Property Code to provide that to the extent of a conflict between a provision of that code relating to the venue in a proceeding brought by the attorney general alleging breach of a fiduciary duty by a fiduciary or managerial agent of a charitable trust and any provision of the Probate Code providing for venue of a proceeding brought with respect to a charitable trust created by a will that has been admitted to probate, the Property Code provision controls.

Senate Bill 408 amends Civil Practice and Remedies Code provisions relating to the liability of a nonmanufacturing seller in a products liability suit and the court's jurisdiction over a nonresident manufacturer in the suit.

Senate Bill 408 makes its provisions effective September 1, 2009, except as otherwise provided.

**Senate Bill 409**

**Effective:** 5-27-09

**Senate Author:** Carona

**House Sponsor:** Naishtat

Senate Bill 409 amends the Local Government Code to add the first copy of a document in a criminal case issued to a criminal defendant in the case, an attorney representing a criminal defendant in the case, or a prosecuting attorney to the services for which a justice of the peace is not entitled to a fee.

**Senate Bill 415**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Kent et al.

Senate Bill 415 amends the Code of Criminal Procedure to authorize a magistrate to order an accused who is charged with a misdemeanor punishable by fine only and who is taken before and identified by the magistrate to appear at a later date for arraignment in the applicable justice court or municipal court rather than in the county court or statutory county court.

**Senate Bill 490**

**Effective:** 9-1-09

**Senate Author:** West

**House Sponsor:** Vaught

Senate Bill 490 amends the Local Government Code to decrease from 2.4 million to 1.3 million the minimum population of a county to which special provisions related to funds paid into the registry of any court apply.

**Senate Bill 633**

**Effective:** 6-19-09

**Senate Author:** Seliger

**House Sponsor:** Madden

Senate Bill 633 amends the Health and Safety Code to reduce from three to two the minimum number of counties or municipalities necessary to establish a regional drug court program.

**Senate Bill 683**

**Effective:** 9-1-09

**Senate Author:** Wentworth

**House Sponsor:** Hartnett

Senate Bill 683 amends provisions of the Government Code relating to procedures for assigning judges on the recusal or disqualification of a statutory probate court judge. The bill



requires the presiding judge of an administrative judicial district, following the issuance of a recusal or disqualification order in a particular case, to assign a statutory probate court judge or a former or retired judge of a statutory probate court to hear the case under certain circumstances and sets out contingencies if a judge is not assigned by a certain deadline. The bill clarifies the employment status of appointed statutory probate court associate judges when the appointing judge vacates office, provides circumstances in which the associate judge may continue the administrative business of the court, and prohibits the associate judge from performing any judicial function until a successor judge is appointed or elected. The bill expands the powers of an appointed associate judge and sets forth provisions regarding court reporters, preservation of the record in a hearing held by an associate judge, and consideration of the record by the referring court in a de novo hearing. The bill also authorizes the associate judge's report to be in the form of a proposed order, sets forth the effect of such an order, and authorizes a party to request a de novo hearing before the referring court, rather than authorizing a party to appeal an associate judge's report to the referring court.

**Senate Bill 1166**

**Effective:** See below

**Senate Author:** Duncan

**House Sponsor:** Chisum

Senate Bill 1166 amends the Government Code to provide that the voters of Hale County, rather than Hale and Swisher Counties, elect a district attorney for the 64th Judicial District who represents the state in that district court only in Hale County, rather than in those counties. The bill requires the county attorney in Swisher County to represent the state in all matters pending before the district court in Swisher County and includes the Swisher county attorney within the scope of certain statutory provisions regarding the compensation, expenses, and limitations on law practice of professional prosecutors.

Senate Bill 1166 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**Senate Bill 1436**

**Effective:** 6-19-09

**Senate Author:** Watson

**House Sponsor:** Hartnett

Current law entitles a judge who receives a sanction issued by the State Commission on Judicial Conduct to a review of the commission's decision by a special court of review. Senate Bill 1436 amends the Government Code to extend this entitlement to a judge who receives a censure issued by the commission and to provide that the review by the court of a censure is a review of the record of the proceedings that resulted in the censure and is based on the law and facts that were presented in the proceedings and any additional evidence that the court in its discretion may, for good cause, permit.

**Senate Bill 1774**

**Effective:** 9-1-09

**Senate Author:** Whitmire

**House Sponsor:** Hernandez

Senate Bill 1774 amends the Code of Criminal Procedure to authorize a district or county court clerk to dispose of an eligible exhibit used in a criminal proceeding or to deliver the eligible exhibit to the county purchasing agent for disposal as surplus or salvage property if either party's attorney has not timely requested the exhibit, subject to certain notice requirements in a county with a population of less than 1.7 million. The bill requires the county commissioners court to remit 50 percent of any proceeds of the disposal of any eligible exhibit as surplus or salvage property, less the reasonable expense of keeping the exhibit before disposal and the costs of that disposal, to the county treasury, to be used only to defray the costs incurred by the district clerk of the county for the management, maintenance, or destruction of eligible exhibits in the county, and to the state treasury to the credit of the crime victims' compensation fund.

**Senate Bill 2038**  
**Effective:** Vetoed

**Senate Author:** Duncan  
**House Sponsor:** Hartnett

Senate Bill 2038 amends the Government Code to require the Supreme Court of Texas, a court, executive branch, or other entity interpreting and applying a codified or revised statute to give the statute the same effect and meaning that was or would have been given to the statute before its codification or revision and requires that any omission or change in the codified or revised statute be considered unintended and be given no effect if the court, executive branch, or other entity finds no direct express evidence of legislative intent to change the sense, meaning, or effect of the statute. The bill applies its provisions to the interpretation or application by a court, executive branch agency, or other entity of a statute that was enacted by the legislature for the purpose of codifying or revising without substantive change statutes that individually relate to different subjects and that was prepared for the legislature's consideration by the Texas Legislative Council under the authority of the statutory revision program. The bill establishes that the codification or revision of a statute to which its provisions apply does not affect the meaning or effect of the statute.

Reason Given for Veto: "The plain words of a statute are the starting point for interpreting the law. Senate Bill No. 2038 would eliminate this fundamental principle. Citizens, judges and lawyers may debate the proper interpretation and application of those words but they may not debate what those words are. Senate Bill No. 2038 would abandon that basic and necessary premise. The reliability of the language found in the Texas codes would be subject to second guessing. Judges would no longer be able to apply the law simply by looking at its plain text. Senate Bill No. 2038 would likely result in an increase in litigation as lawyers would challenge the plain meaning of Texas statutes and compel courts to look to repealed codes and former session laws to determine what is Texas law.

"The codification and revision process was established to make Texas law more accessible. Senate Bill No. 2038 would undermine the very purpose of the codification process by forcing both practitioners and ordinary citizens to locate and research old versions of our laws in order to determine if the current Texas codes really mean what they say.

"Similar legislation, House Bill No. 2809, was vetoed in 2001. The concerns that existed then still exist today. Determining our state's laws should not be a burdensome process; Texans should be able to determine what our law says by simply reading the codes."

**Senate Bill 2279**  
**Effective:** 6-19-09

**Senate Author:** Ellis et al.  
**House Sponsor:** Turner, Sylvester

Senate Bill 2279 amends the Government Code to require the comptroller of public accounts to credit to the judicial fund for programs approved by the Supreme Court of Texas that provide basic civil legal services to the indigent the net amount of a civil penalty that is recovered in an action by the attorney general in any matter that is actionable under the Deceptive Trade Practices-Consumer Protection Act after deducting amounts allocated to or retained by the attorney general as authorized by law, unless another law requires that the penalty be credited to a different fund or account or the judgment awarding the penalty requires that the penalty be paid to another named recipient. The bill prohibits the total amount credited to the judicial fund for such programs from exceeding \$10 million per state fiscal biennium.

## Municipal Courts

### House Bill 4742

**Effective:** 6-19-09

**House Author:** Naishtat

**Senate Sponsor:** Watson

House Bill 4742 repeals a provision of the Government Code that exempted municipal courts of record in the City of Austin from a provision authorizing the governing body of the municipality to provide for the recording of court proceedings by a good quality electronic recording device in lieu of providing a court reporter.

### House Bill 4750

**Effective:** 6-19-09

**House Author:** Geren

**Senate Sponsor:** Nelson

House Bill 4750 amends the Government Code to authorize the governing body of the City of White Settlement to appoint one or more magistrates to act on behalf of a municipal court of record or a municipal court in the City of White Settlement. The bill provides that a magistrate is not required to possess all the qualifications necessary to be a municipal court of record judge, prohibits a magistrate from presiding over the court or hearing contested cases, and authorizes a magistrate to conduct an arraignment, hold an indigency hearing, accept a plea, sign a judgment, set the amount of a bond, and perform other functions prescribed for a magistrate in the Code of Criminal Procedure.

### Senate Bill 420

**Effective:** 6-19-09

**Senate Author:** Carona

**House Sponsor:** Hughes

Senate Bill 420 repeals a provision of the Transportation Code that specified that the prohibition against a political subdivision or state agency establishing or maintaining a plan to evaluate, promote, compensate, or discipline a justice of the peace or certain judges, including a municipal court and municipal court of record judge, according to the amount of money the justice or judge collects from persons convicted of a traffic offense does not prohibit a municipality from considering the source and amount of money collected from a municipal court or a municipal court of record when evaluating the performance of a judge employed by the municipality.

### Senate Bill 1504

**Effective:** 9-1-09

**Senate Author:** Whitmire

**House Sponsor:** Woolley

Senate Bill 1504 amends the Code of Criminal Procedure and Government Code to authorize a municipality with a population of 1.9 million or more and another municipality contiguous to that municipality to enter into an agreement providing concurrent jurisdiction for the municipal courts of either jurisdiction for all criminal cases arising from offenses under state law that are committed on the boundary of those municipalities or within 200 yards of that boundary and punishable by fine only. The bill authorizes such an offense to be prosecuted in either of those municipalities.

## County Courts

### House Bill 1682

**Effective:** 9-1-09

**House Author:** Cook

**Senate Sponsor:** Averitt

House Bill 1682 amends the Government Code to create the County Court at Law of Navarro County effective January 1, 2011, or on an earlier date determined by the county commissioners court by an order entered in its minutes and to establish that a county court at

## Courts

law in Navarro County has concurrent jurisdiction with the district court in Class A and Class B misdemeanor cases, family law matters, juvenile matters, probate matters, appeals from the justice and municipal courts, and in conducting certain proceedings and accepting guilty pleas in felony cases. The bill establishes that a county court at law in Navarro County does not have general supervisory control or appellate review of the commissioners court or jurisdiction of certain proceedings, requires the judge of such a court to meet the qualifications of a district judge, prohibits the judge from engaging in the private practice of law, and sets forth provisions regarding the judge's salary, the role of the district clerk and county clerk, the official court reporter's salary, and the transfer and use of jurors summoned for a county court at law or a district court in the county to another court for service.

### **House Bill 2232**

**Effective:** 9-1-09

**House Author:** Phillips

**Senate Sponsor:** Deuell

House Bill 2232 amends the Government Code to create the County Court at Law of Fannin County.

### **House Bill 2835**

**Effective:** 6-19-09

**House Author:** Marquez

**Senate Sponsor:** Shapleigh

House Bill 2835 amends the Local Government Code to authorize a county judge in a county with a population of more than 600,000 located on the international border to file an order with the commissioners court delegating to a county commissioner the ability to sign orders or other official documents, and to allow such a county judge to sign a standing order of emergency authorizing a county commissioner to sign orders or documents in the event of an emergency or disaster. The county judge may revoke the delegated authority or transfer it to a different commissioner.

### **House Bill 4685**

**Effective:** Vetoed

**House Author:** Homer

**Senate Sponsor:** Eltife

House Bill 4685 amends the Government Code to provide for the statutory jurisdiction and the terms of the County Court of Titus County. The bill authorizes a judge of a district court in Titus County and the judge of the county court to enter into a written agreement granting the county court jurisdiction to hear certain matters, prohibits the county court judge from entering into such an agreement unless certain conditions are met, and authorizes such an agreement to provide that a final judgment be approved by the district court judge. The bill provides that the county judge has the same judicial immunity as the district court judge when presiding over cases authorized under an agreement, establishes that all pleadings, documents, records, and other papers in district court cases heard by a county court judge remain under the control of the district clerk, and authorizes the district clerk to establish a separate docket for the cases considered by the county court judge.

Reason Given for Veto: "House Bill No. 4685 violates Article 5, Section 16 of the Texas Constitution by attempting to provide additional jurisdiction to the Titus County Court through an agreement between the county court judge and district court judge. Under the Texas Constitution, jurisdiction can be transferred only by state law and not by agreements between judges."

### **House Bill 4718**

**Effective:** 9-1-09

**House Author:** Lewis

**Senate Sponsor:** Seliger

House Bill 4718 amends the Government Code to provide that the fees assessed in a case filed in a county court at law in Ector County in which the county court at law has concurrent civil jurisdiction with the district court are the same as the fees that would be assessed in the district court for that case.

**House Bill 4741****Effective:** 9-1-09**House Author:** Gutierrez**Senate Sponsor:** Uresti

House Bill 4741 amends the Government Code to create three additional statutory county courts at law in Bexar County on September 1, 2009, to be designated as the County Court at Law No. 13 of Bexar County, Texas, the County Court at Law No. 14 of Bexar County, Texas, and the County Court at Law No. 15 of Bexar County, Texas. The bill requires the County Court at Law No. 13 of Bexar County to give preference to certain cases involving family violence and assault. The bill sets forth provisions regarding the following with respect to the additional courts: the courts' terms, the appointment or election of a special judge, the required attendance of the criminal district attorney, the appointment of a court coordinator or administrative assistant for the court, and the official court reporter's fee. The bill exempts the additional courts from provisions requiring a statutory county court judge to execute a bond for county judges and from provisions authorizing a statutory county court judge to be removed from office in the same manner and for the same reasons as a county judge.

**House Bill 4793****Effective:** 9-1-11**House Author:** Gonzales et al.**Senate Sponsor:** Hinojosa

House Bill 4793 amends the Government Code to create two additional statutory county courts at law in Hidalgo County to be designated the County Court at Law No. 7 of Hidalgo County and the County Court at Law No. 8 of Hidalgo County. The bill provides that the County Court at Law No. 7 is created on September 1, 2011, and the County Court at Law No. 8 is created on September 1, 2012.

**Senate Bill 407****Effective:** 5-30-09**Senate Author:** Shapiro**House Sponsor:** Jackson, Jim

Senate Bill 407 amends the Government Code to authorize a county judge in a county with a population of two million or more to appoint one or more part-time magistrates to hear a matter alleging a violation of laws relating to the failure to attend school and a parent's failure to require a child to attend school.

**Senate Bill 2229****Effective:** 10-1-09**Senate Author:** Averitt**House Sponsor:** Orr

Senate Bill 2229 amends the Government Code to create the County Court at Law of Bosque County and to provide that the court has primary jurisdiction over juvenile matters and concurrent jurisdiction with the district court in family law cases and proceedings, civil cases in which the matter in controversy exceeds \$500 but does not exceed \$100,000, excluding interest, court costs, and attorney's fees, and certain contested probate matters. The bill establishes that a county court at law in Bosque County has the same terms of court as the County Court of Bosque County, prohibits a judge of such a county court at law from engaging in the private practice of law, requires the judge to meet certain qualifications, and sets forth provisions regarding the judge's salary and office and operational expenses. The bill sets forth provisions regarding the composition of a jury in a county court at law in Bosque County and the availability of jurors regularly impaneled by the district court to serve in the county court or the county court at law.

Senate Bill 2229 amends the Human Resources Code to include the judge of the County Court at Law of Bosque County in the composition of the Bosque, Comanche, and Hamilton Counties juvenile board.

**Senate Bill 2469**

**Effective:** 9-1-11

**Senate Author:** Hinojosa et al.

**House Sponsor:** Gonzales

Senate Bill 2469 amends the Government Code to create two additional statutory county courts at law in Hidalgo County to be designated the County Court at Law No. 7 of Hidalgo County and the County Court at Law No. 8 of Hidalgo County. The bill provides that the County Court at Law No. 7 is created on September 1, 2011, and the County Court at Law No. 8 is created on September 1, 2012.

**District Courts**

**House Bill 1551**

**Effective:** 9-1-09

**House Author:** Herrero

**Senate Sponsor:** Hinojosa

House Bill 1551 amends the Government Code to authorize the judges of the district courts in Nueces County to employ additional official court reporters to serve the county's district courts if a majority of such judges believe more official court reporters are necessary. The bill requires the district court judges, by majority vote, to determine the method of hiring the additional official court reporters, requires the presiding judge of the Nueces County district courts to determine the assignments of the additional official court reporters, and caps the total number of official court reporters serving the district courts at an amount that equals one and one-half full-time employees multiplied by the number of district courts in the county.

**House Bill 3468**

**Effective:** 9-1-09

**House Author:** Naishtat

**Senate Sponsor:** Wentworth

House Bill 3468 amends the Government Code to require the judges of the Travis County district courts that give preference to criminal cases to elect from among those judges a presiding criminal judge for the county for a two-year term expiring September 30 of each odd-numbered year with the initial term beginning October 1, 2009. The bill sets forth the duties of the presiding criminal judge, the judge's compensation, and the effect of the judge's compensation on the salary of a county court at law or statutory probate court judge in Travis County.

**House Bill 3554**

**Effective:** 6-19-09

**House Author:** Bonnen

**Senate Sponsor:** Jackson, Mike

House Bill 3554 amends the Government Code to authorize the judge of a district court in Brazoria County to appoint one or more associate judges, who have the same judicial immunity as a district judge, to perform the duties and exercise the powers prescribed for an associate judge in that county, a magistrate for a drug court program, and an associate judge in a suit affecting the parent-child relationship. The bill sets forth the proceedings that a Brazoria County district court judge may refer to an associate judge and prohibits an associate judge from presiding over a criminal trial on the merits.

House Bill 3554 amends the Code of Criminal Procedure to add an associate judge appointed under the above provisions to the list of officers who are magistrates within the meaning of that code.

**Senate Bill 1575****Effective:** 9-1-09**Senate Author:** Hinojosa**House Sponsor:** Martinez, “Mando”

Senate Bill 1575 amends the Government Code to require all civil and criminal cases in the district courts in Hidalgo County to be assigned and docketed at random by the district clerk using an automated system and to require the clerk, in assigning a case to a district court, to take into consideration any requirement that a district court in Hidalgo County give preference to specific matters.

**Senate Bill 2217****Effective:** 9-1-09**Senate Author:** Ellis**House Sponsor:** Woolley et al.

Senate Bill 2217 amends the Government Code to require, not later than October 1, 2009, the district court judges of 25 specified Harris County judicial districts by agreement to designate one of those district courts as the domestic violence district court for Harris County and to give preference to a district court that has a vacancy or for which the sitting judge has not announced a candidacy or become a candidate in an upcoming election for that judicial office. The bill requires the local administrative judge for the Harris County district courts to designate the court if the judges fail to designate one on or before October 1, 2009. The bill sets forth the domestic violence district court’s jurisdiction and requirements relating to the duties of the court and of the Harris County district clerk.

**Senate Bill 2230****Effective:** 9-1-09**Senate Author:** Averitt**House Sponsor:** Anderson

Senate Bill 2230 amends the Government Code to add the 414th District Court to the list of district courts that have concurrent jurisdiction in McLennan County and to establish that the 19th, 54th, 74th, 170th, and 414th District Courts have concurrent jurisdiction with the county court and the statutory county courts of McLennan County in misdemeanor cases. The bill modifies the terms of the 19th District Court and provides that the terms of the 414th District Court begin on the first Mondays in January, March, May, July, September, and November.

**Senate Bill 2454****Effective:** 6-19-09**Senate Author:** Harris**House Sponsor:** Smith, Todd

Senate Bill 2454 amends the Government Code to require the following district courts in Tarrant County to give preference to civil matters: the 17th District Court, the 48th District Court, the 67th District Court, the 96th District Court, the 153rd District Court, the 141st District Court, and the 236th District Court.

**Senate Bill 2554****Effective:** 6-19-09**Senate Author:** Hegar**House Sponsor:** Weber

Senate Bill 2554 amends the Government Code to authorize the judge of the 130th District Court to appoint a bailiff who must be a resident of Matagorda County and who must be at least 21 years old. The bill requires the sheriff of Matagorda County to deputize the bailiff on the request of the 130th District Court judge, requires the bailiff to swear to a specified oath, and entitles the bailiff to a salary set by the county commissioners court.

## Courts of Appeals

### **House Bill 4314**

**Effective:** 9-1-09

**House Author:** Gallego et al.

**Senate Sponsor:** Shapleigh

House Bill 4314 amends the Government Code to authorize the court of criminal appeals to adopt rules and procedures providing for and governing the electronic filing of briefs, pleadings, and other documents for capital cases in that court and to require the court of criminal appeals, in the adoption of those rules and procedures, to coordinate with the supreme court and the rules and procedures adopted by the supreme court.

### **Senate Bill 658**

**Effective:** 9-1-09

**Senate Author:** Eltife

**House Sponsor:** Hughes

Senate Bill 658 amends the Government Code to require the commissioners court of each county in the Sixth Court of Appeals District to establish an appellate judicial system to assist the court of appeals for each county in the district in the processing of appeals from the county courts, statutory county courts, probate courts, and district courts. To fund the system, each county commissioners court must set a court costs fee of \$5 for each civil suit filed in county court, statutory county court, probate court, or district court in the county, except for a suit filed by any governmental entity or a suit for delinquent taxes. The bill provides for the taxation, collection, and payment of the fee and the deposit of the fee in a separate appellate judicial system fund. The bill requires the commissioners court to administer the fund, to be used solely for the purpose of establishing and maintaining a fund system to assist the Sixth Court of Appeals District and any other court of appeals district that has an appellate judicial system in the county, and requires the commissioners court to monthly order the funds collected from the fees to be forwarded in equal amounts to each clerk of a court of appeals that has an appellate judicial system in the county for expenditures by the court of appeals for its judicial system and to vest management of the system in the chief justice of the court of appeals.

### **Senate Bill 659**

**Effective:** 9-1-09

**Senate Author:** Eltife et al.

**House Sponsor:** Hughes

Senate Bill 659 amends the Government Code to require the commissioners court of each county in the Twelfth Court of Appeals District to establish an appellate judicial system to assist the court of appeals for each county in the district in the processing of appeals from the county courts, statutory county courts, probate courts, and district courts. To fund the system, each county commissioners court must set a court costs fee of \$5 for each civil suit filed in county court, statutory county court, probate court, or district court in the county, except for a suit filed by any governmental entity or a suit for delinquent taxes. The bill provides for the taxation, collection, and payment of the fee and the deposit of the fee in a separate appellate judicial system fund. The bill requires the commissioners court to administer the fund, to be used solely for the purpose of establishing and maintaining a fund system to assist the Twelfth Court of Appeals District and any other court of appeals district that has an appellate judicial system in the county, and requires the commissioners court to monthly order the funds collected from the fees to be forwarded in equal amounts to each clerk of a court of appeals that has an appellate judicial system in the county for expenditures by the court of appeals for its judicial system and to vest management of the system in the chief justice of the court of appeals.



**Senate Bill 1208****Effective:** 9-1-09**Senate Author:** Seliger**House Sponsor:** Smithee

Senate Bill 1208 amends the Government Code to require the commissioners court of each county in the Seventh Court of Appeals District to establish an appellate judicial system to assist the court of appeals for each county in the district in the disposition of appeals from the county courts, statutory county courts, probate courts, and district courts, and to defray costs and expenses incurred by the county. To fund the system, each county commissioners court must set a court costs fee of \$5 for each civil suit filed in a county court, statutory county court, probate court, or district court in the county, except for a suit filed by the county or a suit for delinquent taxes. The bill provides for the taxation, collection, and payment of the fee, the deposit of the fee in a separate appellate judicial system fund, and the disbursement and authorized uses of the fee.

**Senate Bill 1259****Effective:** 6-19-09**Senate Author:** Hegar**House Sponsor:** Hughes

Senate Bill 1259 amends the Government Code to require the commissioners court of each county in the Seventh Court of Appeals District to establish an appellate judicial system to assist the court of appeals for each county in the district in the disposition of appeals from the county courts, statutory county courts, probate courts, and district courts, and to defray costs and expenses incurred by the county. To fund the system, each county commissioners court must set a court costs fee of \$5 for each civil suit filed in a county court, statutory county court, probate court, or district court in the county, except for a suit filed by the county or a suit for delinquent taxes. The bill provides for the taxation, collection, and payment of the fee, the deposit of the fee in a separate appellate judicial system fund, and the disbursement and authorized uses of the fee.

Senate Bill 1259 authorizes the clerks of the supreme court and courts of appeals to maintain records and documents in an electronic storage format or on microfilm, to establish a records retention policy, and to destroy originals or copies of the records according to that policy. The bill requires the supreme court to adopt rules establishing procedures for protecting personal information contained in records and documents stored by the clerk of an appellate court in an electronic storage format and for accessing those records and documents and provides that a person who complies with such rules is not liable for damages arising from the disclosure of the personal information. The bill authorizes the clerk of the court of criminal appeals to accept electronic documents and digital multimedia evidence received from a defendant, an applicant for a writ of habeas corpus, the clerk of the convicting court, a court reporter, or an attorney representing the state.

Senate Bill 1259 amends the Code of Criminal Procedure to add to the duties of a district court or county court clerk the acceptance and filing of electronic documents and digital multimedia evidence from the defendant, if the clerk accepts such documents and evidence from an attorney representing the state.

**Juries****House Bill 319****Effective:** 9-1-09**House Author:** Raymond et al.**Senate Sponsor:** Carona

House Bill 319 amends the Government Code to allow a person to be exempt from petit jury service if the person has custody of a child younger than 15, rather than 10, years of age, and if such service would leave the child without adequate supervision.

**House Bill 608**

**Effective:** 9-1-09

**House Author:** Castro et al.

**Senate Sponsor:** Wentworth

Current law authorizes a commissioners court to approve a program in which a crime victim liaison or victim assistance coordinator may offer not more than 10 hours of posttrial psychological counseling for a person who serves as a juror or an alternate juror in the trial of a certain violent or sexual offense involving graphic evidence or testimony. House Bill 608 amends provisions of the Code of Criminal Procedure and the Family Code to extend this posttrial psychological counseling to jurors and alternate jurors in any criminal trial or juvenile adjudication hearing involving graphic evidence or testimony.

**House Bill 1665**

**Effective:** 9-1-09

**House Author:** King, Phil

**Senate Sponsor:** Harris

House Bill 1665 amends provisions of the Government Code and Code of Criminal Procedure to increase to \$100 and \$500 the minimum and maximum fines, respectively, that may be levied on a juror who is notified, summoned, or called and fails to attend court without a reasonable excuse, files a false claim of exemption from jury service, or is not present when a criminal case is called for trial and the parties have announced ready for trial.

**Senate Bill 397**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Jackson, Jim

Senate Bill 397 amends the Local Government Code and Government Code to authorize a county treasurer to disburse to a person who reports for jury service and serves the daily amount of reimbursement for jury service expenses by various methods of payment which must be approved by the county commissioners court and administered in accordance with the procedures established by the county auditor or by the chief financial officer, as applicable. A payment system or method may be used in lieu of or in addition to the issuance of warrants or checks and a county that has adopted such a system or method may allow a juror an opportunity to donate all, or a specific part designated by the juror, of the juror's daily reimbursement.

**Senate Bill 1274**

**Effective:** 5-23-09

**Senate Author:** Gallegos

**House Sponsor:** Thompson

Senate Bill 1274 amends the Government Code to authorize a county with a population of 3.3 million or more, and with at least three district or criminal district courts, that uses interchangeable juries to summon a prospective juror to report directly to a justice court in the precinct adjacent to the precinct in which that person resides.

**Senate Bill 1675**

**Effective:** 9-1-09

**Senate Author:** Hinojosa

**House Sponsor:** Madden

Under previous law, a person reporting for jury service could sign a certain form letter directing the county treasurer to donate all or a portion of the juror's per diem payment to certain funds and programs, including the child welfare board of the county. Senate Bill 1675 amends the Government Code to clarify that such reimbursement may be donated to the child welfare, child protective services, or child services board of the county that serves abused and neglected children. The bill requires the form letter to contain a brief description of the programs designated for donation.

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

- House Bill 108 - Civil Remedies and Procedures
- House Bill 1861 - Emergency Response
- House Bill 3594 - Law Enforcement
- House Bill 4068 - Emergency Response
- House Bill 4445 - Occupational Regulation
- Senate Bill 917 - Probate and Guardianship
- Senate Bill 935 - Family Law and Juvenile Justice
- Senate Bill 1081 - Public Officials and Employees
- Senate Bill 1441 - State Government
- Senate Bill 1685 - Local Government
- Senate Bill 2325 - State Government



# Criminal Justice

This chapter covers legislation relating to crime victims and criminal offenses, penalties, and procedures, as well as the qualifications and duties of a defense attorney acting in criminal proceedings. Bills on correctional, juvenile, and rehabilitation facilities, jails, incarcerated individuals, community supervision, parole, and sex offender registration, as well as the functions and duties of the Texas Department of Criminal Justice and the Texas Youth Commission, are in the **Corrections** chapter, and bills relating to law enforcement agencies and concealed handguns and firearms possession are in the **Law Enforcement** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 498

**Effective:** 9-1-09

**House Author:** McClendon et al.

**Senate Sponsor:** Ellis

House Bill 498 establishes the Timothy Cole advisory panel on wrongful convictions to assist the Task Force on Indigent Defense in conducting a study and preparing a report regarding the prevention of wrongful convictions. The bill sets forth the composition of the advisory panel, outlines the objectives of the study, authorizes the Task Force on Indigent Defense to request that certain entities provide to the advisory panel information related to the panel's duties, and requires the task force to prepare a report regarding the results of the study. The bill's provisions expire January 1, 2011.

### House Bill 1736

**Effective:** 9-1-09

**House Author:** Anchia et al.

**Senate Sponsor:** Duncan et al.

House Bill 1736 adds the Tim Cole Act relating to the compensation of and services to persons wrongfully imprisoned. The bill amends the Civil Practice and Remedies Code to increase the lump-sum compensation to which a person found to be wrongfully imprisoned is entitled from \$50,000 multiplied by the number of years served in prison to \$80,000 multiplied by the number of years served in prison and provides for the entitlement to such lump-sum compensation of the heirs, legal representatives, and estate of a deceased person who would be entitled to compensation for wrongful imprisonment, if living, including a person who received a posthumous pardon. The bill removes the specific computation for lump-sum compensation to which a person wrongfully imprisoned and sentenced to death is entitled and sets forth the computation for lump-sum compensation to which a person who was required to register as a sex offender after serving a prison sentence is entitled. The bill provides for the payment of annuity compensation payable in equal monthly installments and the payment of certain tuition and fees to persons entitled to compensation for wrongful imprisonment and modifies provisions regarding the administrative procedures relating to the application for and payment of lump-sum compensation and annuity payments. The bill repeals provisions relating to a person's right to file a suit against the state for compensation.

House Bill 1736 amends provisions of the Government Code regarding reentry and reintegration services for wrongfully imprisoned persons. The bill requires the Texas Department of Criminal Justice (TDCJ) to develop a comprehensive plan to ensure the successful reentry and reintegration of such persons into the community following discharge from TDCJ. The plan must include certain training for, and provide certain identification documents and financial assistance to, wrongfully imprisoned persons to aid with the reentry and reintegration process and to cover living expenses.

House Bill 1736 amends the Health and Safety Code to require the Texas Correctional Office on Offenders with Medical or Mental Impairments to develop a plan to assist wrongfully imprisoned persons who are discharged from TDCJ in accessing and obtaining certain medical and transitional support services.

**House Bill 2058**  
**Effective:** 9-1-09

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

House Bill 2058 amends provisions of the Code of Criminal Procedure to modify the standards for an attorney appointed as lead appellate counsel to represent an indigent defendant in the direct appeal of a capital case. Among other requirements, the appellate attorney must have authored a significant number of appellate briefs relating to cases involving certain serious offenses, have appellate experience in the use of and challenges to mental health or forensic expert witnesses and the use of mitigating evidence at the penalty phase of a death penalty trial, and have participated in continuing legal education courses or other training relating to criminal defense in appealing death penalty cases. The bill sets forth the deadline by which these standards must be amended by the local selection committee of an administrative judicial region and met by those appellate attorneys.

**House Bill 4009**  
**Effective:** See below

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

House Bill 4009 amends the Government Code to require the office of the attorney general to establish a human trafficking prevention task force to develop policies, procedures, data collection, and training to assist in the prevention and prosecution of human trafficking crimes. The bill provides for the composition and duties of the task force and requires it to submit a report regarding its activities, findings, and recommendations to the governor, the lieutenant governor, and the legislature by December 1 of each even-numbered year.

House Bill 4009 requires the Health and Human Services Commission to establish a victims assistance program to assist domestic victims of trafficking with accessing necessary services. The program is to consist of a searchable database of assistance programs for domestic victims; a grant program established to award public and nonprofit organizations that provide assistance to domestic victims; recommended training programs for judges, prosecutors, and law enforcement personnel; and an outreach initiative to ensure that victims, judges, prosecutors, and law enforcement personnel are aware of the program. The bill also creates the trafficking of persons investigation and prosecution account in the general revenue fund and caps the amount of grants that may be distributed from the fund at \$10 million.

House Bill 4009 amends the Human Resources Code to require the executive director of the Texas Juvenile Probation Commission to establish a committee to evaluate and report on alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution. The bill provides for the composition of the committee and requires a report to be submitted to each member of the legislature not later than January 1, 2011. The bill amends the Occupations Code to require the Commission on Law Enforcement Officer Standards and Education by rule to require an officer licensed on or after January 1, 2011, or an officer seeking an intermediate or advanced proficiency certification, to complete a one-time basic education and training program on the trafficking of persons. The commission is also required to make available to each officer a voluntary advanced education and training program on the trafficking of persons and compelling prostitution.

House Bill 4009 amends the Penal Code to increase the penalty for sex trafficking of a child, regardless of whether the actor knows the child's age at the time the offense is committed, and to

establish a defense to prosecution for prostitution if the actor engaged in prostitution because he or she was the victim of trafficking. The bill raises from 17 to 18 the maximum age of a child a person knowingly causes by any means to engage in prostitution used to determine if the person commits the offense of compelling prostitution and clarifies that such behavior constitutes an offense regardless of whether the actor knows the child's age at the time of commission.

House Bill 4009 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**Senate Bill 449**  
**Effective:** 9-1-09

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

Senate Bill 449 amends the Texas Controlled Substances Act in the Health and Safety Code to add certain controlled substances to the lists of substances classified under Penalty Group 1 and Penalty Group 2 and to revise the list of substances classified under Penalty Group 3.

**Senate Bill 1091**  
**Effective:** 9-1-09

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

Senate Bill 1091 amends provisions of the Government Code and the Code of Criminal Procedure to establish the capital writs committee and the office of capital writs, and to require a court to appoint the office to represent an indigent defendant in a capital case who desires appointment of counsel for the purpose of a writ of habeas corpus. The bill provides for the appointment of other competent counsel should the office not accept or be prohibited from accepting an appointment. The bill requires the capital writs committee to submit recommendations for the appointment of director of the office of capital writs to the court of criminal appeals when a vacancy exists for that position. The bill sets forth provisions relating to the duties, appointment, and composition of the committee and requirements regarding the recommendation and appointment of the director of the office. The bill sets forth provisions relating to the funding of the office, the appointment of the director and staff of the office, the powers and duties of the office, and the compensation of appointed attorneys, regardless of whether the attorney is employed by the office. The bill adds the office to the entities for which money in the fair defense account may be appropriated.

## Crime Victim Rights and Services

**House Bill 1003**  
**Effective:** 9-1-09

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

House Bill 1003 amends the Code of Criminal Procedure to require the Texas Department of Criminal Justice to notify a victim of an offense to which victim and witness notification requirements apply or a witness who testified against the defendant at the trial whenever the inmate, if subject to electronic monitoring as a condition of release, ceases to be electronically monitored following the term of imprisonment. The bill requires a community supervision and corrections department supervising a defendant convicted of an offense to which victim and witness notification requirements apply and released on community supervision to provide the same notification whenever the defendant ceases to be electronically monitored.

**House Bill 1372**  
**Effective:** 6-19-09

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

House Bill 1372 amends the Code of Criminal Procedure to include a person who is the victim of the offense of the trafficking of persons in the definition of "victim" for purposes of state law relating to the rights of crime victims.

**House Bill 1985**

**Effective:** 9-1-09

**House Author:** Martinez Fischer et al.

**Senate Sponsor:** Hegar

House Bill 1985 amends the Code of Criminal Procedure to require, rather than authorize, a court, at the request of the victim of an alleged sex offense, to order the defendant to undergo standard diagnostic tests for human immunodeficiency virus (HIV) infection and other sexually transmitted diseases not later than 48 hours after an indictment for the offense is presented against the defendant or the defendant waives the indictment. If a law enforcement agency is unable to locate the defendant during the 48-hour period allowed for the testing, the time period does not begin to run until the law enforcement agency locates the defendant and the defendant is present in the jurisdiction. The bill requires a court to order a defendant who tests positive for HIV to undergo any necessary additional testing.

**House Bill 2236**

**Effective:** 9-1-09

**House Author:** Moody et al.

**Senate Sponsor:** Hinojosa

House Bill 2236 amends the Code of Criminal Procedure to add the right to have the court consider the impact on the victim of a continuance requested by the defendant to the list of rights within the criminal justice system to which a victim, guardian of a victim, or close relative of a deceased victim is entitled, for a victim of an assault or sexual assault who is younger than 17 years of age or whose case involves family violence. The bill requires a court that considers a motion for continuance on the part of a defendant to also consider the impact of the continuance on the victim and, if requested by the attorney representing the state or by counsel for the defendant, to state on the record the reason for granting or denying the continuance.

**House Bill 2626**

**Effective:** 6-19-09

**House Author:** Naishtat et al.

**Senate Sponsor:** Zaffirini et al.

House Bill 2626 amends the Code of Criminal Procedure and the Health and Safety Code to entitle a victim of a sexual assault to the right to a forensic medical examination conducted at a health care facility within 96 hours of the sexual assault and to require a health care facility to conduct the forensic medical examination if the victim arrives at the facility within 96 hours after the assault occurred, consents to the examination, and has not reported the assault to a law enforcement agency at the time of the examination. A health care facility that does not provide diagnosis or treatment services to victims of sexual assault must refer a victim seeking a forensic medical examination to a health care facility that provides services to those victims. The bill requires the Department of Public Safety (DPS) to pay the appropriate fees of the forensic portion of the medical examination and for the evidence collection kit if certain medical personnel conduct the examination within the required time frame and requires the attorney general to reimburse DPS for any fees paid.

House Bill 2626 provides for the development of procedures by DPS for the transfer and preservation of evidence collected during the forensic medical examination and the submission or collection of additional evidence of the alleged sexual assault other than through the examination. The bill prohibits a victim from being required to participate in the investigation or prosecution of an offense as a condition of receiving a forensic medical examination or pay any related fees.

**House Bill 2916**

**Effective:** 6-19-09

**House Author:** McReynolds

**Senate Sponsor:** Whitmire

House Bill 2916 amends the Code of Criminal Procedure to require a claimant who is entitled to file a claim for crime victims' compensation based on criminally injurious conduct in violation of criminal homicide provisions to file such an application not later than three



years after the date the identity of the victim is established by a law enforcement agency. The bill authorizes the attorney general to award crime victims' compensation for pecuniary loss arising from criminally injurious conduct that occurred before January 1, 1980, if the conduct was criminal homicide, if the identity of the victim is established by a law enforcement agency on or after January 1, 2009, and the pecuniary loss was incurred with respect to the victim's funeral or burial on or after that date, and if the claimant files the application for crime victims' compensation within the specified three-year period.

**House Bill 4136****Effective:** 6-19-09**House Author:** Rios Ybarra et al.**Senate Sponsor:** Van de Putte

House Bill 4136 amends the Code of Criminal Procedure to require a court to seal the medical records of a child who is a victim of certain violent or sexual offenses on the court's own motion or on a motion filed by an attorney representing the state, a defendant, a parent or guardian of a child victim or, if the victim is no longer a child, a victim. The bill requires a court to grant a motion for the sealing of the records without a hearing unless contested and prohibits the inspection of sealed medical records by any person except under certain circumstances.

**House Bill 4464****Effective:** 9-1-09**House Author:** Gallego**Senate Sponsor:** Hegar

Previous law required the criminal judgment of a court that orders restitution to be paid to the victim to reflect the name and permanent address of the victim or, if the court determined the inclusion of such information was not in the best interest of the victim, the name and address of a person or agency that would accept and forward the restitution payments to the victim. House Bill 4464 amends the Code of Criminal Procedure to require such a criminal judgment of a court to reflect the name and address of a person or agency that will accept and forward restitution payments to the victim, or if the court specifically elects to have payments made directly to the crime victim, the name and permanent address of the victim at the time of judgment. The bill applies this change to an order of restitution with respect to the direct recipient of a defendant's restitution.

**Senate Bill 808****Effective:** 9-1-09**Senate Author:** Whitmire**House Sponsor:** Gallego

Senate Bill 808 amends the Code of Criminal Procedure to require a claimant in a claim based on criminally injurious conduct in violation of provisions regarding criminal homicide to file an application for crime victims' compensation not later than three years after the date the identity of the victim is established by a law enforcement agency. The bill provides an exception to the prohibition against the attorney general awarding compensation for pecuniary loss arising from criminally injurious conduct that occurred before January 1, 1980, if the conduct was in violation of provisions regarding criminal homicide, the identity of the victim is established by a law enforcement agency on or after September 1, 2009, and the claimant files the application for compensation within the established limitations period.

**Senate Bill 1377****Effective:** 9-1-09**Senate Author:** Harris et al.**House Sponsor:** Edwards

Senate Bill 1377 amends the Code of Criminal Procedure to require the attorney general to annually certify the amount of money remaining in the crime victims auxiliary compensation fund at the end of the preceding state fiscal year, to authorize the attorney general to transfer an amount up to 50 percent of any remaining money in excess of \$5 million to the crime victims compensation fund to be used only for making compensation payments during the fiscal year in

which the amount is transferred, and to prohibit the attorney general from transferring money before the 2011 fiscal year. The bill also modifies the calculation the attorney general must use in certifying the amount of excess money in the crime victims compensation fund available for state agencies that deliver or fund victim-related services or assistance.

## Offenses and Penalties

### House Bill 148

**Effective:** 9-1-09

**House Author:** Smith, Todd

**Senate Sponsor:** Wentworth

House Bill 148 amends the Penal Code to expand the conditions that constitute the Class A misdemeanor offense of barratry and solicitation of professional employment as they apply to a person who is an attorney, chiropractor, physician, surgeon, or private investigator licensed to practice in Texas or a person who is licensed, certified, or registered by a health care regulatory agency of Texas. The conditions are expanded to include the solicitation or knowingly permitting the solicitation, including personal or telephone solicitation, of an individual who has not sought the person's employment, legal representation, advice, or care, within certain time frames, with the intent to obtain professional employment for the person or for another.

### House Bill 176

**Effective:** 9-1-09

**House Author:** King, Susan et al.

**Senate Sponsor:** Seliger

House Bill 176 amends the Penal Code by adding the Janie Lynn Delapaz Act to make aggravated assault a first degree felony if the actor is in a motor vehicle and knowingly discharges a firearm at or in the direction of a habitation, building, or vehicle; is reckless as to whether the habitation, building, or vehicle is occupied; and, in discharging the firearm, causes serious bodily injury to any person.

### House Bill 348

**Effective:** 9-1-09

**House Author:** Pena et al.

**Senate Sponsor:** Carona

House Bill 348 amends the Penal Code to expand the conditions that constitute the state jail felony offense of theft to include theft of insulated or noninsulated tubing, rods, and water gate stems that consist of at least 50 percent aluminum, bronze, or copper and that are valued at less than \$20,000.

### House Bill 671

**Effective:** 9-1-09

**House Author:** Darby et al.

**Senate Sponsor:** Seliger

House Bill 671 amends the Penal Code to increase the penalty for theft to the next higher category if it is shown at trial that, at the time of the offense, the owner of the stolen property was a nonprofit organization or that the actor was a Medicare provider in a contractual relationship with the federal government and the property appropriated came in the actor's custody, possession, or control by virtue of the contractual relationship.

### House Bill 1282

**Effective:** 9-1-09

**House Author:** McClendon et al.

**Senate Sponsor:** Zaffirini

House Bill 1282 amends the Penal Code to make it a Class B misdemeanor to commit theft of a driver's license, commercial driver's license, or personal identification certificate issued by Texas or another state.

**House Bill 1466**  
**Effective:** 5-23-09

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

House Bill 1466 amends the Penal Code to clarify that it is a state jail felony to steal a military grave marker from another person or from a human corpse or grave.

**House Bill 1614**  
**Effective:** 9-1-09

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

Under previous law, a person committed a Class A misdemeanor criminal mischief offense if the person caused whole or partial impairment or interruption of public communications, public transportation, public gas or power supply, or other public service, or caused any public communications or public gas or power supply to be diverted in any manner, and the amount of pecuniary loss resulting from the offense was less than \$1,500.

House Bill 1614 amends the Penal Code to increase the penalty for such a criminal mischief offense causing the same impairment or interruption of services to a state jail felony if the amount of pecuniary loss is less than \$20,000.

**House Bill 1633**  
**Effective:** 9-1-09

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

House Bill 1633 amends provisions of the Code of Criminal Procedure and Family Code relating to the prosecution and punishment of graffiti offenses. The bill requires, rather than authorizes, a court to order a defendant convicted of a graffiti offense or a child adjudicated as having engaged in conduct in violation of provisions relating to graffiti offenses to make restitution with a property owner or political subdivision and modifies the authorized methods of making restitution. The bill requires such a defendant or child to perform a certain number of community service hours as a condition of community supervision or probation based on the amount of pecuniary loss resulting from the offense or conduct. The bill amends the Penal Code to remove the specification that the paint used in the commission of a graffiti offense is aerosol paint.

**House Bill 1721**  
**Effective:** 9-1-09

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

House Bill 1721 amends the Penal Code to expand the offense of taking or attempting to take with force a weapon from a peace officer, parole officer, or community supervision and corrections department officer to include taking or attempting to take a weapon from an employee or official of a correctional facility and makes conforming changes regarding the defense to prosecution for the offense and the third-degree felony and state jail felony penalties for the offense.

**House Bill 1813**  
**Effective:** 9-1-09

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

House Bill 1813 amends the Penal Code to expand the conditions that constitute the third degree felony offense of tampering with governmental records to include tampering with a governmental record that is a written report of a forensic analysis performed on physical evidence for the purpose of determining the connection or relevance of the evidence to a criminal action or that is a written report of the certification, inspection, or maintenance record of certain devices used in the course of such an analysis.

**House Bill 2003**

**Effective:** 9-1-09

**House Author:** McCall et al.

**Senate Sponsor:** Watson

House Bill 2003 amends the Penal Code to create the third degree felony offense of online harassment for a person who uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site without obtaining the other person's consent with the intent to harm, defraud, intimidate, or threaten any person. The bill creates the Class A misdemeanor offense of online harassment for a person who sends an electronic mail, instant message, text message, or similar communication that references a name, domain address, phone number, or other item of identifying information belonging to any person without obtaining the other person's consent, with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication, and with the intent to harm or defraud any person. If the actor commits the Class A misdemeanor offense with the intent to solicit a response by emergency personnel, the penalty is enhanced to a third degree felony. The bill establishes a defense to prosecution for an online harassment offense.

**House Bill 2031**

**Effective:** 9-1-09

**House Author:** England

**Senate Sponsor:** Seliger

House Bill 2031 amends the Penal Code to define "sight order," for purposes of prosecuting certain criminal offenses, to mean a written or electronic instruction to pay money that is authorized by the person giving the instruction and that is payable on demand or at a definite time by the person being instructed to pay. The term includes a check, an electronic debit, or an automatic bank draft.

**House Bill 2066**

**Effective:** 9-1-09

**House Author:** Gallego et al.

**Senate Sponsor:** Nelson

House Bill 2066 amends the Penal Code to enhance the penalty for the offense of assault from a Class A misdemeanor to a third-degree felony if the offense is committed against a person who is in a dating relationship with the defendant or is a member of the defendant's family or household and is committed by strangulation or suffocation. The bill enhances the penalty for the offense of assault to a second-degree felony if the offense is committed against a person who is associated with the offender as described above and is committed by strangulation or suffocation and if it is shown at the trial that the defendant has been previously convicted of an assaultive offense, a criminal homicide offense, kidnapping, or indecency with a child.

**House Bill 2086**

**Effective:** See below

**House Author:** Moody

**Senate Sponsor:** Whitmire

House Bill 2086 enacts a number of provisions relating to the investigation, prosecution, and punishment for certain gang-related and other criminal offenses. The bill amends the Penal Code to add certain offenses relating to escaping from custody and an offense relating to prohibited substances and items in a correctional or detention facility or on property of the Texas Department of Criminal Justice or the Texas Youth Commission to the offenses that constitute an organized criminal activity under certain circumstances. The bill creates the first-degree felony offense of directing activities of certain criminal street gangs.

Current law set the punishment for criminal solicitation of a minor at one category lower than the solicited offense. The bill increases the punishment to the same category as the solicited offense if the actor was 17 years of age or older at the time of the offense and committed the offense to further the activities of a criminal street gang or to avoid detection as a member of a criminal street gang.

House Bill 2086 amends the Penal Code to enhance the penalty for certain organized criminal activity committed in or around a gang-free zone and provides that a map from a municipal county engineer is admissible as evidence of a gang-free zone. The bill amends the Education Code and the Human Resources Code to require information regarding gang-free zones be included in the student handbook or equivalent publication of each public or private elementary or secondary school and institution of higher education and be distributed to the parents and guardians of children who attend each day-care center and to make these provisions effective June 16, 2009.

House Bill 2086 amends provisions of the Civil Practice and Remedies Code addressing certain gang activity through public nuisance laws to create a civil action for the violation of an injunction by a criminal street gang or member. A district, county, or city attorney or the attorney general may sue for and recover actual damages, civil penalties, and court costs and fees. The property of a criminal street gang or its members is subject to seizure under certain conditions. Money received for damages or as a civil penalty must be used for the benefit of the community or neighborhood harmed.

House Bill 2086 amends provisions of the Civil Practice and Remedies Code, Health and Safety Code, and Local Government Code relating to graffiti offenses. The bill provides that the Texas Tort Claims Act does not apply to a claim for property damage caused by the removal of graffiti, allows a local ordinance that requires a business to make aerosol paint inaccessible without customer assistance, and sets forth the responsibilities of property owners for graffiti removal.

House Bill 2086 amends the Code of Criminal Procedure to make the proceeds of organized criminal activity subject to forfeiture proceedings. The bill requires the judge to make an affirmative finding in the judgment of a case if it is determined that the applicable conduct was engaged in as part of the activities of a criminal street gang and authorizes the sentences for more than one conviction of an offense with such a finding to run concurrently or consecutively. The bill includes an active member of a criminal street gang in the persons whom a defendant placed on community supervision may be required to avoid. The bill authorizes a court granting community supervision to a member of a criminal street gang who is a repeat offender to impose electronic monitoring as a condition of community supervision and restrictions on the defendant's operation of a motor vehicle. The bill authorizes a parole panel to impose electronic monitoring as a condition of release on parole or mandatory supervision on a member of a criminal street gang who is a repeat offender. The bill requires a juvenile court to order a child adjudicated as having engaged in gang-related conduct to participate in a criminal street gang intervention program.

House Bill 2086 amends the Code of Criminal Procedure to include evidence that an individual has used the Internet or another electronic format to post photographs or other documentation identifying the individual as a member of a criminal street gang, evidence that an individual has visited a known member of a criminal street gang while the member was confined or committed to a penal institution, and evidence of an individual's use of technology to recruit new criminal street gang members in the evidence included in the criminal combination and criminal street gang intelligence database. The bill increases, from three years to five years, the period that information in the database may be retained. The bill sets forth requirements and procedures for an order authorizing the interception of oral, wire, or electronic communication.

House Bill 2086 amends the Government Code to create a public corruption unit within the Department of Public Safety to address allegations of organized criminal activity by a Texas peace officer or a federal law enforcement officer while performing duties in Texas. The bill

requires the governor's criminal justice division to administer the Texas anti-gang grant program to support regional, multidisciplinary approaches to combat gang violence and sets forth the requirements of the program.

House Bill 2086 amends the Transportation Code to establish that, if conduct constituting an offense of false application, use of an illegal license or certificate, or delivery or manufacture of a counterfeit instrument also constitutes an offense under another law, the actor may be prosecuted under either law or both laws.

House Bill 2086 takes effect September 1, 2009, except that the Education Code and Human Resources Code provisions take effect June 19, 2009.

**House Bill 2187**

**Effective:** 9-1-09

**House Author:** Moody et al.

**Senate Sponsor:** Carona

House Bill 2187 amends the Penal Code to reclassify, from a state jail felony assaultive offense to a third degree felony organized crime offense, the offense against a person who, with intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang, threatens the child or a member of the child's family with imminent bodily injury or causes bodily injury to the child or a member of the child's family.

**House Bill 2240**

**Effective:** 9-1-09

**House Author:** Lewis et al.

**Senate Sponsor:** Nelson

House Bill 2240 amends the Penal Code to create the third degree felony offense of continuous violence against the family for a person who, during a period that is 12 months or less in duration, two or more times engages in conduct that constitutes an assaultive offense causing bodily injury to another person in a dating relationship with the offender, or who is a member of the offender's family or household. The bill sets forth requirements relating to a jury's unanimous agreement on the defendant's conduct when the jury is the trier of fact and prohibitions against convicting a defendant in the same criminal action of another related offense and charging the defendant with more than one count for a continuous violence against the family offense committed against a single victim or members of the same household. The bill expands the conditions that constitute a third degree felony assault offense to include intentionally, knowingly, or recklessly causing bodily injury to another person associated with the offender as described above if the offender has been previously convicted of a continuous violence against the family offense.

**House Bill 2328**

**Effective:** 9-1-09

**House Author:** Guillen et al.

**Senate Sponsor:** Carona

House Bill 2328 amends the Penal Code to enhance the penalty for forgery to the next higher category of offense, the penalty for a credit card or debit card abuse offense from a state jail felony to a third-degree felony, and the penalties for certain felony offenses relating to the fraudulent use or possession of identifying information to the next higher category of offense, if it is shown at trial that the offense was committed against an elderly individual.

**House Bill 2385**

**Effective:** 9-1-09

**House Author:** Castro

**Senate Sponsor:** Van de Putte

House Bill 2385 amends the Penal Code to increase from a third-degree felony to a second-degree felony the penalty for engaging in sexual intercourse or deviate sexual intercourse with another person the actor knows to be, without regard to legitimacy, the actor's ancestor or descendant by blood or adoption, rather than the son or daughter of the actor's aunt or uncle of the whole or half blood or by adoption.

**House Bill 2467****Effective:** 9-1-09**House Author:** Rodriguez et al.**Senate Sponsor:** Whitmire

House Bill 2467 amends the Health and Safety Code to redefine “playground,” for purposes of an offense that occurs in a drug-free zone, to specify that it contains three or more play stations, rather than three or more separate apparatus. The bill makes the penalty enhancements for committing certain drug-related offenses in a drug-free zone applicable to such an offense committed in, on, or within 1,000 feet of a playground.

**House Bill 2609****Effective:** 9-1-09**House Author:** Miller, Doug et al.**Senate Sponsor:** Wentworth

House Bill 2609 amends provisions of the Penal Code relating to the prosecution and punishment of the offense of criminal trespass. The bill expands the conduct that constitutes the Class B misdemeanor offense of criminal trespass to include entering or remaining on or in residential land, agricultural land, or a recreational vehicle park of another without effective consent and decreases the penalty to a Class C misdemeanor if the offense is committed on agricultural land and within 100 feet of the boundary of the land or on residential land and within 100 feet of a protected freshwater area. The bill establishes a defense to prosecution for the criminal trespass for a firefighter or emergency medical services personnel acting in lawful discharge of official duties, an employee or agent of certain utility or service providers performing an official duty, or an entity that had effective consent or authorization to enter the property.

**House Bill 3147****Effective:** 9-1-09**House Author:** Smith, Todd et al.**Senate Sponsor:** Seliger

House Bill 3147 amends the Penal Code to include a commissioned security officer among the officers from whom it is an offense for a person to intentionally or knowingly with force take or attempt to take a firearm, nightstick, stun gun, or personal protection chemical dispensing device with the intention of harming the officer or a third person.

**House Bill 3224****Effective:** 9-1-09**House Author:** Madden**Senate Sponsor:** Whitmire

House Bill 3224 amends the Penal Code to make it a state jail felony arson offense for a person to intentionally start a fire or cause an explosion and in so doing recklessly damage or destroy a building belonging to another or recklessly cause another person to suffer bodily injury or death. The bill removes the third-degree felony arson offense for intentionally starting a fire in or on a building, habitation, or vehicle.

**House Bill 3228****Effective:** 9-1-09**House Author:** Madden**Senate Sponsor:** Whitmire

House Bill 3228 amends the Penal Code to expand the definition of “correctional facilities” for purposes of the offense that prohibits certain substances and items in correctional facilities to include a municipal or county jail, a confinement facility operated by or under contract with the Texas Department of Criminal Justice (TDCJ), and a secure correctional facility or secure detention facility. The bill makes it a third-degree felony offense if a person commits the offense of criminal attempt to commit an offense of taking a controlled substance or dangerous drug onto property owned, used, or controlled by a correctional facility. The bill makes it a third-degree felony offense for a person who, with the intent to provide to or make a cellular telephone or other wireless communications device or a component of such device available

for use by a person in the custody of a correctional facility, acquires such device or component to be delivered to the person in custody, provides such device or component to another person for delivery to the person in custody, or makes a payment to a communication common carrier or communication service provider.

House Bill 3228 amends the Code of Criminal Procedure to include an offense that prohibits substances and items in correctional facilities among the offenses for which interception of communications may be authorized by a judge under state law. The bill authorizes the office of inspector general of TDCJ, without a warrant, to use electronic, mechanical, or other devices to detect a cellular telephone or other wireless communications device in correctional facilities and to intercept, monitor, detect, or prevent the transmission of any communication transmitted through the wireless device. It further authorizes the office to use information obtained in such manner in a criminal or civil proceeding. The inspector general is required to report the office's use of a detection device to a prosecutor with jurisdiction in the county in which the device was used or special prosecution unit, and the office is required to minimize the impact of the device on any communication unrelated to a use prohibited by the bill.

House Bill 3228 amends the Government Code and the Human Resources Code to authorize TDCJ and the Texas Youth Commission (TYC) to own, and the offices of inspector general of TDCJ and TYC to possess, install, operate, or monitor an electronic, mechanical, or other device used for the nonconsensual interception of wire, oral, or electronic communications. It requires the inspector general of each entity to designate in writing the commissioned officers authorized to possess, install, operate, and monitor such devices and authorizes an investigative or law enforcement officer or other person, on request, to assist the office in the operation and monitoring of an interception of communications if the person meets certain criteria.

**House Bill 3515**  
**Effective:** Vetoed

**House Author:** Dunnam  
**Senate Sponsor:** Carona

House Bill 3515 amends the Penal Code to create the Class C misdemeanor offense of failure to report barratry or solicitation of employment for a lawyer who, during the course of representation of a client, acquires knowledge that would reasonably cause a lawyer to believe that a person, other than a lawyer subject to the Texas Disciplinary Rules of Professional Conduct, while acting on behalf of a lawyer, has engaged in conduct that constitutes an offense of barratry or solicitation of professional employment and fails to report the knowledge to the State Bar of Texas later than the 45th business day after the lawyer acquires the knowledge.

Reason Given for Veto: "House Bill No. 3515 would criminally punish a lawyer who had not committed barratry for the barratry committed by another person, and would, therefore, make a lawyer not engaged in criminal conduct subject to criminal penalties because of the criminal conduct of others. House Bill No. 3515 would also require lawyers to report to the State Bar of Texas persons who are not subject to the State Bar's jurisdiction. Stopping barratry is good public policy for Texas, but House Bill No. 3515 would be an ineffective means of combating this offense."

**House Bill 4456**  
**Effective:** 9-19-09

**House Author:** Driver  
**Senate Sponsor:** Deuell

House Bill 4456 amends the Penal Code to specify that the definition of "switchblade knife," for purposes of the offense of prohibited weapons, does not include a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife.



**Senate Bill 328**  
**Effective:** 9-1-09**Senate Author:** Carona  
**House Sponsor:** Phillips

Senate Bill 328 adds the Nicole “Lilly” Lalime Act to amend provisions of the Alcoholic Beverage Code, Code of Criminal Procedure, and Transportation Code relating to operating a motor vehicle or watercraft while intoxicated or under the influence of alcohol. The bill redesignates the offense of driving under the influence of alcohol by a minor as driving or operating a watercraft under the influence of alcohol by a minor, expands the conditions that constitute that offense, and includes an offense prohibiting the operation of a watercraft within the definition of “alcohol-related or drug-related enforcement contact.” The bill authorizes any magistrate who is a licensed Texas attorney to issue a search warrant to collect a blood specimen from a person who is arrested for a certain intoxication or alcohol offense and refuses to submit to a breath or blood alcohol test and increases from \$50 to \$100 the fee to reinstate a driver’s license suspended due to the commission of a certain intoxication offense. The bill includes the offense of driving while intoxicated with a child passenger in provisions relating to the requirements for the automatic suspension of a license, the suspension of a license of a person younger than 21 years of age, and the suspension of a license because of intoxication offenses. The bill includes an offense of driving while intoxicated with a child passenger and boating while intoxicated in provisions relating to an administrative suspension of a driver’s license for failure to pass a test for intoxication, modifies the circumstances under which a peace officer must require the taking of the specimen of a person’s blood or breath, and amends certain provisions regarding liability for purposes of the taking of a blood specimen.

**Senate Bill 359**  
**Effective:** 9-1-09**Senate Author:** Patrick, Dan  
**House Sponsor:** Eiland

Senate Bill 359 amends Penal Code provisions relating to punishment for certain offenses committed in a disaster area or evacuated area. The bill increases the punishment for an offense of assault, robbery, burglary, or theft to the punishment prescribed for the next higher category of offense if it is shown at trial that the offense was committed in an area that was, at the time of the offense, subject to a declaration of a state of disaster made by the president of the United States, the governor, or the presiding officer of the governing body of a political subdivision, or subject to an emergency evacuation order. The bill increases the minimum term of confinement for an offense of assault or theft that is punishable as a Class A misdemeanor to 180 days and prohibits an increase in punishment for a first degree felony offense of burglary or theft. The bill provides that it is a defense to a charge of theft that the conduct in question meets the elements of necessity outlined in state law relating to justification for excluding criminal responsibility.

**Senate Bill 554**  
**Effective:** 9-1-09**Senate Author:** Whitmire  
**House Sponsor:** Frost

Senate Bill 554 amends the Penal Code to expand the conduct constituting the offense of dog fighting to include intentionally or knowingly owning or possessing dog-fighting equipment with the intent that the equipment be used to train a dog for dog fighting or in the furtherance of dog fighting and to add the offense of dog fighting to the list of offenses that constitute an offense of engaging in organized criminal activity if the offense is committed in association with a criminal street gang and depicts or involves conduct by or directed toward a child. The bill amends the Code of Criminal Procedure to add property that is used or intended to be used in the commission of an offense of dog fighting, the proceeds gained from the commission of such an offense, or acquired with those proceeds to the definition of “contraband” for purposes of forfeiture of contraband.

**Senate Bill 828**

**Effective:** 9-1-09

**Senate Author:** Whitmire

**House Sponsor:** Madden

Senate Bill 828 amends the Penal Code to establish, in a case involving separate transactions in which a public servant misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the servant's office or employment and that were conducted pursuant to one scheme or continuing course of conduct, that the illegal conduct of the public servant may be considered as one offense of abuse of official capacity and that the value of the use of the things misused in the transactions may be aggregated in determining the offense's classification. The bill establishes the maximum value of the use of the things misused for purposes of calculating the punishment of the offense.

**Senate Bill 839**

**Effective:** 9-1-09

**Senate Author:** Hinojosa

**House Sponsor:** McReynolds

Senate Bill 839 amends the Penal Code to require a juvenile whose case is transferred by a juvenile court to a criminal court and who is found guilty of a capital felony in a case in which the state does not seek the death penalty to be punished by imprisonment in the Texas Department of Criminal Justice for life and to require the prospective jurors in that capital felony trial to be informed that a sentence of life imprisonment is mandatory on conviction of the juvenile of the capital felony. The bill amends the Government Code to provide that such convicted inmate is not eligible for release on parole until the actual calendar time the inmate has served, without consideration of good conduct time, equals 40 calendar years.

**Senate Bill 1163**

**Effective:** 9-1-09

**Senate Author:** Seliger

**House Sponsor:** Kolkhorst

Senate Bill 1163 amends the Penal Code to provide that theft of property valued at \$1,500 or more but less than \$20,000, or property that is less than 10, rather than less than 100, head of sheep, swine, or goats or any part thereof under the value of \$20,000, is a state jail felony. The bill provides that theft of property that is cattle, horses, exotic livestock, or exotic fowl, regardless of the number stolen, or 10 or more, rather than 100 or more, head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000 is a third degree felony.

**Senate Bill 1273**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Fletcher et al.

Senate Bill 1273 amends the Penal Code to create the Class A misdemeanor offense of interference with a radio frequency licensed to a government entity for a person who, without effective consent of a law enforcement agency, fire department, or emergency medical services provider, intentionally interrupts, disrupts, impedes, jams, or otherwise interferes with a radio frequency that is licensed by the Federal Communications Commission to a government entity and is used by the law enforcement agency, fire department, or emergency medical services provider. The bill enhances the penalty for such an offense if the actor committed the offense with the intent to facilitate the commission of another offense or interfere with the ability of a law enforcement agency, fire department, or emergency medical services provider to respond to an emergency.

**Senate Bill 2225****Effective:** 9-1-09**Senate Author:** Carona et al.**House Sponsor:** Corte

Senate Bill 2225 amends provisions of the Code of Criminal Procedure and Penal Code relating to the civil and criminal consequences of engaging in certain conduct involving the transporting or transferring of a firearm. The bill creates the third-degree felony offense of firearm smuggling for a person other than a peace officer engaged in the actual discharge of duty who knowingly engages in the business of transporting or transferring a firearm that the person knows was acquired in violation of the laws of any state or of the United States and enhances the penalty to a second-degree felony if it is shown at trial that the offense was committed with respect to three or more firearms in a single criminal episode. The bill expands the conduct that constitutes the offense of engaging in organized criminal activity to include the commission of or the conspiracy to commit certain offenses involving the unlawful transfer of a handgun or firearm smuggling and includes property that is used in relation to such an offense in the definition of “contraband,” for purposes of forfeiture of contraband.

**Procedures****House Bill 107****Effective:** 9-1-09**House Author:** Phillips et al.**Senate Sponsor:** Seliger

House Bill 107 amends the Code of Criminal Procedure to require a court to accept a plea of guilty or nolo contendere from a defendant who is confined in a penal institution if the plea is made in accordance with procedures established for a plea or waiver of rights by closed circuit video teleconferencing or made in writing before the appropriate court, provided that certain conditions are met. The bill authorizes the rendering of a judgment and sentence in a felony case in the absence of the defendant only if the defendant is confined in a penal institution, is not charged with certain felony offenses, waives all rights to be present or to have counsel present in writing before the appropriate courts, makes an affirmation regarding the need for sentence pronouncement, and enters into a written plea agreement with the attorney representing the state in the prosecution and if the sentence is pronounced in accordance with the plea agreement. The bill authorizes the attorney representing the state to request that a defendant confined in a penal institution submit a fingerprint suitable for attachment to the judgment when entering the plea of guilty or nolo contendere.

**House Bill 549****Effective:** 9-1-09**House Author:** Raymond**Senate Sponsor:** Zaffirini

House Bill 549 amends the Penal Code to establish an affirmative defense to prosecution for an offense of indecency with a child, an offense of sexual assault of a child, an offense of engaging in an improper relationship between an educator and a student, and an offense relating to improper sexual activity with a person under the supervision of the Texas Department of Criminal Justice, the Texas Youth Commission, or a local juvenile probation department if the actor was the spouse of the child, enrolled person, or individual, as applicable, at the time of the offense.

**House Bill 796****Effective:** 9-1-09**House Author:** Smith, Todd**Senate Sponsor:** Hegar

Previous law authorized the judge of any court in which a criminal action for theft or any other offense involving the illegal acquisition of property is pending to hold a hearing to determine the right to possession of the property and to direct by written order that the property be

restored to the true owner. House Bill 796 amends the Code of Criminal Procedure to authorize any magistrate having jurisdiction in the county to hold such a hearing and order the property restored if the magistrate has written consent of the prosecuting attorney. The bill redefines “property” for purposes of provisions relating to photographic evidence in theft cases.

**House Bill 1060**  
**Effective:** 9-1-09

**House Author:** Miklos  
**Senate Sponsor:** Carona

House Bill 1060 amends the Code of Criminal Procedure to authorize an arrest warrant or a criminal complaint to be forwarded by any method that ensures the transmission of a duplicate of the original warrant, including secure facsimile transmission or other secure electronic means. A magistrate who is required to give notice of an arrest and incarceration of a person who did not make bail to the sheriff of the county in which the offense is alleged to have been committed is required to give such notice by secure facsimile transmission or other secure electronic means. Previous law only addressed notification by telegraph transmission.

**House Bill 1321**  
**Effective:** 9-1-09

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

House Bill 1321 amends the Code of Criminal Procedure to require a jury in a criminal case to be discharged if, after the charge is read, no alternate juror is available to replace a juror who is prevented from serving due to illness or accident.

**House Bill 1360**  
**Effective:** 6-19-09

**House Author:** Anchia  
**Senate Sponsor:** West

House Bill 1360 amends the Code of Criminal Procedure to establish that a release of information by an attorney representing the state to defense counsel for a purpose relating to the pending or reasonably anticipated prosecution of a criminal case is not considered a voluntary release of information to the public and does not waive the right to assert in the future that the information is excepted from required disclosure under state law regarding public information.

**House Bill 1506**  
**Effective:** 9-1-09

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

House Bill 1506 amends the Code of Criminal Procedure to authorize a magistrate to require as a condition of release on bond that a defendant charged with an offense involving family violence comply with any of the following conditions: to refrain from going to or near certain locations frequented by an alleged victim of the offense, to carry or wear a global positioning monitoring device, or to pay the costs associated with the victim’s participation in the global positioning monitoring system. The bill requires the magistrate, before imposing such a condition, to provide to an alleged victim information regarding the victim’s rights relating to participation in the program and functions and risks of the technology, locations the defendant is ordered to refrain from going near, the victim’s role in the system, and assistance and services offered to the victim. The bill sets forth provisions relating to the payment of costs associated with operating the global positioning monitoring system and notifying the court of a defendant who violates the conditions of bond regarding the system.

**House Bill 1544**  
**Effective:** 9-1-09

**House Author:** Miklos  
**Senate Sponsor:** Carona

House Bill 1544 amends the Code of Criminal Procedure to require a court to dispose of the case, without requiring a court appearance, of a defendant who is charged with a misdemeanor

punishable by fine only and who mails or delivers in person to the court a plea of guilty or nolo contendere and a waiver of jury trial, if the court receives the plea and waiver after the time the defendant is scheduled to appear in court but at least five business days before a scheduled trial date. The bill authorizes a judge who defers further proceedings and places on probation a defendant found guilty of such a misdemeanor to impose a special expense fee on the defendant in an amount not to exceed the amount of the fine that could be imposed on the defendant as punishment for the offense. The bill sets forth provisions relating to the collection and payment of the fee and removes a provision authorizing the imposition of a special expense if a complaint is dismissed after the deferral period.

**House Bill 1659**  
**Effective:** 9-1-09

**House Author:** King, Phil  
**Senate Sponsor:** Patrick, Dan

Previous law made it an affirmative defense to prosecution for the offense of unlawful installation of a tracking device that the person committing the offense was a peace officer who installed the device in the course of a criminal investigation or pursuant to a court order to gather information for a law enforcement agency. House Bill 1659 amends the Penal Code to remove that affirmative defense and to create an exception to the offense for such an officer acting in that capacity.

**House Bill 1722**  
**Effective:** 6-19-09

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

House Bill 1722 amends the Government Code to specify that the criminal proceedings involving the issuance of a search warrant that a district court judge serving in Bexar County may refer to a criminal law magistrate in the county include a search warrant for property or items constituting evidence, except the personal writings of the accused, and to authorize a magistrate to whom a case is referred to issue such warrants. The provisions do not apply to the issuance of a subsequent search warrant for property or items.

**House Bill 2002**  
**Effective:** 6-19-09

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

House Bill 2002 amends the Code of Criminal Procedure to authorize a close relative of a deceased person who, if not deceased, would be entitled to expunction of records and files relating to a custodial or noncustodial arrest for the commission of a felony or a misdemeanor to file on behalf of the deceased person an ex parte petition for expunction. The bill requires a court to enter the expunction order if the court finds that the deceased person would be entitled to expunction of any record or file that is the subject of the petition.

**House Bill 2465**  
**Effective:** 9-1-09

**House Author:** Chavez et al.  
**Senate Sponsor:** Davis, Wendy

House Bill 2465 amends the Code of Criminal Procedure to require a court to order the attorney representing the state to take the deposition of an elderly or disabled person who is the alleged victim of or witness to an offense not later than the 60th day after the date on which the state files an application to take the deposition and to set forth procedures for extending this deadline. The bill authorizes the attorney representing the state and the defendant or the defendant's attorney to agree to modify the rules applicable to the deposition by written agreement filed with the court before the taking of the deposition and sets forth procedures for taking the deposition of a defendant who is unavailable to attend a deposition due to confinement in a correctional facility and for obtaining a continuance from the court if the defendant is unavailable to attend a deposition for any reason other than confinement in a correctional facility.

The bill provides that a defendant's failure to attend a deposition or request a continuance in accordance with the bill's provisions constitutes a waiver of the defendant's rights to be present at the deposition.

**House Bill 2664**  
**Effective:** 9-1-09

**House Author:** Ritter  
**Senate Sponsor:** Hegar

House Bill 2664 amends the Penal Code to create a defense to prosecution for the offense of the unlawful carrying of a handgun by a license holder on the premises of a business that holds a certain alcoholic beverage license or permit that the license holder was not given effective notice of a prohibition against carrying a handgun on the premises.

**House Bill 2846**  
**Effective:** 9-1-09

**House Author:** Riddle  
**Senate Sponsor:** Huffman

House Bill 2846 amends the Code of Criminal Procedure to add criminal attempt of certain sexual or assaultive offenses to the list of offenses to which provisions relating to the admissibility of a hearsay statement of a child abuse victim apply in a proceeding in the prosecution of such offenses and increases from 12 years of age to 14 years of age the maximum age of a child abuse victim whose hearsay statement is admissible in such a proceeding. The bill adds to the list of statements to which the admissibility of such a child abuse victim's hearsay statement applies a statement offered during the punishment phase of the proceeding that describes an alleged crime, wrong, or act other than the alleged offense under certain circumstances.

**House Bill 3316**  
**Effective:** 9-1-09

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

House Bill 3316 amends the Code of Criminal Procedure to authorize the prosecution of a criminal offense committed by an employee or officer of the Texas Youth Commission (TYC), or by a person providing services under a contract with the TYC, against a child committed to the TYC to be conducted in any county in which an element of the offense occurred or in Travis County.

House Bill 3316 amends the Human Resources Code to authorize a specified prosecuting attorney to request that the special prosecution unit assist in the prosecution of a criminal offense or delinquent conduct, committed on TYC property or committed by or against a person in the custody of the TYC while the person is performing a duty away from TYC property, in addition to the option to request that the unit prosecute the offense or conduct.

**House Bill 3481**  
**Effective:** Vetoed

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

House Bill 3481 amends provisions of the Code of Criminal Procedure relating to the expunction of records and files relating to a person's arrest. The bill revises current conditions for eligibility for the expunction of records and expands the list of persons who are entitled to the expunction of all records and files relating to an arrest to include a person who was convicted and subsequently granted relief on the basis of actual innocence or who was released without having a pending charge or final conviction and meets certain other requirements. The bill entitles certain arrested persons acquitted by a court of appeals and persons for whom an appropriate prosecutor recommends expunction to the expunction of all records and files relating to the arrest. The bill sets forth procedures and requirements relating to entering, preparing, and completing an order of expunction for certain entitled persons, including requirements for the Department of Public Safety and the Texas Department of Criminal Justice relating to returning and deleting files and records.

Reason Given for Veto: “House Bill No. 3481 would authorize the expunction of criminal records, including law enforcement case files, 180 days after an arrest if no formal misdemeanor or felony charges have been filed. Current statutory provisions require that the statute of limitations for the particular offense, usually at least two years, expire before criminal records may be destroyed, including in cases involving misdemeanor offenses. Current law provides that an individual is entitled to copies of their expunged records after the statute of limitations has expired. A prosecutor may contest the expunction by proving reasonable cause that the person will be charged, leading the prosecutor to reveal details of the investigation prior to its completion. Expunction statutes should not be used as a means of discovery or as a means to force a prosecutor to rush to file formal charges prematurely. Allowing a person to know the identities of witnesses or the nature of their evidence unnecessarily endangers both law enforcement and citizen witnesses prior to an indictment for murder, organized crime, sexual assaults and other serious offenses. House Bill No. 3481 precipitates an untenable injustice to victims and a hazard to public safety.”

**House Bill 3751****Effective:** 9-1-09**House Author:** Gallego et al.**Senate Sponsor:** Shapiro et al.

House Bill 3751 amends the Code of Criminal Procedure to require, rather than authorize, a magistrate to impose certain conditions of bond on a defendant charged with a certain sexual offense or an assaultive offense and makes provisions regarding bail conditions where a child is the alleged victim applicable to a defendant charged with such an offense committed against a child younger than 14 years of age, rather than 12 years of age or younger. The bill authorizes the taking into custody and the denial of release on bail pending trial of a defendant who is charged with such an offense, who violates a condition of bond related to the safety of the victim or the community, and whose bail in the case is revoked because of the violation, if, following a hearing, a judge or magistrate determines that the violation occurred. The bill sets forth provisions relating to the effects of the revocation on the sureties and future liability of the bond.

**Senate Bill 82****Effective:** 9-1-09**Senate Author:** Nelson et al.**House Sponsor:** Moody

Senate Bill 82 amends the Code of Criminal Procedure to require, rather than authorize, a judge who grants community supervision to a person convicted of an offense against the person under the Penal Code that the court determines involves family violence to require the person to pay \$100 to a family violence center that receives state or federal funding and serves the county in which the court is located. The bill makes conforming changes to the Government Code.

**Senate Bill 410****Effective:** 9-1-09**Senate Author:** Carona**House Sponsor:** Miklos

Senate Bill 410 amends the Code of Criminal Procedure to clarify that the two-year statute of limitations for any misdemeanor refers to an indictment or information for any Class A or Class B misdemeanor and to a complaint or information for any Class C misdemeanor.

**Senate Bill 413****Effective:** 9-1-09**Senate Author:** Carona**House Sponsor:** Kent et al.

Senate Bill 413 amends the Code of Criminal Procedure to require that a complaint that conforms to the requirements of provisions relating to justice and municipal courts be filed if a defendant fails to appear based on the written notice of a Class C misdemeanor offense and to establish that such complaint serves as an original complaint.

**Senate Bill 414**  
**Effective:** 9-1-09

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

Senate Bill 414 amends the Code of Criminal Procedure to authorize a defendant, for purposes of both a hearing to determine whether a defendant should be confined due to default on payment of a fine and a hearing to determine whether a defendant should be confined due to default in the discharge of a judgment and sentence entered against the defendant, to be brought before the court in person or by means of an electronic broadcast system through which an image of the defendant is presented to the court.

**Senate Bill 595**  
**Effective:** 9-1-09

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

Senate Bill 595 amends provisions of the Code of Criminal Procedure relating to the sealing of and discovery procedures relating to evidence that constitutes child pornography in a criminal hearing or proceeding. The bill prohibits a court from making available or allowing to be made available for copying or public dissemination property or material that constitutes child pornography during the course of a hearing or proceeding and requires the court to place such material or property under seal of the court on conclusion of the hearing or proceeding. The bill sets forth procedures for issuing an order lifting the seal and providing access to the property or material to the defendant, the defendant's attorney, and any individual the defendant seeks to qualify to provide expert testimony at trial, and requires a court to deny any request by a defendant to reproduce such property or material, provided the state makes the property or material reasonably available to the defendant.

**Senate Bill 927**  
**Effective:** 9-1-09

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

Senate Bill 927 amends the Penal Code to establish that the attorney general, with the consent of the appropriate local county or district attorney, has concurrent jurisdiction with that local prosecutor to investigate or prosecute an offense of tampering with a direct recording electronic voting machine.

**Senate Bill 1224**  
**Effective:** 9-1-09

**Senate Author:** Huffman  
**House Sponsor:** Moody

Senate Bill 1224 amends the Code of Criminal Procedure to require the fees in a proceeding for the expunction of a criminal record to be waived if the petition for expunction is filed not later than the 30th day after the date of the acquittal and if the petitioner seeks expunction of a criminal record that relates to an arrest for an offense of which the person was acquitted, unless that acquittal was for an offense that arose out of a criminal episode and the person was convicted of or remains subject to prosecution for at least one other offense occurring during the criminal episode.

**Senate Bill 1506**  
**Effective:** 9-1-09

**Senate Author:** Whitmire  
**House Sponsor:** Smith, Wayne

Senate Bill 1506 amends the Code of Criminal Procedure to authorize the cost of electronic monitoring or testing for controlled substances ordered as a condition of a defendant's release on bond to be assessed as a court cost or ordered paid directly by the defendant as a condition of bond and authorizes a magistrate to revoke bond and order a defendant arrested if the defendant fails to pay the monitoring or testing cost as ordered, and is financially able to make the payment.



**Senate Bill 1557****Effective:** 9-1-09**Senate Author:** Duncan**House Sponsor:** Gallego

Senate Bill 1557 amends provisions of the Code of Criminal Procedure relating to the early identification of criminal defendants who are or may be persons with mental illness or mental retardation. The bill requires a sheriff, not later than 72 hours after receiving credible information that a defendant in the sheriff's custody is a person with mental illness or mental retardation, to provide notice of the information to the magistrate and includes in the information considered credible information the observation of certain behaviors and any previous assessment of the defendant. On determination of such reasonable cause, the magistrate, except as otherwise provided, must order a qualified mental health or retardation expert to collect information regarding whether the defendant is a person with mental illness or mental retardation. Previous law required an examination of the defendant to determine whether the defendant is a person with mental illness or mental retardation. The bill requires the expert to provide the magistrate a written assessment of the information collected within specified time frames, requires the assessment to be provided to the trial court, and includes in the actions a trial court may take upon receiving the assessment the consideration of the assessment during the punishment phase of the trial. The bill allows a court before, during, or after the collection of such information to release a defendant with mental illness or mental retardation on a personal or surety bond or to order an examination of the defendant's competency for trial.

**Senate Bill 1681****Effective:** 9-1-09**Senate Author:** Hinojosa**House Sponsor:** Gallego

Senate Bill 1681 amends the Code of Criminal Procedure to prohibit a defendant from being convicted of an offense on the testimony of a person to whom the defendant made a statement against the defendant's interest during a time when the person was imprisoned or confined in the same correctional facility as the defendant unless the testimony is corroborated by other evidence tending to connect the defendant with the offense committed. The bill establishes that corroboration that shows only that the offense was committed is not sufficient for these purposes.

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

House Bill 221 - Corrections

House Bill 405 - Occupational Regulation

House Bill 608 - Courts

House Bill 666 - Courts

House Bill 2012 - Transportation

House Bill 2840 - Property Interests and Housing

House Bill 4314 - Courts

House Bill 4833 - Courts

Senate Bill 415 - Courts

Senate Bill 1056 - Family Law and Juvenile Justice

Senate Bill 1236 - Law Enforcement



# Economic Development

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

## Local Economic Development

### House Bill 773

**Effective:** 6-19-09

**House Author:** Oliveira et al.

**Senate Sponsor:** Harris

House Bill 773 amends the Tax Code to continue the Property Redevelopment and Tax Abatement Act, previously scheduled to expire September 1, 2009, until September 1, 2019.

### House Bill 1770

**Effective:** 6-19-09

**House Author:** Miklos

**Senate Sponsor:** Wentworth

House Bill 1770 amends the Tax Code to authorize a municipality to designate a noncontiguous geographic area as a reinvestment zone under the Tax Increment Financing Act. It clarifies that an area designated as a reinvestment zone, whether contiguous under continuing law or noncontiguous under the bill, may be within the corporate limits of the municipality, within its extraterritorial jurisdiction (ETJ), or both. The bill establishes that the designation of an area located wholly or partly in an ETJ is not affected by the subsequent municipal annexation of real property in the zone. It provides that a reinvestment zone terminates on the earlier of the original date contained in the ordinance or order designating the zone, or an earlier or later termination date designated by a subsequent ordinance or order. Even if a later termination date ensues, however, there is no requirement that a taxing unit pay into the zone's tax increment fund after the originally specified date unless the taxing unit enters into an agreement to do so with the municipality or county that created the zone. The bill establishes that the amount of a taxing unit's increment for a given year is the amount of property taxes levied and assessed, or the amount levied and collected, by a taxing unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone, and requires the taxing unit to choose one of the two options for calculation of the increment. Under prior law, the increment was the amount levied and collected. The bill prohibits a municipality from creating a reinvestment zone if the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds 20 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality is the county seat of a county that is adjacent to a county with a population of 3.3 million or more, and if the county in which the municipality is located contains a planned community of 20,000 or more acres of land established originally under federal law and subject to restrictive covenants containing property or annual variable budget-based assessments on real property. The bill validates certain governmental acts and proceedings taken before June 19, 2009, and related to or associated with the extension of the term of a reinvestment zone.

### House Bill 2919

**Effective:** 6-19-09

**House Author:** King, Susan et al.

**Senate Sponsor:** Fraser

House Bill 2919 amends the Local Government Code to authorize certain defense communities to establish and fund a regional military sustainability commission to regulate

development in the area that surrounds a military installation. Before the establishment of a regional military sustainability commission, each participating governmental entity must hold two public hearings to consider the creation of the proposed commission. The bill requires such a commission to recommend compatible development standards for the commission's territory, subject to approval by a majority vote of each participating governmental entity. The bill requires the governing body of the participating governmental entity, on receipt of an application for a permit for a new project in the territory, to review the application and request a report from the commission regarding the proposed project's compatibility with the military installation's mission and related operations. The bill requires the commission to establish an advisory committee, composed of members representing both the military installation and landowners within commission territory, and to consult with that committee in its review of an application. The bill authorizes the reviewing governmental entity to disapprove the permit application based on recommendation of the commission and a landowner to appeal of all or part of the report or permit application decision to a district court, which may reverse or modify the report or permit application. The bill authorizes the commission to apply for, contract for, receive, and expend for its purposes a grant or funds from any source, and it authorizes a participating governmental entity to appropriate funds to the commission. The bill provides for the withdrawal of a participating governmental entity from a regional military sustainability commission and for the continuance of a commission and its development standards in the event of closure of the military installation the surrounding area of which is regulated by the commission. The bill applies the above provisions to a defense community constituted by a county with unincorporated area located within five miles of the boundary line of a military installation and a municipality of 1.1 million or more with extraterritorial jurisdiction located within five miles of an installation's boundary line, with certain exceptions, as well as to a defense community constituted by a county with a population of 60,000 or less and a municipality within that county, and sets out territory limitations for each.

House Bill 2919 also amends Local Government Code provisions relating to consultation with defense base authorities for a defense community that includes a municipality with a population of more than 110,000 located in a county with a population of less than 135,000 and that has not adopted airport zoning regulations under the Airport Zoning Act. The bill requires such a defense community that proposes to adopt or amend an ordinance, rule, or plan or that receives an application for a local permit for a proposed structure in an area located within eight miles of the boundary line of a defense base, or the military exercise or training activities connected to the base, to seek comments and analysis from the defense base authorities concerning the compatibility of the proposed ordinance, rule, plan, or structure with base operations. The bill requires the defense community to consider and analyze any comments and analysis received from the defense base authorities before making a final determination relating to the proposed ordinance, rule, or plan, or the approval of the permit for the proposed structure.

**House Bill 3896**  
**Effective:** 6-19-09

**House Author:** Oliveira  
**Senate Sponsor:** Seliger

House Bill 3896 amends the Tax Code to extend the expiration date of the Property Redevelopment and Tax Abatement Act from September 1, 2009, to September 1, 2019. It authorizes the governing body of a taxing unit granting an abatement and the owner of the property subject to the abatement to agree to defer commencement of the abatement period until a date subsequent to the date of the agreement but caps the duration of the abatement period at 10 years. The bill clarifies the authority of a county commissioners court to grant tax abatements involving real property located in a reinvestment zone.

**Senate Bill 252**  
**Effective:** 6-19-09

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

Senate Bill 252 amends the Tax Code to authorize the governing body of a municipality with a population of less than 10,000 to call an election to authorize it to enter into an agreement with the owner of real property in or adjacent to an area of the municipality that has been approved for funding under Downtown Revitalization or Main Street Improvements programs administered by the Texas Department of Agriculture to limit property taxes imposed by any political subdivision. A limitation, if approved and subject to the terms and conditions of the agreement, would prohibit tax increases for the first five tax years after the tax year in which the agreement is executed. The bill provides that such a limitation expires on the earlier of January 1 of the sixth tax year following the tax year in which the agreement was executed or January 1 of the first tax year in which the owner of the property when the agreement was executed ceases to own the property. It establishes that the validity of an agreement is not affected by, and an agreement does not expire because of, a demographic change that increases the municipality's population to 10,000 or more.

**Senate Bill 576**  
**Effective:** 6-19-09

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

Senate Bill 576 amends the Tax Code to authorize, in an implementation agreement between the board of directors of a reinvestment zone and governing body of the municipality or county that creates the zone, the use of revenue in the tax increment fund to pay project costs, including property acquisition costs, relating to the construction of a road, a sidewalk, or other public infrastructure. The bill applies the authorization to construction of infrastructure whether inside or outside the zone. The bill authorizes a municipality, in lieu of permitting a portion of its tax increment to be paid into the tax increment fund, to offer a property tax exemption to the owners of taxable real property in a reinvestment zone. Previous law excluded a municipality from electing such an option while allowing the option for other taxing units. An exemption agreement must be approved by the zone's board of directors and the governing body of each taxing unit that imposes taxes on real property in the zone and deposits any of its tax increment into the fund. The bill removes a provision prohibiting a taxing unit from offering a tax abatement agreement to property owners in a zone after the taxing unit has entered into an agreement to pay tax increments into the fund.

**Senate Bill 835**  
**Effective:** 6-19-09

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

The Naval Station Ingleside is slated for closure as part of the base realignment and closure process, and its ownership will revert to the Port of Corpus Christi Authority of Nueces County. Senate Bill 835 amends the law to authorize the Port of Corpus Christi Authority of Nueces County to undertake redevelopment activities using the naval property associated with Naval Station Ingleside to foster the creation of new jobs, economic development, industry, commerce, manufacturing, housing, recreation, and the installation of infrastructure on the naval property. The bill sets forth provisions on contracting for redevelopment assistance and selling or leasing surplus property associated with the naval station. The bill establishes that these provisions are cumulative of and in addition to other law applicable to or affecting the authority and do not limit the power of the authority to use other law not in conflict with these provisions to the extent necessary or convenient to carry out a power expressly or impliedly granted under these provisions.

**Senate Bill 1105**

**Effective:** 5-23-09

**Senate Author:** Duncan

**House Sponsor:** Jones

Senate Bill 1105 amends the Tax Code to authorize a municipality that has a population of 195,000 or more, is the county seat of a county that has a population of 245,000 or less, and has adopted an ordinance creating a reinvestment zone under the Tax Increment Financing Act, to adopt a subsequent ordinance designating a later termination date for the zone than was originally established, but not later than the 20th anniversary of the original termination date. If a municipality extends the termination date, the reinvestment zone terminates on the earlier of the termination date designated in the new ordinance or the date on which all project costs, tax increment bonds and interest on those bonds, and other obligations have been paid in full.

**Senate Bill 1458**

**Effective:** 6-19-09

**Senate Author:** Seliger

**House Sponsor:** Swinford et al.

Senate Bill 1458 amends the Tax Code to extend the expiration date of the Property Redevelopment and Tax Abatement Act from September 1, 2009, to September 1, 2019. It authorizes the governing body of a taxing unit granting an abatement and the owner of the property subject to the abatement to agree to defer commencement of the abatement period until a date subsequent to the date of the abatement agreement but caps the duration of the abatement period at 10 years. The bill clarifies the authority of a county commissioners court to grant tax abatements involving real property located in a reinvestment zone.

**Senate Bill 1633**

**Effective:** 9-1-09

**Senate Author:** Nichols

**House Sponsor:** Creighton

Senate Bill 1633 amends the Tax Code to prohibit a municipality from creating a tax increment financing reinvestment zone if the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds 20 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality is the county seat of a county that is adjacent to a county with a population of 3.3 million or more, and if the county in which the municipality is located contains a planned community of 20,000 or more acres of land established originally under federal law and subject to restrictive covenants containing property or annual variable budget-based assessments on real property.

**Senate Bill 2052**

**Effective:** 9-1-09

**Senate Author:** Estes

**House Sponsor:** Parker

Senate Bill 2052 amends the Local Government Code to revise the definition of “project” for purposes of projects that may be undertaken by all development corporations for the development, retention, or expansion of transportation facilities and for purposes of projects related to airport facilities that may be undertaken by a Type B development corporation if certain conditions are met. The bill adds railports and railport facilities to the definition of “project” for each purpose, respectively, and it removes language that made maintenance and repair facilities and cargo facilities relate only to air transportation for both purposes. The bill adds language to make related infrastructure located on or adjacent to an airport facility also relate to a railport facility for both purposes. The bill adds rail switching facilities and inland ports to the definition of “project” affecting all development corporations, and it specifies that ports are marine ports in that definition. The bill provides that its provisions give effect to changes made by House Bill 3440, Acts of the 80th Legislature, Regular Session, 2007.

## State Economic Development

### House Bill 271

**Effective:** 9-1-09

**House Author:** Ortiz, Jr. et al.

**Senate Sponsor:** Van de Putte

House Bill 271 amends the Government Code to establish that the maximum number of enterprise projects that the Texas Economic Development Bank may designate for each nominating body during any biennium is six, rather than four plus two additional bonus projects, if the nominating body is the governing body of a municipality or county with a population of less than 250,000, and nine, rather than six, if the nominating body is the governing body of a municipality or county with a population of 250,000 or more. The bill specifies that the authority of the Texas Economic Development and Tourism Office within the office of the governor to designate multiple concurrent enterprise projects to a qualified business is for a qualified business located at a qualified business site, rather than in an enterprise zone.

### House Bill 394

**Effective:** 6-19-09

**House Author:** Rose et al.

**Senate Sponsor:** Van de Putte

House Bill 394 amends the Government Code to require the governor to consider making grants from the Texas Enterprise Fund to small businesses in Texas that commit to using the grants to create additional jobs, to small businesses outside Texas that commit to relocate to Texas, or for individual projects that create 100 or fewer additional jobs. The bill defines “small business” as a for-profit, independently owned and operated legal entity that has fewer than 100 employees.

### House Bill 873

**Effective:** 4-23-09

**House Author:** Dukes et al.

**Senate Sponsor:** Deuell et al.

House Bill 873 amends provisions of the Government Code relating to the moving image industry incentive program. Rather than capping program grants at the lesser of five percent of the total amount of a production company’s in-state spending or specified amounts for certain moving image projects, the bill provides that a grant may not exceed the amount established by rule of the Music, Film, Television, and Multimedia Office in the governor’s office. The bill requires the office to adopt rules prescribing the method the office will use to calculate a grant amount, to publish a written summary of the method for determining grants before awarding a grant, and to consider certain minimum criteria in establishing the method. The office, in calculating a grant amount, may not include wages of a person employed in a production project that exceed \$1 million and is allowed to make a grant only from appropriated funds.

The amount for an additional grant for production in an underutilized and economically distressed area, redefined in the bill as an area receiving less than 15 percent yearly of the total film and television production in Texas or having a median household income not exceeding 75 percent of the state median household income, is increased from 1.25 percent to 2.5 percent of the total amount of the production company’s in-state spending for a project.

To qualify for a grant, a production company is required to have a minimum of \$250,000, rather than \$1 million, in in-state spending for a film or television program, and the bill adds an educational or instructional video or series of videos and a digital interactive media production to the types of projects required to have a minimum of \$100,000 in in-state spending. The bill changes grant qualification requirements to decrease from 80 percent to 60 percent the minimum portion of the moving image project that must be filmed in Texas and to establish an exception to the requirement that at least 70 percent of the production crew, actors, and extras be Texas residents if the office determines and certifies that a sufficient number of qualified crew, actors, and extras are not available at the time principal photography begins.

**House Bill 2531**

**Effective:** 6-19-09

**House Author:** Chavez et al.

**Senate Sponsor:** Shapiro

House Bill 2531 amends the Government Code to require, not later than January 1 of each year, the governor to submit to the legislature and post on the office of the governor's Internet website a report that includes certain information regarding the awards, award recipients, and funding sources from the Texas emerging technology fund for the preceding three state fiscal years. The bill also requires the information to include the intended outcomes of certain projects during the preceding two state fiscal years and information on the actual outcomes of certain projects funded during the fund's existence. The bill prohibits the report from including information that is made confidential by law. The bill requires the governor to submit the initial report not later than January 1, 2011.

**House Bill 3676**

**Effective:** See below

**House Author:** Heflin et al.

**Senate Sponsor:** Seliger

House Bill 3676 amends the Tax Code to postpone for three years, to December 31, 2014, the expiration date for provisions of the Texas Economic Development Act relating to school district limitations on appraised value and relating to school tax credits.

Most of House Bill 3676 concerns appraised value limitations granted by school districts for job-creation purposes. The bill, among other provisions, allows application for a limitation not only by a property owner but also by a lessee or a holder of another possessory interest who proposes an investment. It revises the definition of "qualifying job" to include not only those that pay at least 110 percent of the county average weekly wage for manufacturing jobs in a county, as under current law, but also those that pay at least 110 percent of the county average weekly wage for all jobs in a county if an owner creates more than 1,000 jobs in the county. The bill clarifies investment eligibility to include certain property associated with an advanced clean energy project, and extends eligibility to include use of property for a computer center primarily devoted to another type of eligible investment. It amends procedures and requirements for approving an application for a limitation, revises related deadlines, makes changes relating to the confidentiality of business information contained in an application, and adds to the required contents of the economic impact evaluation performed by the comptroller of public accounts, including an evaluation of the projected effect on the Foundation School Program of payments by the state to a school district for each year of the proposed limitation agreement. The bill allows a school district to approve an application that the comptroller has recommended be disapproved only if the district holds a public hearing on the application and recommendation and its governing body by two-thirds vote decides subsequently to approve the application. Besides recommending approval or disapproval of a limitation, as under existing law, the comptroller under the bill has an initial role in determining whether a property meets the eligibility requirements for a limitation. The bill gives an applicant an opportunity for a hearing on such determination, conducted by the State Office of Administrative Hearings (SOAH), and for judicial review. If the comptroller makes a determination of ineligibility and that determination becomes final, the comptroller is not required to produce an economic impact evaluation, and granting of the application by the school district is prohibited. The bill requires the public posting on the comptroller's website of applications, economic impact evaluations, limitation agreements reached between applicants and school districts, and other documents, and requires school districts with websites to include links to the information posted by the comptroller. It allows an agreement to provide that a property owner will protect the school district if the district incurs extraordinary education-related expenses related to a project that are not directly funded in state aid formulas, and allows an agreement to temporarily defer an



approved project. The bill prohibits an agreement from including provision for supplemental payments to a district in excess of \$100 per student per year in average daily attendance and limits the duration of any such payments. It includes penalty provisions to enable the recapture of lost property tax revenue if a property owner fails to make a required minimum amount of investment or to create a required number of jobs.

House Bill 3676 makes clarifying changes to the law regarding limitations on appraised value of property in rural school districts. Changes to the law regarding school tax credits relate to applicant and school district deadlines and the nonconfidentiality of applications. The bill includes applications requesting school tax credits among the documents the comptroller must post publicly on the Internet. It amends provisions of the Government Code relating to the comptroller's study of school district property values to exclude from related calculations a school district limitation on appraised value, for an application made after May 1, 2009, that the comptroller recommended be disapproved.

Portions of House Bill 3676 relating to information submitted by the district to the comptroller and its posting on the Internet and to eligibility determinations by the comptroller, including SOAH and judicial review provisions, take effect January 1, 2010. The remainder of the bill takes effect June 19, 2009.

**Senate Bill 1515**

**Effective:** 9-1-09

**Senate Author:** Watson

**House Sponsor:** McCall et al.

Senate Bill 1515 amends the law to rename the Other Events trust fund as the Major Events trust fund, add the Breeder's Cup World Championships and a Formula One automobile race to the events that are eligible for assistance from the trust fund, and authorize additional counties and municipalities to use the trust fund. The bill amends the definitions of "endorsing county" and "endorsing municipality" to add a county or municipality, respectively, that does not contain a site selected by a site selection organization for an event; is included in the market area for the event as designated by the comptroller of public accounts; and is a party to an event support contract. The bill provides that an event is eligible for funding from the Major Events trust fund only if a site selection organization selects a site located in Texas for the event after considering, through a highly competitive selection process, one or more sites that are not located in Texas; a site selection organization selects a site in Texas as the sole site for the event; and the event is held not more than one time in any year. The bill requires the comptroller to determine the incremental increase in the receipts from certain taxes that are directly attributable to the preparation for and presentation of the event for a one-year period that begins two months before the date on which the event will begin. If the comptroller determines that an event will generate at least \$15 million in state and local tax revenue, the bill authorizes the comptroller and one or more endorsing municipalities or endorsing counties to enter into an agreement to require an amount of local tax revenue determined by the comptroller and state revenue appropriated by the legislature for that purpose to be deposited in the Major Events trust fund before the event. The bill authorizes the comptroller to make disbursements from the trust fund in accordance with the agreement to pay costs relating to attracting and securing the event. On termination of the agreement, the total amount of the state's initial contribution must be repaid to the state from any source specified in the agreement. The bill authorizes an agreement to allow funds to be held in the trust fund and made available to pay the cost of securing the event in future years.

Senate Bill 1515 renames the Sporting Events trust fund as the Events trust fund, removes minimum population requirements for use of the trust fund by an endorsing county or endorsing municipality, and redefines "event" to remove references to major sporting or athletic events. The bill provides that an event is eligible for funding from the Events trust fund only if a site

selection organization selects a site located in Texas for the event after considering, through a highly competitive selection process, one or more sites that are not located in Texas; a site selection organization selects a site in Texas as the sole site for the event or the sole site for the event in a region composed of Texas and one or more adjoining states; and the event is held not more than one time in Texas or an adjoining state in any year. The bill authorizes the comptroller, in determining the amount of state revenue available for deposit in the trust fund, to consider whether the event has been held in Texas on previous occasions and whether changes to the character of the event could affect the incremental increase in receipts collected and remitted to the state by an endorsing county or municipality.

Senate Bill 1515 authorizes a municipality or county to remit to the comptroller for deposit in the Major Events trust fund or the Events trust fund other local funds, including surcharges and user fees, in lieu of the local tax revenue determined by the comptroller as directly attributable to the preparation for and presentation of the event. The bill requires the comptroller to base a determination of the amount of the incremental increase in tax receipts attributable to an event on information submitted by the local organizing committee, endorsing municipality, or endorsing county. The bill authorizes the comptroller to adopt rules necessary to implement the bill's provisions relating to both funds. Additionally, Senate Bill 1515 removes minimum population requirements for use of the Motor Sports Racing trust fund by an endorsing county or endorsing municipality.

**Senate Bill 1929**

**Senate Author:** Watson et al.

**Effective:** 9-1-09

**House Sponsor:** Anchia

Senate Bill 1929 amends the Government Code to require the Music, Film, Television, and Multimedia Office within the office of the governor to administer the media production development zone program to provide a state sales and use tax exemption for items used for media production facilities in designated media production locations in approved media production development zones. The bill requires the office and the comptroller's office to jointly establish criteria and procedures for approval of a media production development zone, designation of a qualified media production location, and certification of a qualified person entitled to a tax exemption at a qualified media production location. The bill establishes criteria for media production development zone recognition and qualified media production location designation, and it limits the number of zones and locations throughout the state and the period of approval or designation. The bill describes a process for the designation of a qualified media production location nominated by the governing body of a municipality or county, and it prohibits the designation until the comptroller certifies that the project or activity to be conducted at the location will have a positive impact on state revenue. The bill creates an advisory committee to make recommendations to the office for designation of qualified media production locations and establishes reporting requirements for the governing body of a qualified media production location, a qualified person at the location, and the office. The annual report of the office must be submitted to the governor, the legislature, and the Legislative Budget Board by December 15 of each year. The bill amends the Tax Code to establish a state sales and use tax exemption for items sold to or used to construct, maintain, expand, improve, equip, or renovate media production facilities at media production locations.

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

House Bill 1079 - State Government

House Bill 2546 - State Government

House Bill 3983 - Taxes and Tax Administration

Senate Bill 2244 - Higher Education

Senate Bill 2534 - State Government

# Elections

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

## General

### House Bill 1493

**Effective:** 9-1-09

**House Author:** King, Tracy

**Senate Sponsor:** Zaffirini

House Bill 1493 amends the Election Code to exempt a person employed at the site within which a polling place is located from the prohibition against using a wireless communication device within 100 feet of a voting station while the person is acting in the course of the person's employment.

## Campaign Ethics and Financing

### House Bill 1720

**Effective:** 9-1-09

**House Author:** Bohac

**Senate Sponsor:** Deuell

House Bill 1720 amends the Election Code to make it a Class A misdemeanor for an officer or employee of a political subdivision to spend or authorize the expenditure of public funds for a communication describing a ballot measure if the communication contains material information the officer or employee knows is false.

### House Bill 2065

**Effective:** 9-1-09

**House Author:** Gallego

**Senate Sponsor:** Duncan

House Bill 2065 amends the Election Code to include the use of a common or contract carrier among the permissible methods by which a political or caucus contribution, if properly placed in the mail or delivered to the contract carrier before the beginning of the period of moratorium on accepting contributions during the regular legislative session, may be delivered and not considered received during the period of the moratorium.

### House Bill 2401

**Effective:** 9-1-09

**House Author:** Keffer

**Senate Sponsor:** Fraser

Previous law restricted the political activities of a full-time employee of a county elections administrator in a county with a population of one million or more that has such an administrator in the same manner as it restricted those of the administrator. House Bill 2401 amends the Election Code to delete the population bracket, making the restriction on holding or being a candidate for a public office or an office of a political party applicable to full-time county elections administrator employees in all counties, and to exempt a full-time employee of a county elections administrator in a county with a population less than one million from the provision making it an offense for such administrator to make a political contribution or expenditure or to publicly support or oppose a candidate for public office or a measure to be voted on at an election.

**House Bill 2525**  
**Effective:** 6-19-09

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

House Bill 2525 amends the Election Code to authorize a corporation or labor organization to make an expenditure for the maintenance and operation of a general-purpose committee and to provide examples of such permissible expenditures. The bill also sets forth the types of political expenditures a corporation or labor organization is prohibited from making for a general-purpose committee.

**House Bill 4060**  
**Effective:** 9-1-09

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

House Bill 4060 amends the Election Code to set the ending date of the period during which a judicial candidate or officeholder, a specific-purpose committee supporting or opposing a judicial candidate, or a specific-purpose committee assisting a judicial officeholder may accept a political contribution at the 120th day after the date of the election in which the candidate or officeholder last appeared on the ballot, regardless of whether the candidate or officeholder has an opponent in that election. The bill removes provisions that fixed the 120th day in relation to the general election date, if the candidate or officeholder has an opponent in that election; the runoff primary election, if the candidate or officeholder has an opponent in the runoff primary election but not in the general election; or the primary election, if the candidate or officeholder is not involved in a runoff election and has no opponent in the general election. The bill clarifies that political contributions permitted after the 120-day postelection period above include the repayment of any debt that is incurred directly by making a campaign expenditure during the period beginning on the date the application for a place on the ballot or for nomination by convention was required to be filed for the election in which the candidate last appeared on the ballot and ending on the date of that election, and that is subject to statutory restrictions on the reimbursement of personal funds and payments on certain loans and contribution and reimbursement limits to certain candidates. The bill repeals a provision authorizing a judicial candidate who does not have an opponent listed on the ballot, or a specific-purpose committee for supporting such a candidate, to accept a political contribution after another person files a declaration of write-in candidacy opposing the candidate.

**Senate Bill 1142**  
**Effective:** 6-19-09

**Senate Author:** Carona  
**House Sponsor:** Anchia

Senate Bill 1142 amends the Election Code to remove the requirement that candidates, officeholders, and certain specific-purpose committees for judicial district offices filled by voters of only one county file a campaign finance report with the county clerk of that county.

**Senate Bill 1152**  
**Effective:** 9-1-09

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

Senate Bill 1152 amends the Election Code to add a courthouse to the locations in which a person is prohibited from knowingly making or authorizing a political contribution to a candidate for or officeholder of certain judicial offices, certain political committees, or a person acting on behalf of such a candidate, officeholder, or political committee. The bill prohibits those individuals and committees from knowingly accepting a political contribution in a courthouse and requires them to refuse a political contribution received in a courthouse. The bill excludes from these prohibitions a political contribution made in a courthouse through the United States postal service or a common or contract carrier.

**Senate Bill 1795****Effective:** 9-1-09**Senate Author:** Zaffirini**House Sponsor:** Pena

Senate Bill 1795 amends the Election Code to require the campaign treasurer of a specific-purpose committee that supports or opposes a candidate in a runoff election or a general-purpose committee involved in a runoff election to file one report of political contributions and expenditures in connection with that election. The bill removes language applying that requirement only to such a committee that also participated in the initial election.

**Senate Bill 2085****Effective:** 9-1-09**Senate Author:** Davis, Wendy**House Sponsor:** Hancock

Senate Bill 2085 amends the Election Code to specify that the prohibition against an officer or employee of a political subdivision spending or authorizing the spending of public funds for political advertising applies only to such an action that is performed knowingly. The bill makes it an affirmative defense to prosecution or the imposition of a civil penalty for such an offense that an officer or employee of a political subdivision reasonably relied on a court order or an interpretation of this provision in a written opinion issued by a court of record, the attorney general, or the Texas Ethics Commission. The bill requires the commission, on written request of the governing body of a political subdivision that has ordered an election on a measure, to prepare an advance written advisory opinion on whether a particular communication relating to the measure complies with this provision. The bill exempts a port authority or navigation district from the provisions providing an affirmative defense to prosecution and requiring an advance written advisory opinion. The bill makes its provisions applicable to the prosecution of conduct committed before, on, or after September 1, 2009, if a judgment has not been entered or a sentence imposed or if an appeal is pending or the time for appeal has not expired.

**Election Officials and Election Procedures****House Bill 401****Effective:** 5-13-09**House Author:** Raymond et al.**Senate Sponsor:** Duncan

House Bill 401 amends the Election Code to authorize the governing body of a political subdivision, other than a county, that holds its general election for officers on a date other than the November uniform election date to change, not later than December 31, 2010, the date to the November uniform election date.

**House Bill 488****Effective:** 9-1-09**House Author:** Bohac et al.**Senate Sponsor:** Duncan

House Bill 488 amends the Election Code to add as an eligibility requirement for appointment as a volunteer deputy registrar that a person has not been finally convicted of a felony, or if convicted, that the person has fully discharged the sentence, has been pardoned, or has otherwise been released from the resulting ineligibility to vote. The bill prohibits a voter registrar from refusing to appoint as a volunteer deputy registrar a person who meets the eligibility requirements as amended by this bill.

**House Bill 567****Effective:** 9-1-09**House Author:** Miller, Sid**Senate Sponsor:** Fraser

Previous law declared a person ineligible to serve as an election judge or clerk in any election if the person was a candidate for a public office in an election to be held on the same day. House Bill 567 amends the Election Code to establish that a candidate for a contested public or

party office is ineligible to serve, in an election to be held on the same day as that election, as an election judge or clerk in any precinct in which the office sought is to be voted on. The bill exempts from this provision a county clerk or a candidate for precinct chair declared elected as an unopposed candidate.

**House Bill 719**  
**Effective:** 9-1-09

**House Author:** Flynn  
**Senate Sponsor:** Duncan

House Bill 719 amends the Election Code to require the secretary of state to implement a program that allows each participating commissioners court to eliminate county election precinct polling places and establish countywide polling places for certain elections. The bill sets forth requirements for the secretary of state's audit of the direct recording electronic voting units used in the elections, selection of counties to participate in the program, and filing of a biennial report with the legislature. The bill requires the commissioners court of a county desiring to participate in the program, with certain exceptions, to hold a public hearing about the county's participation and establishes requirements for selecting polling place sites and providing voters notice of the changes made to voting locations. The bill specifies that voters at a countywide polling place must be allowed to vote in the same elections in which they would be entitled to vote in the voter's county election precinct.

House Bill 719 requires that a sign indicating the location of a polling place for a primary election or a primary runoff election for more than one political party either not contain the name or symbol of any political party holding an election at the polling place or contain each party's name or symbol.

**House Bill 1145**  
**Effective:** 1-1-10

**House Author:** Brown, Betty  
**Senate Sponsor:** Fraser

House Bill 1145 amends provisions of the Election Code relating to procedures for the appointment of election judges in a county with a population of 500,000 or less. The bill changes from July to August the term of a county commissioners court at which the court must appoint the election judges for each regular county election precinct and changes the date on which the term of office begins for an election judge in such a county from August 1 to September 1 following the appointment. The bill also changes from July to August of each year in such a county the month by which the county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county in the most recent gubernatorial general election is required to submit in writing to the commissioners court a list of names of persons who are eligible for appointment as an election judge. The bill establishes expiration dates for the terms of judges serving on the bill's effective date.

**House Bill 1193**  
**Effective:** 9-1-09

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

Under previous law, for the names of a political party's nominees for president and vice president of the United States to be placed on the ballot in a presidential general election, the party's state chair was required to deliver to the secretary of state written certification of the names of those nominees and the names and residence addresses of the party's presidential elector candidates not later than 5 p.m. of the 70th day before presidential election day, and the secretary of state was required to deliver that certification to the authority responsible for having the official ballot prepared in each county not later than the 62nd day before the election day. House Bill 1193 amends the Election Code to provide an alternative deadline for the party chair of 5 p.m. of the first business day after the party finally adjourns its national

presidential nominating convention, and an alternate deadline for the secretary of state of the second business day after the convention's final adjournment, if those dates are later than the original deadlines. The bill establishes that a state chair's certification delivered by U.S. mail is considered delivered at the time of its receipt by the secretary of state.

**House Bill 1265**  
**Effective:** 6-19-09

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

House Bill 1265 amends the Election Code to add the date on which a candidate filed an application with the secretary of state for a place on the ballot for a general primary election to the information that must be included on the list a political party's state chair and each county chair are required to prepare for each such election. The bill adds the date on which a candidate filed an application for nomination by a state party convention to the information that must be delivered to the secretary of state.

**House Bill 1945**  
**Effective:** 9-1-09

**House Author:** Herrero  
**Senate Sponsor:** Hinojosa

House Bill 1945 repeals the Election Code provision establishing the date of the general election in certain coastal cities for city officers and for trustees of an independent school district located wholly or partly in such a city. The bill requires the governing bodies of those political subdivisions, if the city elected its officers in 2007 on a date authorized by that provision, to choose, by December 31, 2009, a uniform election date for its general election for officers in 2011 and subsequent years and to adjust the terms of office to conform to the new election date. The bill provides that all elections held under the former provision before the bill's effective date are validated, ratified, and confirmed.

**House Bill 2101**  
**Effective:** 9-1-09

**House Author:** Pierson  
**Senate Sponsor:** Davis, Wendy

House Bill 2101 amends the Election Code to provide an exception to the law requiring the county convention of a political party to be held inside the boundaries of the county if the county executive committee determines that no suitable location exists in the county and if the committee is granted permission by the state executive committee.

**House Bill 2524**  
**Effective:** 9-1-09

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

House Bill 2524 amends the Election Code to require the general custodian of election records to adopt pre-election testing procedures for a voting system that uses direct recording electronic (DRE) voting machines. The bill provides that such procedures include acceptance testing and verification of a new electronic voting system, hardware diagnostic testing, and a public test of the system's logic and accuracy, to be carried out with the assistance of a testing board created by the custodian. The bill sets forth requirements for documenting the test results and establishes procedures for storing the results and ensuring the security of test materials and for the inventory, tracking, location, and custody of voting system equipment. The bill provides requirements for creating a recovery plan in the event of a breach of those procedures; conducting criminal background checks on relevant election officials, staff, and temporary workers; and adopting procedures relating to the secure transportation of voting system equipment. The bill requires the custodian to secure access control keys or passwords to voting system equipment and specifies that use of those keys or passwords must be documented and witnessed by authorized persons.

House Bill 2524 prohibits a voting system from being connected to any external communications network, including the Internet, and prohibits the system from having wireless communications capability, with certain exceptions. The bill establishes that the sole purpose of voting system equipment is the conduct of an election, authorizes only software certified by the secretary of state and necessary for an election to be loaded on the equipment, and requires the custodian to create a contingency plan for addressing an equipment failure that includes the timely notification of the secretary of state. The bill prohibits a DRE voting machine deployed for early voting from being deployed on election day, and removes a provision requiring the custodian to conduct a recount sufficient to confirm the accuracy of the vote totals in an election in which DRE voting machines are used for the first time.

**House Bill 2847**  
**Effective:** 9-1-09

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

House Bill 2847 amends the Election Code to specify that a provision designating county election precincts as the election precincts for any election of a political subdivision held on the November uniform election date, other than certain specified elections, excludes a conservation or reclamation district that is located in a county with a population of more than 3.3 million or in a county adjacent to such a county. The bill removes language making that provision applicable to an election for a school district located in any county.

**House Bill 3062**  
**Effective:** 9-1-09

**House Author:** Bohac  
**Senate Sponsor:** Huffman

House Bill 3062 amends the Election Code to require the governing body of a political subdivision, other than a county, that orders an election to deliver notice of the election to the voter registrar of each county in which the political subdivision is located, in addition to the county clerk of such a county, by the 60th day before election day.

**House Bill 4498**  
**Effective:** 9-1-09

**House Author:** Hamilton  
**Senate Sponsor:** Nichols

Previous law prohibited a political subdivision from voting to prohibit a previously legalized classification of alcoholic beverage unless the sale of all classifications of alcoholic beverages were legal in that political subdivision. House Bill 4498 amends the Alcoholic Beverage Code to authorize a jurisdiction to hold a local option election to prohibit the sale of any classification of alcoholic beverages that previously has been legalized in that area.

House Bill 4498 authorizes a holder of a mixed beverage permit whose permitted premises are located on property owned by a municipality that contains a municipally owned conference center, borders a lake, has a population of less than 15,000, is located in a county with population of less than 65,000, and contains a historic preservation district that borders a lake, to permit a patron to leave the premises while possessing an alcoholic beverage if the beverage is in an open container and appears to be possessed for present consumption and the public consumption of alcoholic beverages or possession of an open container of an alcoholic beverage is not prohibited on the municipally owned property where the premises are located. The bill authorizes a holder of a caterer's permit operating under the permit in an area in such a municipality to allow a patron to leave the area with an open container of an alcoholic beverage under the above conditions and if such public consumption or possession is not prohibited on the municipally owned property where the area is located. The bill establishes that these provisions do not affect the prohibition against possessing an open container in the passenger area of a motor vehicle.



**Senate Bill 1034****Effective:** 9-1-09**Senate Author:** Fraser**House Sponsor:** King, Susan

Senate Bill 1034 amends the Election Code to authorize the governing body of a municipality with a population of at least 112,000 located in a county with a population of not more than 135,000—in which, as a result of a local option election, the sale of one or more types or classifications of alcoholic beverage is legal in the municipality, and in which, after the election is held, the municipality annexes territory where the sale of one or more of those types of alcoholic beverages is not legal—to order by resolution a local option election in the municipality to legalize such beverages. The bill requires the resolution of the governing body ordering the election to be preceded by a public hearing on the matter and specifies the required contents of the resolution. The bill requires such an election to be conducted by the municipality instead of by the county and establishes that provisions relating to certain county entities and individuals refer to corresponding municipal entities and individuals for purposes of such an election. The bill requires the annexing municipality to pay the expense of the election and establishes that these provisions expire September 1, 2015.

**Senate Bill 1134****Effective:** 9-1-09**Senate Author:** Duncan**House Sponsor:** Berman et al.

Under current law, only a person who is a qualified voter meeting certain residence requirements is eligible to serve as a clerk of an election precinct. Senate Bill 1134 amends the Election Code to permit a student who is ineligible under those requirements but meets specified criteria to serve as a clerk of an election precinct. The bill entitles a student election clerk to compensation in the same manner as other election clerks and authorizes a student election clerk to communicate with a voter who cannot communicate in English in a language the voter and the clerk understand. The bill restricts the number of student election clerks authorized to serve at a polling place and authorizes the secretary of state to initiate or assist in developing a statewide program promoting the use of such clerks.

Senate Bill 1134 amends the Education Code to require a school district to excuse a student from attending school for serving as an election clerk, including travel for that purpose, and authorizes a student election clerk to apply time served as a clerk as credit for certain school activities.

**Senate Bill 1402****Effective:** 6-19-09**Senate Author:** Hinojosa**House Sponsor:** Pena

Senate Bill 1402 amends the Election Code to require the governing body of a political subdivision located entirely in a county with a population of more than 500,000 that is served by a county elections administrator, that does not contain a municipality with a population of more than 150,000, and that is not an irrigation district to request a contract with the county elections administrator to perform certain election services if the political subdivision receives a petition requesting the contract. The petition must be signed by a number of registered voters residing in the political subdivision that is at least one percent of all votes cast in the most recent general election held by the political subdivision and must be submitted before January 1 of the year in which the election to be administered under the requested contract will be held.

**Senate Bill 1970****Effective:** 9-1-09**Senate Author:** Duncan**House Sponsor:** Smith, Todd

Senate Bill 1970 amends Election Code provisions relating to certain elections of an unopposed candidate to remove as a condition for the applicability of those provisions that no

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proposition is to appear on the ballot and to establish the conditions under which, for purposes of these provisions, a special election of a political subdivision is considered a separate election from certain general and other special elections of the political subdivision. The bill specifies that the requirement that a copy of the order or ordinance declaring each unopposed candidate elected to office be posted on election day at each polling place used or that would have been used in the election applies only if no election is to be held on election day by the political subdivision. The bill requires the ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected to include, in a specified location and order on the ballot, the offices and names of the candidates declared elected, and establishes that no votes are cast in connection with the candidates. The bill authorizes the secretary of state by rule to prescribe any additional procedures necessary to accommodate a particular voting system or ballot style and to facilitate the implementation of these provisions.

Senate Bill 1970 expands the offense of coercion against candidacy to include influencing or attempting to influence a person to withdraw as a candidate by intimidation or coercion. The bill authorizes an authority that orders an election on a measure to declare the measure moot under certain conditions and remove the measure from the ballot, and, in such an event, requires the authority to post notice of the declaration during early voting and on election day at each polling place that would have been used for the election on the measure. The bill authorizes an authority that orders an election to cancel the election only if the power to cancel the election is specifically provided by statute. The bill specifies that the requirement that the location of each polling place be stated in the notice of a general or special election includes the location of each early voting polling place. The bill requires an early voting clerk to notify the voter registrar for the county of a federal postcard application that states a voting residence address outside the registrar's county, and includes the receipt of such notice as a condition under which a registrar is required immediately to cancel a voter's registration.

Senate Bill 1970 authorizes the presiding officer of the final canvassing authority for county returns to make a clerical correction to the officially canvassed returns based on any authorized amended county canvass filed with the presiding officer. The bill includes any runoff election resulting from an election held on the uniform election date in May in the provision establishing the period for early voting for such an election, and specifies that an election order and election notice are required to state the location of each early voting polling place, rather than the main early voting place. The bill specifies that a person is eligible to vote a limited ballot during the early voting period or by mail, after changing residence to another county, if the person is registered to vote in the county of former residence at the time the person offers to vote in the county of new residence, rather than when the voter changed residence, in addition to meeting other requirements. The bill authorizes a voting system technician, on the request of the authority holding the election, to be present at a polling place, a meeting of the early voting ballot board, or a central counting station for the purpose of repairing, assembling, maintaining, or operating voting system equipment.

Senate Bill 1970 requires the authority with which an application for a place on the ballot must be filed, not later than the 30th day before the first day on which a candidate may file the application, to post notice of the dates of the filing period in a public place in a building in which the authority has an office. The bill prohibits a write-in candidate from withdrawing from the election after the 67th day before election day and changes the deadlines by which a county executive committee is required to convene to conduct the local canvass of a primary election and the state executive committee is required to convene to conduct the state canvass for the general primary election or a runoff primary election. The bill also changes the deadline

by which a political party's written certification of the names of the party's nominees and the names and residence addresses of presidential elector candidates nominated by the party must be delivered to the secretary of state, establishes that such certification by mail is considered to be delivered at the time it is received by the secretary of state, and changes the deadline by which the secretary of state is required to deliver the certification to the authority responsible for having the official ballot prepared in each county and the deadline by which a candidate's application for a place on a special election ballot must be filed.

Senate Bill 1970 sets the amount of the recount deposit at \$60 for each precinct in which regular paper ballots were used and \$100 for each precinct in which an electronic voting system was used, rather than basing the amount on the maximum hourly rate of pay for election judges in a precinct and the voting method used in the precinct. The bill amends provisions relating to the representation of a candidate, a political party, or a specific-purpose political committee at a recount of an election to specify that such individuals and entities are entitled to have watchers, rather than representatives, present at the recount. The bill amends provisions relating to joint elections to establish that such an election is authorized if the elections ordered by the authorities of two or more political subdivisions are to be held on the same day in all or part of the same county, rather than the same territory, and repeals a provision establishing that a person attains a specified age on the day before the anniversary of the person's birthday.

**Senate Bill 2067**

**Effective:** 9-1-09

**Senate Author:** Davis, Wendy

**House Sponsor:** Veasey

Senate Bill 2067 amends the Election Code to remove language that permits a political party's state executive committee to exempt a place selected for a precinct convention of that party from the requirement that the location meet the same accessibility requirements as a polling place.

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

**House Bill 536**

**Effective:** 9-1-09

**House Author:** Anchia et al.

**Senate Sponsor:** Van de Putte

House Bill 536 amends the Election Code to establish that the submission of a federal postcard application for voting constitutes an application for registration to vote at the voting residence address stated on the application unless the application indicates that the person is residing outside the United States indefinitely, and to require the secretary of state to prescribe rules to implement this provision. The bill removes a provision specifying that the submission of such an application constitutes registration for each election that occurs on or before the date of the second general election for state and county officers that occurs after the date the application is submitted.

**House Bill 551**

**Effective:** 9-1-09

**House Author:** Madden et al.

**Senate Sponsor:** Harris

House Bill 551 amends the Election Code to permit a scanned version of a federal postcard application to vote to be submitted by e-mail to the appropriate early voting clerk under procedures prescribed by the secretary of state, who the bill requires to establish the date on which such an application is considered submitted.

**House Bill 1256**

**Effective:** 9-1-09

**House Author:** Allen et al.

**Senate Sponsor:** Ellis

House Bill 1256 amends the Election Code to require the presiding judge of an election precinct to post, at one or more easily visible locations in a polling place, notice in a form prescribed by the secretary of state that informs voters of whom to call or write if a voter has a complaint about the conduct of the election. The bill sets out requirements for the format and content of the notice.

**House Bill 1448**

**Effective:** 6-19-09

**House Author:** Allen

**Senate Sponsor:** Ellis

House Bill 1448 amends the Election Code to reorganize and make nonsubstantive changes to the provision that requires a voter registration application to include, if the applicant does not have a Texas driver's license or personal identification card number or a social security number, a statement that the applicant has not been issued such a number.

**House Bill 1457**

**Effective:** Vetoed

**House Author:** Hochberg

**Senate Sponsor:** Duncan

House Bill 1457 requires the secretary of state, not later than January 1, 2010, to adopt rules establishing a reasonable person standard for verifying the Texas driver's license number or state-issued personal identification card number on a voter registration application submitted by a voter registrar because the applicant has not met certain requirements. The bill requires the secretary of state to provide the registrar with specified information as part of the verification process and provides for the correction of an error in a voter registration record. The bill requires, if an application is rejected for lack of verification, that the written notice from the registrar to the applicant stating the reason for the rejection indicate which information could not be verified, if such information is provided to the registrar by the secretary of state.

Reason Given for Veto: "House Bill No. 1457 would require the secretary of state to develop a system for accepting voter registration applications when the information provided by the voter does not match the [identifying] information for that individual in the records of the Texas Department of Public Safety (DPS) or other state agencies.

"Most significantly, this bill would put the responsibility for correcting any mistake in the wrong hands. The secretary of state does not see the application filed with the county voter registrar and therefore is not in a position to determine whether the mismatched information was due to a typographical error at the county level or to incorrect information given by the applicant. A misspelled name or incorrect date of birth on a voter registration application is a strong indication that the application was filled out by someone other than the rightful voter.

"Additionally, requiring acceptance of names on voter rolls that do not match the DPS database would impede the ability to keep the rolls accurate; voters' names would not match other state records, which would consequently prevent them being removed from the voter rolls due to death, imprisonment or other legitimate reasons.

"While Texas should make every effort to ensure that clerical errors do not prevent legitimate voters from registering, the secretary of state is in no position to determine where the error occurred; this is best done at the county level where voter applications are received."

**House Bill 2181**

**Effective:** 9-1-09

**House Author:** Berman

**Senate Sponsor:** Duncan

House Bill 2181 repeals the Election Code provision establishing that a person attains a specified age on the day before the anniversary of the person's birthday.

**House Bill 3061****Effective:** 9-1-09**House Author:** Bohac**Senate Sponsor:** Huffman

House Bill 3061 amends the Election Code to add the employment of temporary voter registration personnel for not more than 39 weeks in a state fiscal year to the additional expenses related to voter registration for which state funds may be used to defray registrar office expenses.

**House Bill 3069****Effective:** 9-1-09**House Author:** Bohac**Senate Sponsor:** Huffman

House Bill 3069 amends the Election Code to require the officially prescribed form for a confirmation notice of a voter's current residence to include a statement that the voter must include all of the required information on the notice's response form. The bill requires the form to provide spaces for the voter to include all of the information a person must include in an application to register to vote, requires the voter's response to contain all such information, and requires that information to be included in the statement a voter must execute and submit to an election officer before being accepted for voting. The bill removes language that requires the statement to include the voter's residence address or, if the residence has no address, the address at which the voter receives mail and a concise description of the location of the voter's residence and date of birth.

**House Joint Resolution 39****Effective:** 5-26-09**House Author:** Allen et al.**Senate Sponsor:** Ellis et al.

House Joint Resolution 39 post-ratifies the 24th Amendment to the U.S. Constitution, which prohibits the denial or abridgement of the right to vote for failure to pay a poll tax or any other tax. The resolution directs the secretary of state to notify the national archivist of this action by forwarding to the archivist an official copy of the resolution, and instructs the secretary of state also to forward official copies of the resolution to the Texas congressional delegation, the U.S. vice president in his capacity as presiding officer of the U.S. Senate, and the speaker of the U.S. House of Representatives, with the request that it be printed in full in the Congressional Record.

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

House Bill 559 - Open Government and Privacy  
 House Bill 677 - Public Officials and Employees  
 House Bill 3216 - Public Officials and Employees  
 House Bill 3218 - Public Officials and Employees  
 House Bill 3922 - Public Officials and Employees  
 Senate Bill 281 - Open Government and Privacy  
 Senate Bill 927 - Criminal Justice  
 Senate Bill 1807 - Public Officials and Employees  
 Senate Bill 2468 - Public Officials and Employees



## Emergency Response

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

**House Bill 846**  
**Effective:** 9-1-09

**House Author:** Martinez, “Mando” et al.  
**Senate Sponsor:** Gallegos

House Bill 846 amends Health and Safety Code and Occupations Code provisions relating to the requirements and procedures adopted by the Department of State Health Services for the renewal of a certificate to practice as emergency medical services personnel and those adopted by the Commission on Law Enforcement Officer Standards and Education for the renewal of a license issued to a peace officer, reserve law enforcement officer, county jailer, or public security officer. The bill prohibits those requirements and procedures from requiring an applicant to provide unchanged criminal history information already included in one or more of the applicant’s previous applications for certification, licensure, or certificate or license renewal. Those requirements and procedures may require the applicant to provide only information relevant to the period occurring since the date of the applicant’s last application, including information relevant to any new requirement applicable to the certificate or license held by the applicant.

**House Bill 1326**  
**Effective:** 6-19-09

**House Author:** Rios Ybarra et al.  
**Senate Sponsor:** Lucio

House Bill 1326 amends the Government Code to authorize the division of emergency management in the office of the governor to include in the comprehensive state emergency management plan provisions for quickly replenishing the food supplies of area food banks or food pantries following a disaster.

**House Bill 1831**  
**Effective:** See below

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

House Bill 1831 amends provisions of the Education Code, Government Code, Health and Safety Code, Labor Code, Transportation Code, and Utilities Code relating to disaster preparedness, emergency management, and vehicles used in emergencies. Article 1 adds extreme heat to the definition of “disaster” and requires the division of emergency management in the office of the governor to develop an annex to the state emergency management plan that addresses initial response planning for providing essential population support supplies, equipment, and services, including water and wastewater services, during the first five days immediately following a disaster and to develop a phased reentry plan for evacuated areas. The article establishes a communications coordination group, composed of representatives from governmental and private entities, to facilitate interagency coordination and collaboration during an emergency. The article authorizes a county judge or mayor of a municipality who orders the evacuation of an area stricken or threatened by a disaster to compel persons who remain in the evacuated area to leave and to authorize the use of reasonable force to remove them and provides that a person who is rescued is civilly liable for the costs of rescue efforts under certain circumstances. The division is authorized to establish a cadre of disaster reservists with specialized skills in disaster recovery, hazard mitigation, community outreach, and public information to temporarily augment its permanent staff in the aftermath of a disaster or major emergency. The Department of State Health Services (DSHS) is required to establish a program

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to educate Texas citizens on disaster and emergency preparedness, response, and recovery. The Texas Department of Agriculture, Texas Animal Health Commission, and DSHS are required to prepare annexes to the state emergency management plan related to their respective jurisdictions. The article suspends the required waiting period for unemployment benefits for a person unemployed because of a disaster, expands the definitions of “authorized emergency vehicle” and “police vehicle,” and abolishes the disaster emergency funding board.

Article 2 authorizes an entity responsible for a critical governmental facility to equip the facility with a combined heating and power system if the expected energy savings exceed the expected costs of the system. The article authorizes the Public Utility Commission of Texas (PUC) to require certain entities to sell electricity to an electric utility, municipally owned utility, or electric cooperative that is unable to supply power to meet customer demand due to a natural disaster or other emergency. The article sets out provisions on infrastructure improvement and maintenance reports required to be submitted to the PUC.

Article 3 requires DSHS to establish a temporary public health extension service pilot program in Health Service Region 11 to support local public health and medical infrastructure, to promote disease control and medical preparedness, and to enhance biosecurity. The article requires the Texas Funeral Service Commission to ensure that a casket contains identification of the deceased person in the casket and enacts a prepaid 9-1-1 emergency service fee of two percent of the purchase price of each prepaid wireless telecommunications service.

Article 4 authorizes a state employee who is emergency services personnel not subject to the overtime provisions of the federal Fair Labor Standards Act of 1938 nor an employee of the legislature to take compensatory time off during the 18-month period following the end of the workweek in which the compensatory time was accrued and allows an agency to pay overtime for compensatory time earned during a declared disaster.

Article 5 amends the Government Code, effective June 19, 2009, to authorize the Texas Supreme Court to modify or suspend procedures for the conduct of any court proceeding affected by a disaster during the pendency of a disaster declared by the governor. The article sets forth alternate authority if the supreme court cannot act.

Article 6 requires each public junior college district, general academic teaching institution, medical and dental unit, and agency of higher education, in addition to each school district, to adopt and implement a multihazard emergency operations plan. The article requires the Texas School Safety Center to establish a registry of persons providing school safety or security consulting services in Texas, and requires such persons to register with the center. The article requires the center to research best practices regarding emergency preparedness of public junior colleges and to serve as a clearinghouse for that information. The article establishes the University of Houston Hurricane Center for Innovative Technology at the University of Houston to promote the development of technologies designed to mitigate the damages caused by hurricanes in the Gulf Coast region and to develop recovery protocols for the public and private sectors following a hurricane.

Except as otherwise provided, the bill takes effect September 1, 2009.

**House Bill 1861**  
**Effective:** 6-19-09

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

House Bill 1861 amends the Government Code to authorize the Supreme Court of Texas to modify or suspend procedures for the conduct of any court proceeding affected by a disaster during the pendency of a disaster declared by the governor and sets forth contingencies that provide for such action by another court or judge if a disaster prevents the supreme court from acting. The bill authorizes the local rules of administration that must be adopted by district



and statutory county court judges in each county to provide for a coordinated response for the transaction of essential judicial functions in the event of a disaster. The bill includes as a purpose of the Texas Disaster Act of 1975 clarifying and strengthening the role of the judicial branch of state government in prevention of, preparation for, response to, and recovery from disasters.

**House Bill 1998**

**Effective:** 9-1-09

**House Author:** McCall

**Senate Sponsor:** Gallegos

Current law authorizes the governor to enter into agreements with a federal agency to provide temporary housing units to disaster victims and to make such units available to a political subdivision. The governor may assist a political subdivision that is providing temporary housing to disaster victims by allocating, advancing, or lending funds needed to prepare the sites. A political subdivision may acquire temporary housing sites and may arrange for the purchase of temporary housing units and pay any transportation charges.

House Bill 1998 amends the Government Code to make the above provisions applicable to emergency shelters for disaster victims. Additionally, the bill makes a political subdivision that is a site of temporary housing or emergency shelters for disaster victims eligible for any assistance available to the state, including the disaster contingency fund. A political subdivision that provides such housing or shelter is entitled to an advance or reimbursement for all expenses, including any lost revenue, associated with providing the temporary housing or emergency shelter, and for any amounts paid for salaries and benefits of any permanent, straight-time, or regular-time employees who assisted in evacuation efforts.

**House Bill 2450**

**Effective:** 9-1-09

**House Author:** Eiland et al.

**Senate Sponsor:** Lucio

House Bill 2450 amends the Government Code to allow an applicant for federally provided financial assistance administered by the Texas Department of Housing and Community Affairs (TDHCA) for repairing or rebuilding a home damaged by a natural disaster to establish ownership of the home through nontraditional documentation of title. The bill requires TDHCA to process an application for that assistance as if the applicant is the record title holder of the affected real property if the applicant provides to TDHCA an affidavit and certain other documentation relating to ownership of the property. The bill specifies that these provisions do not establish record ownership or otherwise alter legal ownership of real property and that TDHCA is not liable to any claimed owner of an interest in real property for administering financial assistance under the provisions.

House Bill 2450 requires the executive director of TDHCA to appoint a natural disaster housing reconstruction advisory committee composed of representatives from appropriate local, state, and federal entities and organizations and nonprofit organizations to develop a natural disaster housing reconstruction plan and sets forth requirements for developing the plan. The bill requires the executive director and the advisory committee to develop, using the plan, housing reconstruction demonstration pilot programs for three areas, each of which was affected by one of the three most recent federally declared natural disasters, and requires the pilot programs to provide for the replacement of at least 20 houses in each area to test the feasibility of implementing the plan in the large-scale production of replacement housing. The bill requires TDHCA to provide to an interested council of government, county, or eligible local government information and assistance in implementing one of the programs TDHCA has developed and authorizes TDHCA to implement a pilot program in any of the three areas in which such a program has not been implemented by an interested entity, using any available funds.

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House Bill 2450 states that the purpose of establishing the reconstruction plan and pilot programs is to encourage the development of a model plan for future reconstruction efforts to increase the effective and efficient delivery of natural disaster housing recovery services by state agencies.

### **House Bill 2558**

**Effective:** 6-19-09

**House Author:** Turner, Sylvester

**Senate Sponsor:** Jackson, Mike

House Bill 2558 amends the Health and Safety Code to require a home and community support services agency to help clients register for disaster evacuation assistance through 2-1-1 services provided by the Texas Information and Referral Network and to counsel clients regarding disaster preparedness.

### **House Bill 2845**

**Effective:** 9-1-09

**House Author:** Riddle et al.

**Senate Sponsor:** Nichols

House Bill 2845 removes an applicant for certification as emergency medical services personnel from Occupations Code provisions relating to the consequences of criminal conviction on licensing and adds provisions to the Health and Safety Code relating to the certification of and disciplinary actions against emergency medical services personnel. The bill requires the executive commissioner of the Health and Human Services Commission (HHSC) to consider criminal background information in adopting the minimum standards for emergency medical services personnel certification and authorizes the Department of State Health Services (DSHS) to provide a prescreening criminal history record check for an emergency medical services personnel applicant to determine the applicant's eligibility to receive certification before enrollment in the educational and training requirements mandated by the executive commissioner. The bill authorizes DSHS to charge each applicant who requests prescreening a reasonable fee for costs associated with prescreening. It authorizes the commissioner of health to suspend or revoke an emergency medical services certificate, disqualify a person from receiving a certificate, or deny a person the opportunity to take a certification examination on the grounds that the person has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense that directly relates to the duties and responsibilities of emergency medical services personnel, other than certain traffic offenses. The bill requires that a certificate holder's certificate be revoked if the certificate holder is convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense for which a judge may not suspend the sentence and place the defendant on community supervision or an offense committed on or after September 1, 2009, for which the person is subject to registration as a sex offender. The bill requires the commissioner of health, in determining whether an offense directly relates to the duties and responsibilities of emergency medical services personnel, to consider certain factors. It requires the commissioner of health, in determining the fitness to perform the duties and discharge the responsibilities of emergency medical services personnel for a person who has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, a crime, to consider additional factors. The bill establishes that the applicant or certificate holder has the responsibility to obtain and provide to the commissioner of health specified information required to make such a determination. The bill also establishes provisions regarding proceedings relating to revoking, suspending, or denying a certificate, notification requirements, and a review procedure.

**House Bill 2914****Effective:** See below**House Author:** McReynolds et al.**Senate Sponsor:** Nichols

House Bill 2914 adds a temporary provision to the Education Code, set to expire September 1, 2011, to authorize the Texas Forest Service, with the advice of its advisory committee appointed under the rural volunteer fire department insurance program, to establish and administer a pilot program to provide grants to fire departments to assist with the costs of fuel mitigation. The bill requires the service to adopt rules to implement the program, including rules establishing reasonable criteria and qualifications for the distribution of grant money. The bill authorizes money in the rural volunteer fire department insurance fund to be used for purposes of the pilot program, but specifies that it does not make an appropriation and that a provision it contains that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation for its implementation. The director of the Texas Forest Service, if the service establishes the pilot program, must submit a written report to the legislature not later than December 1, 2010, on the effectiveness of the program in mitigating fuel hazards.

House Bill 2914 takes effect June 19, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**House Bill 3851****Effective:** 6-19-09**House Author:** Eiland**Senate Sponsor:** Huffman

House Bill 3851 amends the Government Code to authorize, on request of a political subdivision, the governor to waive or suspend a deadline imposed by a statute or agency order or rule on the political subdivision, including a deadline relating to a budget or property tax, if the waiver or suspension is reasonably necessary to cope with a disaster. A deadline imposed by local law, including a deadline relating to a budget or property tax, is suspended for up to 30 days if the territory of the political subdivision is located in a declared disaster area and the presiding officer or governing body of the political subdivision proclaims the political subdivision is unable to comply with the requirement because of the disaster. The bill authorizes the presiding officer or governing body to issue an order ending the suspension of a deadline.

**House Bill 3854****Effective:** 6-19-09**House Author:** Eiland**Senate Sponsor:** Jackson, Mike

House Bill 3854 amends the Local Government Code to authorize a development corporation the creation of which was authorized by a unit wholly or partly located in the Hurricane Ike disaster area to issue bonds for certain projects relating to Hurricane Ike disaster relief. The bill specifies that such projects and bonds are not subject to administration by the Texas Economic Development and Tourism Office.

House Bill 3854 also amends state law to validate governmental acts and proceedings relating to a bond election held by a county in the Hurricane Ike disaster area on November 4, 2008.

**House Bill 4002****Effective:** 9-1-09**House Author:** Swinford et al.**Senate Sponsor:** Duncan

House Bill 4002 amends the Government Code to authorize the Texas Forest Service to expend an amount not to exceed \$5 million per year from the volunteer fire department assistance fund for staffing and operating costs associated with the preparation and delivery of the statewide wildfire protection plan.

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### **House Bill 4068**

**Effective:** Vetoed

**House Author:** Gonzales

**Senate Sponsor:** Hinojosa

House Bill 4068 amends the Government Code to authorize the Supreme Court of Texas to exercise the court's inherent authority by rule or by order or on a case-by-case basis, with or without the consent of the parties, to temporarily suspend the provisions of any order, rule, or statute prescribing procedures for the conduct of any court proceeding affected by a disaster for the period the proceeding is affected and sets forth contingencies relating to such action if a disaster prevents the supreme court from acting. The bill authorizes the local rules of administration that must be adopted by district and statutory county court judges in each county to provide for a coordinated response to ensure the transaction of essential judicial functions in the event of a disaster and includes in the purposes of provisions for emergency management clarifying and strengthening the role of the judicial branch in prevention of, preparation for, response to, and recovery from disasters. The bill requires the division of emergency management, in preparing and revising the state emergency management plan, to seek the advice and assistance of the judicial branch, in addition to other entities and persons.

Reason Given for Veto: "House Bill No. 4068 seeks to provide authority to the Texas Supreme Court and Texas Court of Criminal Appeals when there is a disaster in the state. Another bill passed during the 81st Legislature[,] Regular Session, House Bill No. 1861, also provides authority over the judicial branch in Texas to the Texas Supreme Court and the Texas Court of Criminal Appeals in the event of a disaster. House Bill No. 1861 and House Bill No. 4068 contain conflicting provisions, and enacting both would lead to time-consuming litigation to resolve these conflicts. In the event that a disaster affects operations of the judicial branch, returning operations to their regular state as quickly as possible is the highest priority. Because of these conflicts and because I believe House Bill No. 1861 provides a better framework for the judicial branch during a state of disaster, I am vetoing House Bill No. 4068."

### **House Bill 4102**

**Effective:** 6-19-09

**House Author:** Eiland et al.

**Senate Sponsor:** Carona et al.

House Bill 4102 amends the Education Code to establish provisions, to be implemented by the commissioner of education, relating to a school district located in a declared disaster area that incurs disaster remediation costs. For the two-year period following the governor's initial disaster declaration, the bill reduces the total amount a district must pay for attendance credits by the amount of any disaster remediation costs the district pays during that period and does not anticipate recovering through insurance, federal disaster relief, or another reimbursement source. The bill sets forth a temporary provision expiring September 1, 2010, providing for the determination of the reduction to which a district is entitled for the 2009-2010 school year. The bill permits a district, during the two-year period, to apply to the commissioner for reimbursement of disaster remediation costs paid during that period and not anticipated to be recovered through other reimbursement sources, and authorizes a district to seek reimbursement for costs paid on or after September 1, 2008. The bill sets forth provisions for funding reimbursements from the Foundation School Program and other sources, requiring full reimbursement of each district that is at or below the equalized wealth level before reimbursing districts that are above the level. The bill prohibits a district that exceeds the equalized wealth level from obtaining reimbursement for the payment of any disaster remediation costs that resulted in a reduction of the district's cost of attendance credits. It authorizes the commissioner to permit a district to use funds available as a result of either a reduction in attendance credit costs or a reimbursement for disaster remediation costs to replace a facility instead of repairing it, but prohibits the district from receiving a reduction or reimbursement that exceeds the lesser amount of repairing or replacing the facility.

House Bill 4102 requires the commissioner, for the two-year period following the governor's disaster declaration date and from funds appropriated or otherwise available for the purpose, to adjust the average daily attendance (ADA) of a district that experiences a decline in ADA due to the impact of a disaster in order to ensure that the district receives funding comparable to the funding it would have received if such decline had not occurred. The bill requires the commissioner to adjust the taxable value of such a district to ensure that it receives funding based as soon as possible on property values as affected by the disaster.

House Bill 4102 authorizes the board of trustees of a school district, in the event of a catastrophe, emergency, or natural disaster affecting the district, to delegate to the superintendent or designated person the authority to contract for the emergency replacement, construction, or repair of school equipment or facilities if necessary for the health and safety of district students and staff.

House Bill 4102 amends the Government Code to allow any state or local government entity that participates in disaster preparation or recovery to be eligible to request and receive funding from the disaster contingency fund to pay for any costs incurred by the state or local government entity in preparing for or recovering from a disaster. The bill removes provisions that limit the use of the funds to paying for extraordinary preventive costs and costs incurred in repairing damage suffered during a declared disaster. The bill requires a state or local government entity or other eligible entity that receives the funds for disaster recovery costs and that is subsequently reimbursed from the federal government, an insurer, or another source to reimburse the fund, and requires the governor's division of emergency management to implement reimbursement procedures. Money in the fund may be used for a disaster risk financing instrument to leverage funds to cover extraordinary expenses and for providing funds to a local government entity suffering financial hardship due to a declared state of disaster in order to provide local matching funds for Federal Emergency Management Agency qualifying projects.

**Senate Bill 361**

**Effective:** 6-19-09

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

**House Sponsor:** Callegari

House Bill 361 amends the Water Code to require an affected utility to ensure the emergency operation of its water system during an extended power outage as soon as safe and practicable following the occurrence of a natural disaster, to adopt an emergency preparedness plan that demonstrates the utility's ability to provide emergency operations, and to submit the plan to the Texas Commission on Environmental Quality (TCEQ) for approval not later than March 1, 2010. The bill defines "affected utility" to mean a retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer in a county with a population of 3.3 million or more or in a county with a population of 400,000 or more adjacent to a county with a population of 3.3 million or more. The bill requires TCEQ to review an emergency preparedness plan and, if TCEQ determines that the plan is not acceptable, to recommend changes to the plan. The bill establishes the information required to be included in an emergency preparedness plan and TCEQ's responsibility in assisting in preparation of the plan.

House Bill 361 requires TCEQ to inspect each affected utility to ensure that the utility complies with the approved plan and authorizes TCEQ to grant a waiver from its standards of emergency operations if TCEQ determines that compliance will cause a significant financial burden on customers of the utility. The bill authorizes an affected utility to adopt and enforce limitations on water use while the utility is providing emergency operations and sets forth confidentiality provisions on the information provided by an affected utility.

## Emergency Response

House Bill 361 requires an affected utility to submit, not later than November 1, 2009, to the appropriate county judge and other specified entities a copy of the affected utility's approved emergency preparedness plan, the commission's notification to the affected utility that the plan is accepted, information identifying the location and providing a general description of all water and wastewater facilities that qualify for critical load status, and emergency contact information for the affected utility and to immediately update the required information as changes to the information occur. The bill requires the county judge of each county that receives the information to submit the information to certain electric utilities and retail electric providers and requires each electric utility and retail electric provider to determine annually whether the facilities of the affected utility qualify for critical load status under rules adopted by the Public Utility Commission of Texas. The bill requires an electric utility and an electric provider, if the electric utility determines that an affected utility's facilities do not qualify for critical load status, to provide a detailed explanation of the electric utility's determination to each county judge that submitted the information.

House Bill 361 requires TCEQ, not later than December 1, 2009, to adopt standards of emergency operations and to issue a report to the governor, lieutenant governor, and speaker of the house of representatives if TCEQ is unable to adopt the standards by that date. The bill requires TCEQ, as part of the rulemaking process, to conduct at least two hearings in Harris County. The bill requires each affected utility to implement an approved emergency preparedness plan not later than July 1, 2010, and authorizes such a utility to request an extension.

### **Senate Bill 1011**

**Effective:** See below

**Senate Author:** Estes

**House Sponsor:** Harper-Brown

Senate Bill 1011 amends the Government Code to continue the Texas Commission on Fire Protection until September 1, 2021, and to revise statutes reflecting across-the-board sunset provisions.

Senate Bill 1011 authorizes the commission to conduct inspections of institutions and facilities that conduct fire protection training courses, in addition to the biennial compliance inspections currently required under state law, to assess safety risk and specifies factors for the commission to consider in determining whether to conduct such an inspection. The bill sets forth provisions relating to disciplinary actions and administrative and civil penalties against fire departments, training providers, and certified personnel that commit inspection violations or fail to take corrective action on a violation and requires the commission to develop and implement a method for tracking and analyzing complaint violation data.

Senate Bill 1011 requires the commission and the commissioner of insurance to transfer between the two agencies injury information from the Texas Fire Incident Reporting System and workers' compensation data showing claims filed by fire protection personnel and requires the commission to evaluate the injury information and develop recommendations for reducing such injuries.

Senate Bill 1011 prohibits the commission from certifying a person as fire protection personnel unless the commission has approved fingerprint-based criminal history record information about the person obtained from the Department of Public Safety and the Federal Bureau of Investigation, and requires the commission to establish criteria for denying certification based on criminal history. Effective January 1, 2010, the bill removes the \$35 cap on the fee for a certificate issued or renewed by the commission and authorizes the commission to set the amount of the fee. The bill requires a fire department or other employing entity renewing a certification to submit to the commission evidence of completion of any required professional education.

Effective January 1, 2010, Senate Bill 1011 abolishes the Fire Department Emergency Program established under the commission to provide financial assistance for purchasing equipment and facilities and providing education scholarships for municipal and volunteer fire departments and certain firefighting organizations, and transfers all money, loans and other contracts, leases, property, and obligations of the commission related to the program, and the balance of any money appropriated by the legislature for the program, to the Texas Forest Service. It requires the service to maintain a separate account within the volunteer fire department assistance fund to contain money transferred from the program and money from legislative appropriations, and authorizes the money in the account to be used only for firefighter education and training scholarship grants or for purchasing firefighting equipment and facilities for municipal and volunteer fire departments.

Senate Bill 1011 requires the commission to coordinate with appropriate state and federal agencies in a declared state of disaster, including the governor's office of homeland security and the Federal Emergency Management Agency.

Except as provided above, the bill takes effect September 1, 2009.

**Senate Bill 1112**

**Effective:** 6-19-09

**Senate Author:** Estes

**House Sponsor:** Farabee

Senate Bill 1112 amends the Local Government Code to authorize a county commissioners court to provide money from the county's general fund to residents adversely affected by a local disaster for which the county judge has declared a local state of disaster if the commissioners court has implemented policies and procedures to ensure the money is used specifically to provide for disaster relief and determined that financial assistance from other sources is unavailable or inadequate.

**Senate Bill 1409**

**Effective:** 6-19-09

**Senate Author:** Shapleigh

**House Sponsor:** McReynolds

Senate Bill 1409 amends the Health and Safety Code to redefine the term "first responder" for purposes of the immunization registry to mean any federal, state, local, or private personnel who may respond to a disaster or any related personnel that provide support services during the prevention, response, and recovery phases of a disaster.

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

House Bill 1063 - Local Government

House Bill 4409 - Insurance

Senate Bill 254 - Taxes and Tax Administration

Senate Bill 359 - Criminal Justice

Senate Bill 1474 - Public Officials and Employees

Senate Bill 2148 - Taxes and Tax Administration





## Energy Resources

This chapter covers legislation relating to oil, natural gas, coal, geothermal energy, biofuels, and related operations, including pipelines for energy delivery. It also includes legislation on energy efficiency and conservation. Bills relating to electric power plants and gas utilities, other than bills on clean energy projects involving fossil fuels, are in the **Utilities** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### **House Bill 434**

**Effective:** 6-19-09

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

**Senate Sponsor:** Hinojosa

House Bill 434 amends the Government Code to require that applications, forms, and educational materials for the Energy Crisis Intervention Program, the weatherization program, and the Low-Income Home Energy Assistance Program operated by the Texas Department of Housing and Community Affairs be provided in English, Spanish, and any other appropriate language.

### **House Bill 469**

**Effective:** 9-1-09

**House Author:** King, Phil et al.

**Senate Sponsor:** Seliger

House Bill 469 amends provisions of the Government Code, Health and Safety Code, Natural Resources Code, and Tax Code relating to tax incentives for certain clean energy projects.

House Bill 469 requires the comptroller of public accounts to adopt rules to issue a franchise tax credit to an entity implementing a clean energy project connected with the construction of a new facility. "Clean energy project" is defined as the construction of a coal-fueled or petroleum coke-fueled electric generating facility, including a facility in which the fuel is gasified before combustion, that: has a capacity of at least 200 megawatts; meets emission limits outlined in the bill; will capture at least 70 percent of the carbon dioxide resulting from the generation of electricity by the facility; is capable of permanently sequestering the captured carbon dioxide in a geological formation; and is capable of supplying the carbon dioxide for use in an enhanced oil recovery project. An entity is eligible for a tax credit as determined by the comptroller provided that: a certificate of compliance for the project is issued by the Railroad Commission of Texas, which is limited to issuing not more than three certificates; the facility is completed and fully operational; the Bureau of Economic Geology of The University of Texas at Austin has verified the facility is sequestering at least 70 percent of the carbon dioxide resulting from the generation of electricity by the facility; and the project's owner or operator has signed an interconnection agreement with the Electric Reliability Council of Texas. The bill sets the amount of the franchise tax credit as equal to the lesser of 10 percent of the total capital cost of the project or \$100 million, but limits the amount of the credit to the total amount of franchise tax that would have been due if the entity operating the clean energy project had not received the credit. The franchise tax credit will not be issued until September 1, 2013.

House Bill 469 provides for a sales and use tax exemption for qualified components of tangible personal property used in connection with an advanced clean energy project under the Health and Safety Code or a clean energy project under the Natural Resources Code. To qualify for exemption, the components must be installed to capture carbon dioxide from an anthropogenic emission source, transport or inject carbon dioxide from such a source, or prepare carbon dioxide from such a source for transportation or injection. In addition, the carbon dioxide must be sequestered in Texas either as part of an enhanced oil recovery project that qualifies for a severance tax rate reduction or in a manner that creates a reasonable expectation that at

least 99 percent of the carbon dioxide will remain sequestered from the atmosphere for at least 1,000 years. The Texas Commission on Environmental Quality is responsible for approving the application of a project to be certified as an advanced clean energy project.

House Bill 469 extends from seven years to 30 years the 50 percent reduction in the severance tax rate available to producers of oil recovered through enhanced oil recovery projects that use carbon dioxide generated by a clean energy project. In addition, the bill extends the qualifying time period carbon sequestration projects and other advanced clean energy projects have to make a qualified investment in a reinvestment zone to receive a limitation on the project's appraised value under the Texas Economic Development Act. Current law provides that the qualifying time period for most projects is the first two tax years after approval. The bill extends that time period for advanced clean energy projects to the first five tax years.

**House Bill 1731**

**Effective:** 5-23-09

**House Author:** Pitts et al.

**Senate Sponsor:** Ogden et al.

House Bill 1731 amends the Natural Resources Code to require the Railroad Commission of Texas to carry over from one fiscal year to the next any unused consumer rebates for the installation of energy-efficient propane appliances and establishes that the carryover amount is not counted in determining the 50 percent limitation of the proportion of the fund usable for the rebate program during a fiscal year.

**House Bill 2259**

**Effective:** 9-1-09

**House Author:** Crownover et al.

**Senate Sponsor:** Duncan

Current law includes provisions on an oil or gas well operator's duty to plug inactive oil and gas wells. House Bill 2259 amends the Natural Resources Code to establish mandatory surface equipment removal requirements and a process through which an operator can qualify for a deadline extension for plugging an inactive well. The bill requires an operator to plug an inactive well, excluding bay or offshore wells, on or before the due date for the annual renewal of the operator's organization report submitted to the Railroad Commission of Texas. The commission may grant an extension of the well-plugging deadline if the report includes an affirmation that the organization has complied with surface requirements, including the termination of electrical service, the emptying and purging of all pipes, tanks, and vessels for inactive wells more than 5 years old but less than 10 years old, and removal of all surface equipment for inactive wells more than 10 years old, subject to exceptions for safety and required maintenance; a statement that the well and associated facilities are in compliance with all commission rules and orders; a statement that the operator has evidence of a good faith claim to a continuing right to operate the well; and one of the following financial assurances:

- documentation that since the last renewal of its organization report the operator has plugged or restored to active operation at least 10 percent of the inactive wells identified at the time of the operator's last renewal;
- an abeyance of plugging report that is signed by a licensed engineer or geoscientist stating the well can reasonably be expected to have an economic value in excess of the cost of plugging the well and be restored to a beneficial use that will prevent waste of oil or gas resources if the well were otherwise plugged and includes documentation demonstrating the basis for the well's future utility and a \$100 fee for each well covered by the report for deposit in the oil-field cleanup fund;
- a statement that the well is part of an enhanced oil recovery project;
- if the operator of the well is not required by commission rule or order to conduct a fluid level or hydraulic pressure test of the well, documentation that the well has passed a

sanctioned fluid level test or hydraulic pressure test and a \$50 fee per well for deposit in the oil-field cleanup fund;

- a supplemental bond, letter of credit, or cash deposit in an amount at least equal to the cost calculation of plugging each well specified in the application;
- documentation of an amount of escrow funds equal to at least 10 percent of the total cost calculation for plugging each well specified in the application; or
- for a publicly traded company, certain financial documents related to asset retirement obligations and naming the commission as a “secured creditor” with respect to the funds or a blanket bond in the amount of the lesser of the cost calculation for plugging any inactive wells or \$2 million.

The commission can revoke a deadline extension for plugging inactive wells if it determines, after notice and an opportunity for a hearing, that the applicant was ineligible for the extension under its rules or orders.

**House Bill 2318**

**Effective:** 6-19-09

**House Author:** Swinford et al.

**Senate Sponsor:** Duncan

House Bill 2318 amends the Agriculture Code to add renewable methane, consisting of methane gas derived from animal waste or an agricultural byproduct, to the fuel ethanol and biodiesel production incentive program, and to change the title of that program accordingly. The bill reduces the fee imposed on a biodiesel producer by the Texas Economic Development and Tourism Office from 3.2 cents to 1.6 cents per gallon. It requires that office to impose a fee on each producer of renewable methane in an amount of 3.2 cents per MMBtu. The bill prohibits the office from imposing fees on a producer for more than 18 million MMBtu produced at any one registered plant each fiscal year, and from imposing fees on a producer for renewable methane produced at a registered plant after the 10th anniversary of the date production from the plant begins. It reduces from 20 cents to 10 cents the amount a biodiesel producer is entitled to receive as a grant for each gallon of biodiesel, and entitles a producer to receive 20 cents per MMBtu of renewable methane produced in each registered plant operated by the producer. The bill provides, as with existing law for biodiesel, that the renewable methane entitlement lasts until the 10th anniversary of the date production from the plant begins, and that grant amounts may be reduced proportionately if monetary amounts in the program account are insufficient. It prohibits receipt of grants for more than 18 million MMBtu of renewable methane produced at any one registered plant during a fiscal year.

**House Bill 2572**

**Effective:** 6-19-09

**House Author:** Gonzalez Toureilles

**Senate Sponsor:** Jackson, Mike

A gas corporation currently has the right to lay and maintain lines over and across a public road, certain railroads, a canal or stream, or a municipal street or alley. House Bill 2572 amends the Utilities Code to authorize a gas corporation to lay and maintain lines along and under such a road, railroad, canal or stream, or municipal street or alley. The bill makes a gas corporation’s authority to use public rights-of-way contingent on compliance with certain federal regulations and state agency rules and on the restoration of the right-of-way to its former condition of usefulness. A gas corporation’s authority to lay and maintain lines over, under, and across a municipal street or alley is subject to payment of compensation. The bill sets out the matters a gas corporation must consider in determining the route of a pipeline within a municipality. The bill allows the Texas Department of Transportation to require the owner or operator of a pipeline to relocate the pipeline at the expense of the owner or operator if the pipeline is located on a right-of-way of the state highway system and at the expense of the state if the pipeline

is located on property in which the owner or operator has a private interest or if the pipeline is owned or operated by a gas utility as defined by the Utilities Code or a common carrier as defined by the Natural Resources Code.

**House Bill 2582**  
**Effective:** 6-19-09

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

House Bill 2582 amends the Tax Code and the Agriculture Code to include renewable diesel in the fuel ethanol and biodiesel production incentive program and to exempt it from the diesel fuel tax.

**House Bill 4031**  
**Effective:** 9-1-09

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

House Bill 4031 amends the Agriculture Code to include renewable biomass aggregators and bio-coal fuel producers among those who are eligible to receive grants from the Texas Department of Agriculture (TDA) under the agricultural biomass and landfill diversion incentive program as providers of specified fuels to facilities that use biomass to generate electricity, and to add co-firing biomass to the list of eligible fuels. The bill defines such an aggregator and producer to mean an operator of an integrated harvesting, transportation, and fuel conversion facility that aggregates qualified agricultural or forest biomass and produces renewable fuel suitable for replacing coal or co-firing with coal. It includes certain operators within the definition of a diverter and clarifies the definition of qualified agricultural biomass to include cotton gin trash, corn stover, grain sorghum harvest residues, sugarcane bagasse, and switchgrass as well as state designated forest management cuttings and brush management cuttings from private lands. The bill makes a facility placed in service before August 31, 2009, eligible for reimbursement under the program if another facility placed in operation after August 31, 2009, is located 25 miles or less from the existing facility. It clarifies that money in the program account may be appropriated to the TDA for administrative purposes. The bill authorizes the TDA, on a determination that money in the account is insufficient to pay reimbursements or grants, to develop a proportionate and equitable schedule to pay the reimbursements or grants.

**House Bill 4300**  
**Effective:** 9-1-09

**House Author:** Herrero  
**Senate Sponsor:** Williams

House Bill 4300 amends provisions of the Utilities Code and the Natural Resources Code relating to the methods by which natural gas pipeline public awareness meetings are conducted. The bill allows an operator of a natural gas pipeline who has been unable to arrange a meeting in person to conduct certain public awareness briefings by one of two methods: holding a telephone conference with the appropriate officials or delivering the community liaison information required to be conveyed by certified mail.

**Senate Bill 686**  
**Effective:** Vetoed

**Senate Author:** Davis, Wendy et al.  
**House Sponsor:** Orr

Senate Bill 686 amends the Transportation Code to entitle a gas utility to lay, maintain, and operate a natural gas pipeline through, under, along, or across a controlled access highway if the pipeline meets certain requirements. The bill limits this entitlement to a natural gas pipeline that is located or proposed to be located in a county in which a part of the Barnett Shale natural gas field is known to be located, in a county that is located in the boundaries of a metropolitan planning organization, or in the corporate limits of a municipality. The bill authorizes the Texas Department of Transportation to require a gas utility to relocate a facility at the cost of the gas utility to accommodate construction or expansion of the highway or for any other public work

unless the gas utility has a property interest in the land occupied by the facility. Senate Bill 686 also requires a county to allow subsurface access to a county road right-of-way for the installation of a temporary water line that does not interfere with existing utilities located in the right-of-way. The bill authorizes the county to regulate the horizontal or vertical location of the water line within the right-of-way, and it prohibits the county from adopting or enforcing an ordinance or regulation that establishes or conflicts with a safety standard or practice applicable to a temporary water line that is regulated under state or federal law.

Reason Given for Veto: “Senate Bill No. 686 would authorize natural gas pipelines to be located in state rights of way in certain designated areas of the state. While I agree that this would provide a benefit to communities and reduce the impact on private property owners, the bill conflicts with House Bill No. 2572, which was signed on June 19, 2009, and which accomplishes the same objectives statewide while ensuring that pipelines are installed using the highest safety standards.”

**Senate Bill 1387**

**Effective:** 9-1-09

**Senate Author:** Seliger

**House Sponsor:** Crownover

Senate Bill 1387 amends the Water Code and Natural Resources Code to establish a regulatory framework for the implementation of projects involving the capture, injection, sequestration, or geologic storage of carbon dioxide. The bill establishes that the Railroad Commission of Texas has jurisdiction over the administration of geologic storage of anthropogenic carbon dioxide in, and the injection of carbon dioxide into, a reservoir that is initially or may be productive of oil, gas, or geothermal resources or a saline formation directly above or below that reservoir, subject to legislative review based on recommendations made in a preliminary report prepared jointly by the commission and the Texas Commission on Environmental Quality (TCEQ), in consultation with the Bureau of Economic Geology of The University of Texas at Austin. The bill requires a similar report from the General Land Office, specifies the type of information to be included in the reports, and requires the report to be filed with the legislature not later than December 1, 2010. The bill establishes the railroad commission’s jurisdiction over a well used for the geologic storage of anthropogenic carbon dioxide regardless of whether the well was initially completed for that purpose or a different purpose and subsequently converted to the purpose described above, but provides that the commission does not have jurisdiction over the injection of fluid through the use of certain injection wells defined by federal law for the primary purpose of enhanced recovery operations.

Senate Bill 1387 requires the railroad commission to adopt rules and procedures to carry out its regulatory powers, specifies that such rules and procedures must be consistent with federal requirements, and authorizes the railroad commission to collect fees and penalties to enforce the rules. The fees collected are to be deposited to the credit of the newly created anthropogenic carbon dioxide storage trust fund. The bill sets forth the authorized uses of the fund. The bill prohibits a person from drilling or operating an anthropogenic carbon dioxide injection well for geologic storage or constructing or operating a regulated geologic storage facility without a permit issued by the railroad commission, and sets forth provisions for the permitting process and the imposition of fees. The bill requires the applicant for a permit to provide to the railroad commission a letter from the executive director of TCEQ stating that drilling and operating the injection well will not injure any freshwater strata in that area and that the formation or stratum to be used for the geologic storage facility is not freshwater sand, and it requires other environmental protections to be met before the railroad commission issues a permit. The bill requires the applicant to provide to the railroad commission satisfactory evidence of financial responsibility each year and sets forth provisions relating to a performance bond or other form of financial security an applicant may be required to maintain.

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Senate Bill 1387 sets out provisions relating to the railroad commission's authority to adopt rules that authorize multiple or alternative uses of injection wells, including the conversion of a well from its authorized purpose to a new or additional purpose, and provisions relating to the ownership of the anthropogenic carbon dioxide.

**Senate Bill 1658**

**Effective:** 9-1-09

**Senate Author:** Averitt

**House Sponsor:** Crownover

Senate Bill 1658 amends provisions of the Utilities Code relating to pipeline safety to increase from an amount not to exceed 50 cents to an amount not to exceed \$1 the annual inspection fee the Railroad Commission of Texas is authorized to assess each operator of a natural gas distribution system for each service line reported by the system.

**Senate Bill 1826**

**Effective:** 9-1-09

**Senate Author:** Huffman

**House Sponsor:** Bonnen

Senate Bill 1826 amends the Utilities Code to establish that a company, limited liability company, private corporation, or individual operating a natural gas pipeline, a liquefied natural gas pipeline, or an underground storage facility is not a gas utility if such an operator certifies to the Railroad Commission of Texas that the pipeline or underground storage facility is used solely to deliver natural gas or liquefied natural gas that has been stored for export or that is liquefied by the operator for certain purposes. The bill provides that those and other conditions that exclude an operator from being a gas utility also apply to the delivery of constituents of natural gas or liquefied natural gas.

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

House Bill 472 - Environment

House Bill 2333 - Local Government

House Bill 4433 - Taxes and Tax Administration

Senate Bill 997 - Taxes and Tax Administration

Senate Bill 1711 - Water

# Environment

This chapter covers legislation on issues relating to environmental protection and regulation, including air and water quality, soil decontamination, waste disposal and recycling, and coastal management issues. Bills on clean energy projects are in the **Energy Resources** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 821

**Effective:** Vetoed

**House Author:** Leibowitz et al.

**Senate Sponsor:** Watson et al.

House Bill 821 amends the Health and Safety Code to establish a program for the collection and recycling of certain television equipment that applies only to covered television equipment offered for sale or sold in Texas or returned for recycling in Texas, and to specify equipment that is not included under the program. Manufacturers of covered television equipment are required to register annually with the Texas Commission on Environmental Quality (TCEQ) and pay a \$2,500 registration fee. A person engaged in the business of recycling covered television equipment is required to register with TCEQ and certify compliance. The TCEQ may impose a registration fee on recyclers. The bill sets forth additional responsibilities of manufacturers and recyclers, as well as the responsibilities of a retailer, a consumer, and TCEQ under the program. The bill provides for enforcement of the program.

Reason Given for Veto: “Although House Bill No. 821 attempts to make it easier for consumers to recycle old televisions, it does so at the expense of manufacturers, retailers and recyclers by imposing onerous new mandates, fees and regulations.

“House Bill No. 821 mandates that television manufacturers collect and recycle a quantity of televisions – regardless of the televisions’ original manufacturers – to be determined annually by the Texas Commission on Environmental Quality. It would also hold manufacturers responsible for recycling old televisions on the basis of their market share of new television sales, not on the basis of their past share of manufactured televisions. Additionally, the bill imposes new fees on both manufacturers and recyclers. These requirements would generate unfair results and stifle competition.

“The program established by this bill is significantly different from a program established by House Bill No. 2714 in the 80th Legislature for the recycling of computer equipment, which has been widely successful without distorting the marketplace. House Bill No. 2714 requires computer manufacturers to develop plans providing opportunities for consumers to easily return equipment to the manufacturer for recycling. Rather than mandating a program, it provides incentives to manufacturers for accepting equipment from other companies, and specifically prohibits imposing new fees on manufacturers, retailers and recyclers.

“Texas has repeatedly proven that wise incentives can accomplish environmental progress with far greater success than burdensome mandates, fees, regulations and extensive reporting requirements.

“Before mandating programs and regulations that entail new costs to the state, consumers and Texas employers, lawmakers should look to encouraging voluntary recycling programs like those being implemented by electronics retailers across the state. I recommend that the 82nd Legislature reconsider this issue to enhance the program for television recycling without hindering competitiveness and imposing burdensome fees and regulations.”

### House Bill 1433

**Effective:** 9-1-09

**House Author:** Lucio III

**Senate Sponsor:** Averitt

House Bill 1433 amends Water Code provisions relating to the maximum amount of the annual water quality fee imposed on holders of wastewater discharge permits and on users of water. The bill sets a maximum amount of \$100,000 beginning September 1, 2009, and authorizes

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the Texas Commission on Environmental Quality to adjust that amount, up to a maximum of \$150,000, each subsequent September 1 to reflect the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, published by the United States Bureau of Labor Statistics.

### **House Bill 3765**

**Effective:** 9-1-09

**House Author:** Paxton

**Senate Sponsor:** Averitt

House Bill 3765 amends the Health and Safety Code to add expenses related to lead-acid battery recycling activities to the authorized uses of money collected and deposited to the credit of the hazardous and solid waste remediation fee account. The bill prohibits the expenses from exceeding 10 percent of the annually appropriated amount of the fees on batteries collected under the Solid Waste Disposal Act, and it specifies that the expenses include expenses for programs for remediation and to create incentives for the adoption of innovative technology in lead-acid battery recycling to increase the efficiency and effectiveness of the recycling process or reduce the negative environmental impacts of the recycling process.

### **Senate Bill 1472**

**Effective:** 9-1-09

**Senate Author:** Gallegos

**House Sponsor:** Hernandez

Senate Bill 1472 amends the Health and Safety Code to require an applicant for a preconstruction permit or renewal of a preconstruction permit under the Texas Clean Air Act to attend a public meeting and make a reasonable effort to respond to questions relevant to the permit application.

## Air, Water, and Soil

### **House Bill 472**

**Effective:** 9-1-09

**House Author:** Hilderbran

**Senate Sponsor:** Hinojosa

House Bill 472 amends the Natural Resources Code to authorize, rather than prohibit, the use of money in the oil-field cleanup fund to implement provisions relating to the contamination report and to limit the amount of money the Railroad Commission of Texas may use for that purpose to no more than the amount of money in the fund that is derived from certain reporting fees collected from common carriers or owners or operators of pipelines.

### **House Bill 857**

**Effective:** 9-1-09

**House Author:** Laubenberg et al.

**Senate Sponsor:** Estes

House Bill 857 amends the Water Code to revise the penalties for outdoor burning violations by enhancing the penalties for subsequent violations and creating penalties for the burning of certain substances.

### **House Bill 1796**

**Effective:** See below

**House Author:** Chisum et al.

**Senate Sponsor:** Watson

House Bill 1796 amends the Government, Health and Safety, Tax, and Transportation Codes to expand efforts to improve air quality in Texas. House Bill 1796 establishes a program to develop an offshore deep subsurface geologic repository for the storage of anthropogenic carbon dioxide. The bill requires the land commissioner to contract with the Bureau of Economic Geology at The University of Texas at Austin to conduct a study of state-owned offshore submerged land to identify potential locations for a carbon dioxide repository and to recommend suitable sites to the School Land Board. After determining the final location, the land board may contract for the construction of infrastructure for the transportation and storage of carbon



dioxide in the repository and for operational services. The land board may establish a fee for the storage of carbon dioxide and, if Texas participates in a carbon credits program, the fee may be established as a percentage of the carbon credits associated with the storage. The bill requires the bureau to perform the measurement, monitoring, and verification of the permanent storage status of the stored carbon dioxide, to serve as a scientific advisor for those tasks, and to provide data relating to those tasks to the board. The carbon dioxide is owned by the permanent school fund and is administered and controlled by the land board, which is prohibited, along with the Texas Commission on Environmental Quality (TCEQ), from establishing or regulating the rates charged for transporting the carbon dioxide to the repository. The bill requires the land commissioner to issue an annual report, posted on the General Land Office's website, regarding the repository.

House Bill 1796 establishes a new technology implementation grant program, which expires August 31, 2019, for new technologies to reduce emissions from facilities and other stationary sources in Texas. Under the new program, TCEQ provides grants or other financial incentives to the owner of a facility for eligible projects to offset the incremental cost of emissions reductions. Eligible projects include advanced clean energy projects as defined in the bill, new technology projects that reduce emissions of regulated pollutants from point sources and involve capital expenditures that exceed \$500 million, and electricity storage projects related to renewable energy. The bill sets forth application requirements, guidelines, and criteria for administering the grant program, including the coordination of application review by TCEQ, the comptroller of public accounts, the Public Utility Commission of Texas (PUC), and the Railroad Commission of Texas. The bill provides for establishing criteria for prioritizing projects eligible to receive grants, establishing methodologies for evaluating project cost-effectiveness, and determining the amount of the grant. An applicant must show reasonable evidence that the proposed technology is capable of providing a significant reduction in emissions and must bear at least 50 percent of the costs of implementing a project funded by a grant. The bill requires TCEQ to give preference to projects that use natural resources originating or produced in Texas, that contain an energy efficiency component, or that include the use of a renewable energy source. The bill prohibits grant funds from being used to operate and maintain the emissions-reducing equipment and provides for an annual review of each grant recipient by the comptroller.

House Bill 1796 extends from August 31, 2013, to August 31, 2019, the expiration dates for the clean school bus program, the Texas Emissions Reduction Plan (TERP), and TERP surcharges or fees relating to the sale, lease, or use of certain heavy duty diesel equipment and on-road diesel vehicles weighing more than 14,000 pounds, the registration of truck-tractors and commercial motor vehicles, the inspection of certain commercial motor vehicles, and the titling of motor vehicles. The bill revises the allocation of TERP funds and the administration of the new technology research and development program and adds an air quality component to the program. The bill also requires TCEQ, the Railroad Commission of Texas, the Department of Agriculture, and PUC to jointly participate in the federal government process for developing federal greenhouse gas reporting requirements and federal greenhouse gas registry requirements. It further requires TCEQ to establish an inventory of voluntary actions taken by businesses in Texas or by state agencies since September 1, 2001, to reduce carbon dioxide emissions and to work with the Environmental Protection Agency to give credit for these early actions. Additionally, the bill expands the definition of "advanced clean energy project" under the Texas Clean Air Act and modifies certain funding mechanisms under the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program.

House Bill 1796 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**Senate Bill 184**

**Effective:** 9-1-09

**Senate Author:** Watson

**House Sponsor:** Chisum

Senate Bill 184 amends the Government Code to require the comptroller of public accounts, by December 31, 2010, to prepare and deliver to each member of the legislature a report that includes a list of “no regrets” greenhouse gas emissions reduction strategies for Texas. The bill requires the comptroller to appoint one or more advisory committees to assist in identifying and evaluating the strategies and requires one representative from the Railroad Commission of Texas, the General Land Office, the Texas Commission on Environmental Quality, the Texas Department of Agriculture, and a Texas institution of higher education to serve on the committee or committees.

**Senate Bill 876**

**Effective:** 6-1-10

**Senate Author:** Averitt

**House Sponsor:** Dunnam

Senate Bill 876 amends the Water Code to require the Texas Commission on Environmental Quality (TCEQ) to conduct the required annual soil sampling at a concentrated animal feeding operation (CAFO) in a major sole source impairment zone and to allow TCEQ to contract for the conduct of the soil sampling. Previous law required the CAFO operator to contract for the service.

**Senate Bill 1693**

**Effective:** 9-1-09

**Senate Author:** Ogden

**House Sponsor:** Cook

Senate Bill 1693 amends provisions of the Health and Safety Code and the Water Code relating to the regulation and enforcement of poultry facilities and poultry litter. The bill requires the Texas Commission on Environmental Quality (TCEQ) to respond to and investigate certain odor complaints against a poultry facility within 18 hours of receiving a complaint and to issue a notice of violation if it determines that the facility is violating the terms of its air quality agreement or is creating a nuisance. A poultry facility for which TCEQ has issued three notices is required to enter a compliance agreement, which includes an odor control plan. Senate Bill 1693 requires the State Soil and Water Conservation Board in consultation with TCEQ to establish criteria to determine the geographic, seasonal, and agronomic factors that the board must consider when siting and constructing a new poultry facility for purposes of determining the likelihood of a persistent nuisance odor condition. The bill prohibits the board from certifying a water quality management plan for a poultry facility under certain conditions and provides exceptions to the prohibition. The owner or operator of a new poultry facility must undergo training offered by the Texas AgriLife Extension Service on the prevention of odor nuisances. The extension service may charge a fee for the training. The bill requires a poultry facility that sells or transfers poultry litter and a person that purchases or obtains the litter to maintain certain records about the sale or transfer and provides certain exceptions for litter that is taken to a composting facility, used as a bio-fuel, used in a bio-gasification process, or is otherwise beneficially used without being applied to land. The bill also amends provisions of the Water Code relating to watershed monitoring and assessment of water quality.

**Senate Bill 1757**

**Effective:** 6-19-09

**Senate Author:** Watson

**House Sponsor:** Howard, Donna

Senate Bill 1757 sets out a temporary provision, set to expire January 1, 2011, that requires the Texas Commission on Environmental Quality, not later than December 1, 2010, to submit to the legislature a report on the methods for disposing of unused pharmaceuticals so that they do not enter the wastewater system.

**Senate Bill 2445****Effective:** 9-1-09**Senate Author:** Uresti**House Sponsor:** King, Tracy

Current law prohibits the disposal of boat sewage on inland fresh waters in Texas, and regulates the discharge of boat sewage on a number of designated inland lakes that provide fresh water to local municipalities. Senate Bill 2445 amends the Water Code and the Parks and Wildlife Code to expand the areas covered by the prohibition against boat sewage disposal by requiring the Texas Commission on Environmental Quality (TCEQ) to issue rules concerning the disposal of sewage from boats located or operated on “surface water in the state,” which is defined in the bill and replaces the more narrowly defined term “fresh water” as it pertains to the regulation of boat sewage. The bill authorizes a game warden or peace officer who is certified as a marine safety enforcement officer to enforce a TCEQ rule, and authorizes such an officer to board a boat to inspect the marine sanitation device under certain conditions.

**Coastal Issues****House Bill 1213****Effective:** 5-19-09**House Author:** Rios Ybarra**Senate Sponsor:** Lucio

House Bill 1213 amends the Natural Resources Code to add the use on a public beach of a golf cart, as defined under provisions relating to the registration of vehicles, for the transportation of a person with a physical disability to the specified matters on which the commissioner of the General Land Office is required to promulgate rules, consistent with the policies established under law.

**House Bill 1445****Effective:** 6-19-09**House Author:** Bonnen**Senate Sponsor:** Huffman

House Bill 1445 amends the Natural Resources Code to allow a political subdivision of the state acting with the approval of the commissioner of the General Land Office to erect or maintain a shore protection structure that is designed to protect public infrastructure, including a state or county highway or bridge; that is located on land that is state-owned submerged land or was acquired for the project by a subdivision of Texas, and is located in or adjacent to the mouth of a natural inlet from the Gulf of Mexico; and that extends at least 1,000 feet along the shoreline. The bill authorizes the commissioner, in granting approval of a shore protection structure, to specify requirements for the design and location of the structure or any required public parking area. The bill establishes that the line of vegetation in an area of public beach where a shore protection structure interrupts the natural line of vegetation is along the seaward side of the shore protection structure. The bill clarifies that the line of vegetation is the landward boundary of the public beach and of the public easement.

House Bill 1445 requires a political subdivision of Texas, before it begins construction of a shore protection structure, to conduct and obtain the commissioner’s approval of a coastal boundary survey under provisions for preservation of littoral rights. The bill specifies that Texas retains fee title to all land described under provisions for the gulfward boundary of Texas that is occupied by or affected by the placement of the structure.

**House Bill 2073****Effective:** 9-1-09**House Author:** Bonnen**Senate Sponsor:** Hegar

House Bill 2073 amends the Natural Resources Code to require the commissioner of the General Land Office to consider the plan for reducing public expenditures for erosion and storm damage losses prepared by a local government in determining whether to approve an

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expenditure from the coastal erosion response account for a study or project conducted on a site located within the jurisdiction of the local government. The bill requires a local government to use the coastal erosion response plan published by the commissioner to prepare a plan for reducing public expenditures for erosion and storm damage losses to public and private property, including public beaches. The bill authorizes the adoption of rules by the commissioner for the preparation and implementation by a local government of a local plan for reducing public expenditures for erosion and storm damage losses to public and private property.

### **House Bill 2074**

**Effective:** 9-1-09

**House Author:** Bonnen et al.

**Senate Sponsor:** Hegar

House Bill 2074 amends the Natural Resources Code to authorize the commissioner of the General Land Office, in order to determine which areas should be designated as critical coastal erosion areas and guide the allocation of resources, to conduct a coast-wide analysis of the costs and benefits of coastal erosion avoidance, remediation, and planning. The bill authorizes the analysis to consider the historical erosion rates in an area, the elevation of an area adjacent to the shoreline, the presence of critical infrastructure in an area adjacent to the shoreline, the population density of an area adjacent to the shoreline, the presence of economic activity conducted in an area adjacent to the shoreline, the presence of critical natural resources in an area adjacent to the shoreline, anthropogenic contributions to erosion, and any other factor identified as relevant by the commissioner.

### **House Bill 2387**

**Effective:** 9-1-09

**House Author:** Bonnen et al.

**Senate Sponsor:** Hegar

House Bill 2387 amends the Natural Resources Code to expand the authority of the General Land Office to undertake coastal erosion studies and projects in conjunction with qualified project partners. The bill removes language prohibiting money in the coastal erosion response account from being used by the General Land Office for coastal erosion studies, demonstration projects, and response projects pursuant to storm damage mitigation, assessment, and debris removal or to purchase property or reimburse property owners. The bill adds to the projects for which the commissioner of the General Land Office may determine the percentage of the shared project cost a qualified project partner must pay.

House Bill 2387 authorizes the commissioner to undertake more than one erosion response project each biennium that does not require a qualified project partner to pay a portion of the shared project cost if the total cost of projects that do not have a cost share requirement does not exceed one-half of the total amount appropriated to the land office for coastal erosion planning and response.

### **House Bill 2457**

**Effective:** 5-5-09

**House Author:** Eiland

**Senate Sponsor:** Jackson, Mike

House Bill 2457 amends the Natural Resources Code to require the General Land Office to clean, maintain, and clear debris from a public beach that is located in an area designated as a threatened area in a declaration of a state of disaster. The bill provides that the duty of the land office is limited to debris related to the event that is the subject of the disaster declaration.

### **House Bill 3306**

**Effective:** 9-1-09

**House Author:** Bonnen

**Senate Sponsor:** Jackson, Mike

House Bill 3306 amends the Natural Resources Code to require the commissioner of the General Land Office to give notice to a person who holds a security interest in a wrecked, damaged, or substantially dismantled vessel or structure subject to removal or disposal. The

bill makes the requirements for notice of preliminary report, violation, hearing, compliance with an order, and appeal applicable to a person claiming ownership of a derelict vessel and grants priority to the interest of the state in recovering removal, storage, and disposal costs over the interest of the holder of such a vessel or structure. The bill requires the commissioner to make information on abandoned vessels and structures accessible on the General Land Office's Internet website. The bill makes changes to the preliminary reporting requirements under the Oil Spill Prevention and Response Act of 1991.

**Senate Bill 2043**

**Effective:** 9-1-09

**Senate Author:** Williams

**House Sponsor:** Bonnen

Senate Bill 2043 amends the Natural Resources Code to authorize the commissioner of the General Land Office (GLO) to undertake the closure or modification of certain man-made passes or their environs between the Gulf of Mexico and an inland bay if the commissioner determines that the pass causes or contributes to significant erosion of the shoreline of the adjacent beach, the pass is not a public navigational channel constructed or maintained by the federal government, and the GLO receives legislative appropriations or other funding for that purpose. If the closing of a man-made pass results in a loss of public recreational opportunities, the commissioner is required to develop and approve, in consultation with the Texas Parks and Wildlife Department and the county or municipality in which the pass is located, a plan to mitigate the loss.

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

House Bill 432 - Government Purchasing  
 House Bill 715 - Transportation  
 House Bill 2259 - Energy Resources  
 House Bill 2748 - State Government  
 House Bill 3206 - Taxes and Tax Administration  
 Senate Bill 448 - Transportation  
 Senate Bill 480 - Transportation  
 Senate Bill 803 - State Government  
 Senate Bill 1080 - Labor and Employment  
 Senate Bill 1759 - Transportation  
 Senate Bill 2019 - Transportation



# Family Law and Juvenile Justice

This chapter covers legislation on issues relating to family law, including the marriage relationship, spousal support, child custody and support, adoption, foster care, parental rights, and family violence. The chapter also includes legislation on juvenile justice, juvenile delinquency, county juvenile boards, and the functions and duties of the Texas Juvenile Probation Commission. Bills relating to the Department of Family and Protective Services' response to reports of child abuse and neglect are in the **Human Services** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### **House Bill 72**

**Effective:** 6-19-09

**House Author:** Guillen et al.

**Senate Sponsor:** Zaffirini

House Bill 72 amends the Family Code to create an exception to the 60-day waiting period before a divorce decree may be issued if the court finds that the respondent has been finally convicted of or received deferred adjudication for an offense involving family violence against the petitioner or a member of the petitioner's household or if the petitioner has an active protective order or an active magistrate's order for emergency protection based on a finding of family violence against the respondent because of family violence committed during the marriage.

### **House Bill 2876**

**Effective:** 6-19-09

**House Author:** Patrick, Diane et al.

**Senate Sponsor:** Carona et al.

House Bill 2876 amends the Family Code to authorize an administrative law judge, on the motion of a party to a contested case regarding an investigation of a report of child abuse or neglect that relates to the license or certification of certain professionals or educators, to order the disclosure of otherwise confidential information under certain conditions. The bill requires the Department of Family and Protective Services to redact certain information released under such circumstances to protect the confidentiality of the identity of any person who makes a report of abuse or neglect.

### **House Bill 3666**

**Effective:** 9-1-09

**House Author:** Kolthorst

**Senate Sponsor:** Wentworth

House Bill 3666 amends the Family Code to expand the list of documents that an applicant for a marriage license can offer as proof of identity and age. The bill revises the proof that must be provided to a county clerk by a parent or person who has the legal authority to consent to marriage for an underage applicant and sets forth the documents that a person applying for a marriage license on behalf of an absent applicant, including an applicant under 18 years of age, must provide to a county clerk.

House Bill 3666 revises requirements regarding duplicate marriage licenses. The bill provides for the correction of an error discovered on a recorded marriage license and requires the executive commissioner of the Health and Human Services Commission to adopt rules relating to acceptable proof of parental consent for an underage marriage license applicant and to prescribe the form of the affidavit for correcting an error on a recorded marriage license. The bill authorizes a county clerk, on the proper execution of the declaration, to prepare a certificate of informal marriage that includes certain information.

**Senate Bill 742**

**Effective:** 6-19-09

**Senate Author:** Wentworth

**House Sponsor:** Hughes

Senate Bill 742 amends the Family Code to change residency requirements and expand qualifications for an associate judge to be appointed to hear Title IV-D and child protection cases. Under previous law, to be eligible for appointment in such cases an associate judge was required to have resided in the administrative judicial region, or a county adjacent to the region, in which the court to which the person appointed is located for the two years preceding the date of appointment. Senate Bill 742 instead requires an associate judge to have resided in Texas for the two years preceding the date of appointment and expands eligibility for appointment to include an associate judge named on the list of retired and former judges maintained by the presiding judge of the administrative region in which the associate judge resides. The bill also expands eligibility requirements for appointment as a visiting associate judge in Title IV-D or child protection cases to include a person who has served as a master judge under certain provisions of the Family Code, a district judge, or a statutory county court judge for at least two years before the date of appointment.

**Senate Bill 866**

**Effective:** 9-1-09

**Senate Author:** Harris

**House Sponsor:** Frost

Senate Bill 866 amends the Family Code to repeal provisions establishing a marital estate's right to make a claim based on economic contribution in a suit for dissolution of a marriage. The bill makes existing provisions that establish the elements that comprise "economic contribution" apply instead to what is included in a claim for reimbursement in a suit for dissolution of a marriage and adds to those components payment by one marital estate of the unsecured liabilities of another and inadequate compensation for the time, toil, talent, and effort of a spouse by a business entity under the control and direction of that spouse. The bill establishes the principles by which a court is required to resolve a claim for reimbursement by using equitable principles, authorizes benefits for the use and enjoyment of certain property to be offset against a claim for reimbursement for expenditures to benefit a marital estate, and requires reimbursement for funds expended by a marital estate for improvements to another marital estate to be measured by the enhancement in value to the benefited marital estate. The bill includes provisions relating to burden of proof with respect to offsetting claims for reimbursement and the date of execution of a marital property agreement with respect to a claim for economic contribution, reimbursement, or both.

Senate Bill 866 authorizes, rather than requires, the court on dissolution of a marriage or on the death of a spouse to impose an equitable lien on the property of a benefited marital estate to secure a claim for reimbursement against that property by a contributing marital estate. The bill authorizes a court to award reasonable attorney's fees in certain post-decree proceedings. The bill modifies the formula used to determine the separate property interest in options or restricted stock for a spouse participating in an employer-provided stock option plan or an employer-provided restricted stock plan.

**Senate Bill 935**

**Effective:** 9-1-09

**Senate Author:** Seliger

**House Sponsor:** Guillen

Senate Bill 935 amends the Family Code to add a judge of a municipal court to the list of persons authorized to conduct a marriage ceremony.



**Senate Bill 1050**

**Effective:** 9-1-09

**Senate Author:** Uresti

**House Sponsor:** McClendon

Senate Bill 1050 amends the Family Code to establish procedures for the release of certain information relating to a child fatality with respect to which the Department of Family and Protective Services is conducting an investigation of abuse or neglect. The bill requires the department, not later than the fifth day after receiving a request for information about a child fatality, to release the age and sex of the child, the date of death, whether the state was the child's managing conservator at the time of death, and whether the child resided with the child's parent, managing conservator, guardian, or other person entitled to possession of the child at the time of death. The bill requires that the department promptly release information about the fatality, a summary of previous reports of abuse or neglect, the services provided to the child or child's family by the department, and the results of the assessment completed by the department on determination that a child's death was caused by abuse or neglect.

**Senate Bill 2080**

**Effective:** See below

**Senate Author:** Uresti et al.

**House Sponsor:** McClendon

Senate Bill 2080 creates a temporary task force to establish a strategy for reducing child abuse and neglect and improving child welfare in Texas to be submitted to the governor, lieutenant governor, and speaker of the house of representatives. The bill provides for the composition and operation of the task force, appointment of task force members, and requirements relating to the development of the strategy.

Senate Bill 2080 amends the Family Code to require the Department of Family and Protective Services to offer adoption assistance benefits to a child between the ages of 18 and 21 if the department first entered into an adoption assistance agreement with the child's adoptive parents after the child's 16th birthday and the child meets certain conditions relating to employment and education. The department is not required to provide the assistance benefits unless funds are specifically appropriated for that purpose. The bill also provides for the continuation of foster care payments for a child between the ages of 18 and 22 if the child meets certain conditions relating to employment and education.

Senate Bill 2080 establishes a permanency care assistance program under which monthly payments are paid by the department to an eligible kinship provider who is the prospective managing conservator of a foster child. The bill authorizes the reimbursement of fees associated with obtaining permanent managing conservatorship, requires the executive commissioner of the Health and Human Services Commission to set the maximum monthly amount of assistance payments, and provides for continued eligibility for assistance payments for a child between the ages of 18 and 21. The department is not required to provide permanency care assistance benefits unless funds are specifically appropriated for that purpose. The bill prohibits the department from entering into a permanency care assistance agreement after August 31, 2017, but requires the department to continue to make payments after that date under an agreement entered into on or before that date.

Senate Bill 2080 amends the Health and Safety Code to require the Department of State Health Services to establish the Texas Medical Child Abuse Resources and Education System grant program to award grants to hospitals or academic centers to develop and support regional programs to improve assessment, diagnosis, and treatment of child abuse and neglect. The bill specifies the purposes for which such a grant may be used, provides for a grant program advisory committee, and requires the department to submit a biennial report to the governor and the legislature regarding the grant activities of the program and grant recipients. The department is not required to award a grant unless funds are specifically appropriated for that purpose.

Senate Bill 2080 takes effect September 1, 2009, except for provisions authorizing continued eligibility for adoption assistance, foster care, and permanency care assistance payments after a child has reached the age of 18, which take effect October 1, 2010.

**Senate Bill 2324**

**Effective:** 9-1-09

**Senate Author:** Duncan

**House Sponsor:** Lewis

Senate Bill 2324 amends the Family Code to establish that all retirement allowances, annuities, accumulated contributions, option benefits, and money in the state's various public retirement system accounts that are community property subject to the participating spouse's sole management, control, and disposition are not subject to any claim for payment of a criminal restitution judgment entered against the nonparticipant spouse except to the extent of the nonparticipant spouse's interest as determined in a qualified domestic relations order.

## **Adoption and Foster Care**

**House Bill 704**

**Effective:** 5-23-09

**House Author:** Rose

**Senate Sponsor:** Nelson

House Bill 704 amends the Family Code to authorize the extension of a court's jurisdiction over a young adult between 18 and 21 years of age who resides in foster care or receives transitional living services from the Department of Family and Protective Services at the request of the young adult or the guardian appointed for the young adult, or on the court's own motion to determine guardianship if the court believes the young adult may be incapacitated. The bill provides for the termination of an extended jurisdiction, the continued or renewed appointment of an attorney ad litem, guardian ad litem, or volunteer advocate, and periodic service review hearings for a young adult who remains in foster care. The bill prohibits a court from appointing the Department of Family and Protective Services or the Department of Aging and Disability Services as the managing conservator or guardian of a young adult.

**House Bill 1151**

**Effective:** See below

**House Author:** Thompson

**Senate Sponsor:** West

Current law requires the Department of Family and Protective Services to offer adoption assistance after a child's 18th birthday to the child's adoptive parents until the first day of the month of the child's 21st birthday if the child has a mental or physical disability that warrants continuation of that assistance or, if the child does not have such a disability, until the first day of the month of the child's 19th birthday or the date the child ceases to regularly attend high school or a vocational or technical program, obtains a high school diploma or high school equivalency certificate, or stops receiving financial support from the child's adoptive parents, whichever is earlier. House Bill 1151 amends the Family Code to require the department, notwithstanding current law, to offer adoption assistance until the last day of the month of the child's 21st birthday if the department first entered into an adoptive assistance agreement with a child's adoptive parents after the child's 16th birthday and the child is: (1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate; (2) regularly attending an institution of higher education or a postsecondary vocational or technical program; (3) participating in a program or activity that promotes, or removes barriers to, employment; (4) employed for at least 80 hours a month; or (5) incapable of doing any of those activities due to a documented medical condition. The department is not required to provide the extended assistance unless funds are specifically appropriated for that purpose.

Previous law required the department to continue to pay the cost of foster care for a child for whom the department provides care, including medical care, until the later of the date the child attains the age of 18 or the date the child graduates from high school or ceases to be enrolled in a secondary school in a program leading toward a high school diploma. House Bill 1151 requires the department to continue to pay the cost of foster care for a child that is regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate until the last day of the month in which the child attains the age of 22 or, if the child meets one of the conditions described above in (2)-(5), until the last day of the month in which the child attains the age of 21.

House Bill 1151 establishes a permanency care assistance program under which monthly payments are paid by the department to an eligible kinship provider who is the prospective managing conservator of a foster child. The bill authorizes the reimbursement of fees associated with obtaining permanent managing conservatorship, requires the executive commissioner of the Health and Human Services Commission to set the maximum monthly amount of assistance payments, and provides for continued eligibility for assistance payments for a child between the ages of 18 and 21 if the child meets one of the conditions described above. The department is not required to provide such permanency care assistance benefits unless funds are specifically appropriated for that purpose. The bill requires the executive commissioner to adopt rules to implement the adoption assistance, foster care, and permanency care assistance benefits not later than April 1, 2010, and requires the rules to provide that no payment can be made on behalf of a child over the age of 17 for any month prior to October 1, 2010, unless, with respect to foster care benefits, the child was eligible for the benefits prior to the effective date of the bill. The bill adds foster care benefits to the list of resources that are not included in the computation of net resources available for payment of child support. The bill repeals the law authorizing a child 12 years of age or older to file with a court in writing the name of the person who is the child's preference to have the exclusive right to designate the primary residence of the child, subject to the approval of the court, and instead provides for the child to express a preference to the court in chambers.

House Bill 1151 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**House Bill 1629**

**Effective:** 5-23-09

**House Author:** Naishtat et al.

**Senate Sponsor:** Uresti

House Bill 1629 amends provisions of the Family Code and Human Resources Code to set forth requirements regarding the care of a child for whom the Department of Family and Protective Services has been appointed managing conservator and who has been committed to a Texas Youth Commission facility. The bill provides for the consent for medical, dental, psychological, and surgical treatment of such a child and includes provisions relating to communication between certain courts and parties to a suit affecting the parent-child relationship to which the department is party, ad litem appointments for a child committed to the Texas Youth Commission, court review of a child's commitment or release under commission supervision, permanency hearing and placement review hearing procedures and information to be included in related reports, and the use of teleconferencing and videoconferencing technology to facilitate participation in such hearings. The bill provides for the release of certain records and other information to the commission by the department for a child for whom the department has been appointed managing conservator and requires the commission to ensure that if the department has been appointed managing conservator of a child, the department is given the same rights as the child's parent under the parent's bill of rights. The commission and the executive commissioner of the Health and Human Services

Commission are required to jointly adopt rules, not later than April 30, 2010, to ensure that a child for whom the department has been appointed managing conservator receives appropriate services while the child is committed to or released under the commission's supervision.

**House Bill 1912**

**Effective:** 9-1-09

**House Author:** Rodriguez et al.

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

House Bill 1912 requires the Department of Family and Protective Services to examine and identify best practices for an individualized approach to services for foster care youth transitioning to independent living, establish a transitional living services workgroup, and develop a comprehensive transitional living services plan to improve the department's Transitional Living Services Program. The bill requires the department to submit to the legislature a report relating to these requirements no later than September 1, 2010.

House Bill 1912 amends the Family Code to lower from 16 to 14 the minimum age of foster children in the state's conservatorship for which the department is required to improve transition planning and increase the availability of transitional family group decision-making. The bill requires the department to require a foster care provider to provide or assist youth who are age 14 or older in obtaining experiential life-skills training tailored to the youth's skills and abilities. The bill requires the department to allow a youth who is at least 18 years of age to receive transitional living services, other than foster care benefits, while residing with a person who was previously designated as a perpetrator of abuse or neglect on determination that the person does not pose a threat to the health and safety of the youth. The bill also includes provisions relating to the requirement that the department ensure that each youth acquires certain identification documentation on or before the youth's 16th birthday and the transitional living services required to be provided by a person contracting with the department.

House Bill 1912 clarifies the meaning of the terms "Preparation for Adult Living Program" and "Transitional Living Services Program."

**House Bill 2225**

**Effective:** 6-19-09

**House Author:** Parker et al.

**Senate Sponsor:** Nelson

House Bill 2225 establishes provisions relating to the creation of a temporary adoption review committee to review the process for finding permanent placement for children in the conservatorship of the state. The bill requires the Department of Family and Protective Services, in conjunction with the committee, to conduct an extensive review of the foster care system to identify obstacles that impede the permanent placement of foster children and to develop improvements to the foster care system. The bill requires the department to submit a written report summarizing the findings of the review and related recommendations to the governor, the lieutenant governor, the speaker of the house of representatives, the House Committee on Human Services, and the Senate Committee on Health and Human Services no later than December 1, 2010, and abolishes the review committee on September 1, 2011.

**House Bill 3137**

**Effective:** 6-19-09

**House Author:** Gallego

**Senate Sponsor:** Nelson

House Bill 3137 amends the Human Resources Code to require the Department of Family and Protective Services to develop a statement that lists the rights and responsibilities of a foster parent in a foster home or an agency foster home, and of the department or a child-placing agency, as applicable. The bill requires the department to provide a written copy of the statement to each foster parent in a foster home and to each child-placing agency licensed by the department and requires a child-placing agency to provide a written copy of the statement to each foster parent in an agency foster home verified by the child-placing agency.

**Senate Bill 703**

**Effective:** 9-1-09

**Senate Author:** Nelson et al.

**House Sponsor:** Rose

Senate Bill 703 amends the Health and Safety Code to prohibit the Department of State Health Services (DSHS) from collecting a fee or other amount for verification of birth information or provision of a certified copy of a birth record for a child in the managing conservatorship of the Department of Family and Protective Services if parental rights to the child have been terminated and the child is eligible for adoption. The bill requires DSHS, not later than the 30th business day after the date DSHS receives an amending certificate to complete or correct a birth, death, or fetal death record, to notify the individual of whether the amendment has been accepted for filing.

**Senate Bill 939**

**Effective:** 6-19-09

**Senate Author:** Watson

**House Sponsor:** Hughes

Senate Bill 939 amends provisions of the Education Code and Family Code relating to benefits and services for children in the conservatorship of the Department of Family and Protective Services (DFPS). The bill requires the Texas Education Agency (TEA) and DFPS not later than January 1, 2010, to enter into a memorandum of understanding regarding the exchange of information as appropriate to facilitate DFPS's evaluation of educational outcomes of students in foster care and authorizes TEA, under the authority of DFPS, to provide student demographic information to education research centers for additional analysis regarding the educational outcomes of those students. The bill changes the conditions under which a student is exempt from payment of tuition and fees at an institution of higher education relating to the student's dates under DFPS conservatorship and date of undergraduate enrollment at such an institution. The bill authorizes the expansion of the membership of review teams established by DFPS to evaluate casework and decision-making related to investigations of child abuse or neglect and changes member qualifications.

Senate Bill 939 specifies the goals that a DFPS permanency plan for a child under its temporary managing conservatorship may include and requires such plan to include concurrent permanency goals consisting of a primary permanency goal and at least one alternative permanency goal. The bill expands court oversight of DFPS conservatorship of a child by requiring additional information and determinations to be included in DFPS's placement review report and the court's placement review hearing, respectively, and establishes a deadline by which a court is required to conduct the initial placement review hearing following a final order that terminates a parent's parental rights.

**Senate Bill 983**

**Effective:** 9-1-09

**Senate Author:** Davis, Wendy et al.

**House Sponsor:** Rose

Senate Bill 983 amends the Family Code to require the Department of Family and Protective Services (DFPS) to provide certain personal records to a child who is being discharged from foster care who is at least 18 years of age or has had the disabilities of minority removed not later than the 30th day before, rather than the 30th day after, the date of discharge. The bill adds to the records required to be provided a personal identification certificate, a social security card or replacement card, and proof of enrollment in Medicaid, if appropriate. The bill also requires DFPS, in cooperation with the Texas Education Agency and the Department of Public Safety, to develop a plan to provide each child in the permanent managing conservatorship of the department the opportunity to complete a driver's education course and to obtain a driver's license before the child leaves conservatorship. The bill requires DFPS to report to the legislature the results of the plan not later than December 1, 2010.

**Senate Bill 1332**

**Effective:** 9-1-09

**Senate Author:** Nelson et al.

**House Sponsor:** Rose et al.

Senate Bill 1332 requires the Department of Family and Protective Services (DFPS) to consider placing a child who has previously been in the managing conservatorship of DFPS with a foster parent with whom the child previously resided if the department determines that placement of the child with a relative or designated caregiver is not in the child's best interest and placement with the foster parent is available and in the child's best interest.

**Senate Bill 1369**

**Effective:** 9-1-09

**Senate Author:** Lucio

**House Sponsor:** Hunter

Senate Bill 1369 amends the Government Code to require a local administrative judge, not later than December 1, 2009, to establish and maintain a list of all attorneys qualified to serve as an attorney ad litem in a court for which the judge serves as local administrative judge. The bill requires a court to appoint attorneys from the list in a specified order, but authorizes exceptions based on any specialized education, training, certification, or skill required, agreement by the parties, or appointment made pursuant to law.

Senate Bill 1369 amends the Family Code to modify the definition of "volunteer advocate program" and to revise the elements required of the contract between the attorney general and the statewide organization providing training, technical assistance, and evaluation services for local volunteer advocate programs. The bill requires the organization to contract for services with local programs to provide advocacy services to abused or neglected children, rather than to expand the existing services of the programs. The bill reduces the amount of time a person is required to have operated a local volunteer advocate program that provides court-appointed advocacy services in order to be eligible for such a contract and excludes certain expenses incurred by a volunteer advocate program from being considered administrative expenses for purposes of the limitation on the amount of appropriated funds allowed to be used for administrative purposes.

**Senate Bill 1723**

**Effective:** 6-19-09

**Senate Author:** Van de Putte

**House Sponsor:** Guillen

Senate Bill 1723 amends the Family Code to require the Department of Family and Protective Services to develop and publish informational manuals that provide information regarding the role of a voluntary caregiver, including information on how to obtain any documentation necessary to provide for a child's needs.

**Senate Bill 2385**

**Effective:** 9-1-09

**Senate Author:** Shapleigh

**House Sponsor:** Naishtat et al.

Senate Bill 2385 amends the Family Code to require the Department of Family and Protective Services, at a full adversary hearing for a child in the managing conservatorship of the state, to file with the court a copy of each proposed child placement resources form completed by the parent or other person having legal custody of the child, a copy of any completed home study, and the name of the relative or other designated caregiver, if any, with whom the child has been placed. If the child has not been placed with a relative or other designated caregiver by the time of the hearing, the department is required to file a statement explaining the reasons the child has not been placed and a statement explaining the actions the department is taking, if any, to do so.

Senate Bill 2385 requires the department to file the documents not later than the 10th day before the date set for the hearing unless the child is in adoptive placement or another placement that is intended to be permanent.

## Child Custody and Parental Rights

### House Bill 1012

**Effective:** 9-1-09

**House Author:** Gonzalez Toureilles

**Senate Sponsor:** Harris

House Bill 1012 amends provisions of the Family Code relating to the conservatorship or possession of, or access to, a child in a suit affecting the parent-child relationship. Among other provisions the bill requires a court to order reasonable access to a child in a suit by the child's sibling who is separated from the child because of a Department of Family and Protective Services action if the court finds that access is in the best interest of the child. The bill specifies that provisions relating to the modification of a court order based on a conservator's voluntary relinquishment of the primary care and possession of a child for at least six months do not apply to a conservator who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment, military mobilization, or temporary military duty. The bill authorizes the court to appoint a designated person to exercise the exclusive right to designate the primary residence of the child during the period of military duty. If the conservator without the exclusive right to designate the primary residence of the child is ordered to military duty, the bill authorizes the court to award visitation with the child to a designated person chosen by that conservator, if the visitation is in the best interest of the child. The bill specifies certain requirements for temporary orders for visitation and child support rendered when a conservator is ordered to military duty a substantial distance from the child.

House Bill 1012 requires a grandparent filing suit for possession of or access to a child to provide an affidavit that contains, along with supporting facts, the allegation that denial of the possession or access would significantly impair the child's physical health or emotional well-being. The bill requires an order granting possession of or access to a child by a grandparent that is rendered over a parent's objections to state with specificity certain facts related to the best interest of the child. The bill requires the court, in considering evidence of planning activities that could facilitate the removal of a child from the United States by a parent of the child, to also consider any evidence that the parent was engaging in those activities as a part of a safety plan to flee from family violence. The bill revises beginning and ending possession times for certain periods of possession under a standard possession order and requires the court, if elected by a conservator, to provide for one or more alternative beginning and ending possession times for those periods unless the court finds that the election is not in the best interest of the child.

House Bill 1012 authorizes a court to appoint a parenting facilitator to aid the parties in a suit for possession of or access to a child in the same manner as a parenting coordinator and to also monitor compliance with court orders if, after notice and hearing, the court finds that the case is a high-conflict case or there is good cause shown for the appointment and the appointment is in the best interest of any minor child in the suit. The bill requires a parenting facilitator to hold a license to practice in Texas as a social worker, licensed professional counselor, licensed marriage and family therapist, psychologist, or attorney and to have completed certain training. The bill requires the State Bar of Texas, Texas State Board of Examiners of Psychologists, Texas State Board of Examiners of Marriage and Family Therapists, Texas State Board of Examiners of Professional Counselors, and Texas State Board of Social Work Examiners to adopt rules not later than March 1, 2011, establishing parenting facilitator practice standards consistent with the bill. The bill authorizes a person who has served as a parenting coordinator before the effective date of the bill to be appointed to serve as a parenting facilitator in another case if, on the effective date of the bill, the person satisfies all other qualifications to serve as a parenting facilitator, is enrolled in a graduate course of study at an accredited college or university, and obtains a

license described above on or before September 1, 2011. The bill revises the qualifications to be a parenting coordinator and provides that a person who satisfies the qualifications in effect immediately before the effective date of the bill is not required to comply with the requirements until September 1, 2010.

**Senate Bill 1598**  
**Effective:** 6-19-09

**Senate Author:** Watson  
**House Sponsor:** Herrero

Senate Bill 1598 amends the Family Code to permit a parent or both parents of a child to enter into an agreement with the child's grandparent, adult sibling, or adult aunt or uncle to authorize the relative to make certain decisions regarding the child relating to medical treatment, health and automobile insurance coverage, day-care or preschool enrollment, participation in extracurricular, civic, social, or recreational activities, obtaining a learner's permit, driver's license, or state-issued identification card, employment, and public benefits. The bill specifies elements required to be contained in such an agreement, establishes procedures for the execution and termination of an agreement, and sets out the duties of the parties to an agreement and the conditions under which an authorization is void or voidable.

Senate Bill 1598 makes it a Class B misdemeanor offense for a person to knowingly present a document that is not a valid authorization agreement as a valid authorization agreement, make a false statement on an authorization agreement, or obtain an authorization agreement by fraud, duress, or misrepresentation.

Senate Bill 1598 requires the Department of Family and Protective Services to prescribe forms for a disclosure statement and authorization agreement not later than January 1, 2010, and requires the department and the Texas Education Agency to make the forms available online or provide paper copies to the public on request without charge.

**Senate Bill 1838**  
**Effective:** 9-1-09

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

Senate Bill 1838 amends the Family Code to add to the convictions for which a court is authorized to order the involuntary termination of the parent-child relationship a parent's conviction of criminal attempt to murder the other parent of the child or criminal solicitation for the murder of the other parent.

## **Child Support and Spousal Maintenance**

**House Bill 4424**  
**Effective:** 6-19-09

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

House Bill 4424 amends the Family Code to clarify that fees collected by the clerk of a court based on the adoption of an operations fee or a child support service fee by the administering agency of a domestic relations office are collected as either operations or service fees. The bill clarifies that operations fees are to be collected at the time of the original suit, motion for modification, or motion for enforcement and child support service fees are to be collected at the time of the original suit. The bill clarifies that the operations and service fees are not filing fees for purposes of certain fees collected by court clerks and requires the fees to be collected for each original suit, motion for modification, or motion for enforcement.



**Senate Bill 865**

**Effective:** See below

**Senate Author:** Harris

**House Sponsor:** Jackson, Jim

Senate Bill 865 is an omnibus bill that amends provisions of the Family Code relating to child support enforcement and disbursement and to health care coverage for children in Title IV-D cases. The bill includes provisions relating to a court's jurisdiction over a nonresident, domestic relations office operations fees and child support service fees, calculation of net resources for purposes of determining child support obligations, adjustments for inflation, the date certain findings in a child support order are required to be entered by a court, determination of reasonable cost of a child's health insurance coverage for purposes of a medical support order, the allocation between certain parties of a child's vision and dental expenses and deductibles or copayments, and the duties of an employer with respect to enrolling a child in the employer's health insurance plan under a court order. The bill clarifies provisions relating to a court order for a child's health care coverage, requires the office of the attorney general to develop and implement a statewide program to provide basic health care services to children in Title IV-D cases for whom health insurance is not available to either parent at reasonable cost, and provides for the administration and operation of the program.

Senate Bill 865 establishes a child support credit for a lump-sum disability payment, authorizes a court to award court costs and attorney's fees for certain proceedings, and modifies the order in which a child support payment is to be applied against an obligor's responsibilities. The bill requires an employer with 250 or more employees and authorizes an employer with fewer than 250 employees to remit the amount of income to be withheld from an employee by electronic funds transfer or electronic data interchange and specifies the costs and fees required to be paid by the office of the attorney general in a Title IV-D case. The bill clarifies provisions relating to withholding from a lump-sum payment, modification of a child support order of another state, testimony and evidence that may be considered by a referring court on a request for or in a de novo hearing, fees a domestic relations office may assess and collect, the contents of a petition to suspend an obligor's professional license, and procedures for the direct deposit and electronic funds transfer of child support payments. The bill makes the Insurance Reporting Pilot Program permanent.

Senate Bill 865 amends provisions of the Civil Practice and Remedies Code, Government Code, Property Code, and Transportation Code relating to dormant judgments, the payment of child support by an inmate, certificates of redemption, personal property presumed abandoned, property held by financial institutions, and the Department of Public Safety's financial responsibility verification program, as those provisions relate to child support. Provisions relating to the order of priority in which a child support payment is to be applied take effect January 1, 2010. Provisions relating to remittance by electronic funds transfer or electronic data interchange of the amount of income to be withheld from an employee by certain employers take effect September 1, 2009. All other provisions of the bill take effect June 19, 2009.

**Senate Bill 1437**

**Effective:** 9-1-09

**Senate Author:** Watson

**House Sponsor:** Hunter

Senate Bill 1437 amends the Family Code to authorize an associate judge in a Title IV-D case to hear and render an order on a motion for postjudgment relief, including a motion for a new trial or to vacate, correct, or reform a judgment, if neither party has requested a de novo hearing before the referring court.

**Senate Bill 1440**

**Effective:** Vetoed

**Senate Author:** Watson et al.

**House Sponsor:** Madden

Senate Bill 1440 amends the Family Code to clarify that certain proposed orders or judgments of an associate judge in Title IV-D or child protection cases become the order or judgment of the referring court without the signature of the judge of the referring court if a request for a de novo hearing is not timely filed or the right to such hearing is waived.

Senate Bill 1440 establishes procedures for the Department of Family and Protective Services to request a court to render an order to assist the department in an investigation of a report of child abuse or neglect, on presentation of an application supported by an affidavit, without prior notice or a hearing including orders issued to transport a child, gain entrance to any place where a child may be, release a child's prior medical, psychological, psychiatric, or other records, or examine a child.

Reason Given for Veto: "As a result of *Gates v. Texas Department of Protective and Regulatory Services*, Senate Bill No. 1440 would establish guidelines for Texas Department of Family and Protective Services (DFPS) caseworkers to follow when making entry and transport-for-interview decisions in alleged child abuse and neglect cases. The court's decision in *Gates* is extremely narrow in its articulation of the standards that must be met for transporting a child to conduct an interview. The decision also creates uncertainty about how court orders allowing such transport are to be obtained by DFPS under existing law. This court-created uncertainty must be addressed. Senate Bill No. 1440, however, overreaches and may not give due consideration to the Fourth Amendment rights of a parent or guardian.

"DFPS is charged with protecting the unprotected, and all parties involved benefit when procedures are clear and easily understood. Texas law should provide a clearly delineated investigative process that not only supports the rights of parents and guardians, but also provides DFPS with the proper authority and flexibility to protect the most vulnerable Texans.

"I am directing DFPS, through its parental advisory committee, to study the effect of the *Gates* decision on the ability of the department to appropriately enter a residence and, if necessary for the protection of the child, to transport the child for interviews in a neutral location. I am also directing DFPS, through its parental advisory committee, to develop and recommend statewide procedures to follow when seeking court orders to aid investigations, while protecting the rights of parents and families."

**Senate Bill 1514**

**Effective:** 6-19-09

**Senate Author:** Watson et al.

**House Sponsor:** Phillips

Senate Bill 1514 amends the Family Code to entitle a child support obligor to a credit, in addition to any other credit or offset, if a child for whom the obligor owes child support receives a lump-sum payment as a result of the obligor's disability and that payment is made to the obligee as the representative payee of the child. The bill provides that the credit is equal to the amount of the lump-sum payment and requires the credit to be applied to any child support arrearage and interest owed by the obligor on behalf of that child at the time the payment is made.

**Senate Bill 1661**

**Effective:** 5-26-09

**Senate Author:** Harris

**House Sponsor:** Truitt

Senate Bill 1661 amends the Family Code to authorize a child support obligor to file an affidavit to release a child support lien on homestead property in the same manner that a judgment debtor may file an affidavit to release a judgment lien against a homestead. The bill requires the obligor to comply with all requirements imposed by provisions relating to the release of a judgment lien except that the obligor is required only to send the letter and affidavit described in those provisions to the claimant under the child support lien at the claimant's last known address. The bill authorizes the claimant under the child support lien to dispute the obligor's affidavit by filing a contradicting affidavit and requires the issue of whether the real property is subject to the lien to be resolved in an action brought for that purpose in the district court of the county in which the real property is located and the lien was filed, if the claimant files a contradicting affidavit.

Senate Bill 1661 establishes that a child support lien is effective with respect to real property until the 10th anniversary of the date on which the lien notice was filed with the county clerk. The bill authorizes the lien to be renewed for subsequent 10-year periods by filing a renewed lien notice in the same manner as the original lien notice and establishes the priority of a renewed lien notice filed before or after the applicable 10th anniversary. The bill also repeals a provision that required the state's Title IV-D agency to file a child support lien in each Title IV-D case in which the total amount of child support delinquency was at least \$5,000 and the obligor owned property in Texas or resided in Texas.

**Senate Bill 1777**  
**Effective:** 6-19-09

**Senate Author:** Harris  
**House Sponsor:** Shelton

Senate Bill 1777 amends the Family Code to authorize the Office of the Attorney General state disbursement unit to make a direct deposit of a child support payment to an obligee by electronic funds transfer into an account with a financial institution maintained by the obligee, and requires the unit to deposit the payment by electronic funds transfer into a debit card account established for the obligee by the office if the obligee does not maintain such an account, closes an account, or fails to notify the unit of the existence of an account. The bill authorizes an obligee to decline to receive payments by electronic funds transfer and establishes related responsibilities of the obligee and duties of the attorney general's office.

Senate Bill 1777 amends the Property Code to exempt from provisions regarding personal property that is presumed to be abandoned money collected as child support that is being held for disbursement pending identification and location of the person to whom the money is owed or that has been disbursed into a child support debit card account that has not been activated by the individual.

**Senate Bill 1820**  
**Effective:** 9-1-09

**Senate Author:** Fraser  
**House Sponsor:** Madden

Senate Bill 1820 amends the Family Code to exclude payments for foster care of a child from the resources used to calculate a person's child support liability.

## Juvenile Justice

**House Bill 558**  
**Effective:** 9-1-09

**House Author:** Hernandez  
**Senate Sponsor:** Ellis

House Bill 558 amends provisions of the Code of Criminal Procedure, Family Code, and Penal Code relating to law enforcement and judicial procedures for, and the prosecution of, children who engage in conduct constituting public intoxication to include a public intoxication offense committed by a child within the jurisdiction of a justice or municipal court.

**House Bill 609**  
**Effective:** 9-1-09

**House Author:** Castro  
**Senate Sponsor:** Wentworth

House Bill 609 amends the Family Code to require that a jury consist of six qualified jurors for an adjudication hearing in juvenile court if the hearing is on a petition that alleges conduct that violates a penal law of the grade of misdemeanor.

**House Bill 1630**

**Effective:** 6-19-09

**House Author:** Naishtat et al.

**Senate Sponsor:** Watson

House Bill 1630 amends the Government Code to require the Health and Human Services Commission to enter into memoranda of understanding with the Texas Youth Commission and the Texas Juvenile Probation Commission to ensure that each individual committed, placed, or detained under the Juvenile Justice Code is assessed for eligibility for Medicaid and the child health plan program. The bill clarifies that the local juvenile probation departments are subject to the requirements of the memorandum with the Texas Juvenile Probation Commission. The bill establishes requirements relating to the content of each memorandum and requires each memorandum to be tailored for the purpose of ensuring enrollment and receipt of services as soon as possible after determination of eligibility.

**House Bill 1688**

**Effective:** 9-1-09

**House Author:** Castro

**Senate Sponsor:** Wentworth

House Bill 1688 amends the Family Code to establish that a motion for new trial seeking to vacate a juvenile court adjudication is governed by Rule 21 of the Texas Rules of Appellate Procedure, relating to new trials in criminal cases.

**House Bill 2386**

**Effective:** 9-1-09

**House Author:** Castro et al.

**Senate Sponsor:** Uresti

House Bill 2386 amends the Family Code to authorize a juvenile court to order the records of a child adjudicated as having engaged in misdemeanor or felony conduct sealed if the child successfully completes a drug court program, unless the child is considered a violent or habitual offender. The court may order the sealing of the records immediately and without a hearing or hold a hearing to determine whether to seal the records. A prosecuting attorney or juvenile probation department may maintain a separate record of the child's name, date of birth, and the date the child completed the drug court program. The separate record must be added to the child's other sealed records as soon as practicable after the child's 17th birthday. The bill modifies provisions on the sealing of a juvenile record under certain other circumstances to allow the applicant to waive the right to a hearing before the sealing of the court record if the court and prosecuting attorney consent to the waiver.

**House Bill 2804**

**Effective:** 9-1-09

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 2804 amends the Human Resources Code to raise the cap on the annual salary paid to a Duval County Juvenile Board member from \$3,600 to \$10,000.

**House Bill 2813**

**Effective:** 9-1-09

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 2813 amends the Human Resources Code to raise the cap on the annual salary paid to a Starr County Juvenile Board member from \$3,600 to \$10,000.

**House Bill 3005**

**Effective:** 6-19-09

**House Author:** Coleman

**Senate Sponsor:** Whitmire

House Bill 3005 amends the Health and Safety Code to add an employee of a juvenile probation department to the list of persons authorized to request the Department of State Health Services or a health authority to order testing of another person who may have exposed the person to a reportable disease, including HIV infection.

**House Bill 4700**  
**Effective:** 6-19-09

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

House Bill 4700 amends the Human Resources Code to authorize the juvenile board of Bexar County to apply for, accept, hold in trust, spend, and otherwise use a gift, grant, or donation of land or money or other personal property from a governmental entity, corporation, individual, or other source for the benefit of the juvenile justice system.

**Senate Bill 58**  
**Effective:** 9-1-09

**Senate Author:** Zaffirini  
**House Sponsor:** Vaught

Current law authorizes the Texas Juvenile Probation Commission to partner with local counties to participate and assist in the creation and maintenance of a statewide juvenile information and case management system. Senate Bill 58 amends the Family Code to specify that the commission enter into such a partnership through the adoption of an interlocal contract with one or more counties as provided under the Interlocal Cooperation Act. The bill authorizes the commission to use funds appropriated for the implementation of the system to pay costs incurred under such an interlocal contract and authorizes the commission to provide training services to counties on the use and operation of a system created, operated, or maintained by the counties.

**Senate Bill 518**  
**Effective:** 9-1-09

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

Senate Bill 518 amends the Family Code to change the deadline by which a juvenile court must provide access to all written material to be considered by the court in making a decision to transfer an alleged child offender to the appropriate district or criminal court for criminal proceedings from at least one day prior to at least five days prior to the transfer hearing. While previous law only required access to the above written material be provided to the attorney for the child, the bill requires this access to also be provided to the prosecuting attorney.

**Senate Bill 1056**  
**Effective:** 6-19-09

**Senate Author:** Uresti  
**House Sponsor:** Naishtat

Senate Bill 1056 amends the Government Code to require a court convicting a child for a certain misdemeanor offense punishable by fine only to immediately issue an order prohibiting criminal justice agencies from disclosing criminal history record information related to the offense except to another criminal justice agency, specified noncriminal justice agencies or entities, or a person who is the subject of the order. The bill specifies the agencies and entities to which such information may be disclosed. The bill adds to the noncriminal justice agencies and entities to which a criminal justice agency is authorized to disclose information relating to a person who is placed on deferred adjudication community supervision.

**Senate Bill 1374**  
**Effective:** 9-1-09

**Senate Author:** West  
**House Sponsor:** McReynolds

Senate Bill 1374 amends the Human Resources Code to require the Texas Juvenile Probation Commission to include in the commission's annual report to the governor and the legislature on the commission's operations and the condition of probation services information regarding the effectiveness and cost of certain community-based programs for juvenile offenders.

**Senate Bill 1811**

**Effective:** 9-1-09

**Senate Author:** Duncan et al.

**House Sponsor:** Hardcastle

Senate Bill 1811 amends the Human Resources Code to establish the 39th Judicial District Juvenile Board in Haskell, Kent, Stonewall, and Throckmorton Counties, composed of the county judge of each of those counties and the 39th Judicial District judge. The bill provides for the payment of additional annual compensation to those judges serving on the juvenile board, juvenile probation personnel salaries, juvenile probation officer expenses, and certain expenses incurred by board members and juvenile court judges. Current law provisions regarding the appointment of public members to the Haskell County Juvenile Board and the election of a chairman of that board are transferred to apply to the 39th Judicial District Juvenile Board.

**Senate Bill 2134**

**Effective:** 5-23-09

**Senate Author:** Wentworth

**House Sponsor:** Miller, Doug

Senate Bill 2134 amends the Human Resources Code to add the judge of the 433rd District Court to the membership of the Comal County Juvenile Board and to repeal a provision that prohibited the criminal district attorney of Comal County from voting with the board except to break a tie vote of the other board members.

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

House Bill 409 - Military Forces and Veterans

House Bill 1043 - Labor and Employment

House Bill 1633 - Criminal Justice

House Bill 2435 - Courts

House Bill 3689 - Corrections

House Bill 4009 - Criminal Justice

Senate Bill 279 - Military Forces and Veterans

Senate Bill 727 - Corrections

# Government Purchasing

This chapter covers legislation on issues relating to the procurement of goods and services by state and local governmental entities, including bills on contracting, leasing, and public works projects. Related bills that are summarized in other chapters are listed at the end of this chapter.

## **House Bill 432**

**Effective:** 9-1-09

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

**Senate Sponsor:** Estes

House Bill 432 amends the Government Code to provide that purchasing requirements relating to state agency purchases of alternatively fueled vehicles do not apply if an agency demonstrates that it will incur net costs in meeting those requirements. The bill amends various provisions relating to the purchase of alternative fuels vehicles and the acquisition of related equipment or refueling facilities to include among such vehicles those that use either biodiesel or a blend of diesel and biodiesel of 20 percent or greater and to clarify that the inclusion of vehicles that use electricity includes plug-in hybrid motor vehicles. The bill also amends provisions to specify that such vehicles must use alternative fuels, rather than just be capable of using alternative fuels, and to specify that a vehicle meets the use requirement if it uses an alternative fuel not less than 80 percent of the time it is driven. The bill sets a new deadline, September 30, 2010, for agencies that operate a fleet of more than 15 motor vehicles, excluding law enforcement and emergency vehicles, to have a fleet in which at least 50 percent of the vehicles use alternative fuels. It transfers from the Texas Commission on Environmental Quality to the comptroller of public accounts the power to reduce or waive these requirements. The bill requires a state agency, in its annual financial report to the legislature, to describe the availability of alternative fuels and to provide information reasonably needed to determine the air quality benefits from using them. It requires the Texas State Technical College to develop a program and provide training to a state agency converting an existing vehicle to meet fleet requirements. The bill applies certain low emissions vehicle purchasing requirements not just to a state agency that purchases 10 or more vehicles in a state fiscal biennium, as under previous law, but to any agency that is authorized to purchase passenger vehicles or other ground transportation vehicles for general use. It increases, from 10 to 25 percent, the minimum percentage of purchased vehicles, other than exempted vehicles, that must meet those emission standards and expands the vehicles exempted to include a vehicle to be used by a peace officer whose duties include the apprehension of persons for violation of a Texas criminal law.

## **House Bill 962**

**Effective:** 6-19-09

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 962 amends the Education Code to exempt a purchase, acquisition, or license of library goods and services for a library operated as a part of a junior college district from the requirement that school district and junior college district purchasing contracts valued at \$25,000 or more over a 12-month period be made under the method, of several methods enumerated in statute, that provides the best value. The bill clarifies a junior college district's authority to acquire library goods and services, authorizing a junior college district to purchase, license, or otherwise acquire library goods and services in any manner authorized by law for the purchase, license, or acquisition of library goods and services by a public senior college or university. The bill expands the definition of "library goods and services."

**House Bill 987**

**Effective:** 6-19-09

**House Author:** Creighton

**Senate Sponsor:** West

House Bill 987 amends provisions of the Education Code relating to school district contracts, other than the purchase of produce or vehicle fuel, to increase from \$25,000 to \$50,000 the aggregate 12-month threshold value at or above which contracts must be made by the method that provides the best value for the district. The bill authorizes a district to receive bids or proposals electronically if the district's board of trustees adopts certain rules. It repeals provisions governing a school district's purchase of personal property valued between \$10,000 and \$25,000.

House Bill 987 amends Local Government Code provisions containing a \$25,000 threshold value above which prior law required the use of competitive bidding by a county, school district, or hospital district or authority for an improvement or addition to real property, the use of competitive bidding by a county, municipality, or hospital district under the Certificate of Obligation Act of 1971, or the use of competitive bidding, a reverse auction procedure, or alternative project delivery methods by a county, to increase each such threshold to \$50,000 and to replace each such competitive bidding requirement, and others, with a competitive procurement requirement. The bill amends a prior law that established that a county need not use competitive bidding for a purchase of \$25,000 or less in the case of an item available from only one supplier to likewise increase the threshold to \$50,000 and similarly refer instead to competitive procurement. The bill increases to \$50,000 the threshold value above which a jail district construction contract, or a contract for facility construction under the Civic Center Authority Act, must be procured by competitive bidding, and above which certain contracts by a municipal management district must be procured by competitive bidding or competitive sealed proposal. It limits, to expenditures of less than \$100,000, the authority of certain municipalities in certain situations to contract with a bidder whose principal place of business is in the municipality rather than with the lowest bidder. Other amendments to that code change the bidding notice publication deadline applicable to municipal management districts and allow the award of attorney's fees in an adjudication relating to a local governmental entity contract.

The bill amends the Transportation Code to increase to \$50,000 the threshold value above which the board of trustees of harbor and port facilities in certain coastal municipalities must use competitive bidding for a contract.

**House Bill 1972**

**Effective:** 6-19-09

**House Author:** Hamilton

**Senate Sponsor:** Williams

Previous law allowed certain port commissions to make routine purchases or contracts and, under certain conditions, emergency purchases or contracts in an amount not to exceed \$25,000 without complying with competitive bidding procedures. House Bill 1972 amends the Water Code to increase the maximum amount of the allowable purchase or contract to \$50,000. The bill specifies that the requirement to attach a certified check, cashier's check, or bidders bond to a bid applies if the bid specifications require such an attachment.

**House Bill 2082**

**Effective:** 6-19-09

**House Author:** Isett

**Senate Sponsor:** Duncan

Current law authorizes a municipality with a population of less than 250,000 to give preference to local bidders in awarding a contract in any amount, as long as the bid is within five percent of the lowest bid. House Bill 2082 amends the Local Government Code to limit this authority to contracts in amounts less than \$100,000.



**House Bill 2515****Effective:** 9-1-09**House Author:** Smith, Todd**Senate Sponsor:** Harris

House Bill 2515 amends the Government Code to increase, from \$25,000 to \$50,000, the contract value threshold above which a municipality or a joint airport board is required to require a prime contractor to execute a payment bond before the contractor begins work under a public work contract. It also amends the Property Code to increase, from \$25,000 to \$50,000, the contract value threshold at or below which a person who furnishes material or labor to a contractor under a prime contract with a municipality or a joint airport board for public improvements in Texas has a lien on the money, bonds, or warrants due the contractor for the improvements. For material or labor supplied a contractor under a prime contract with another type of governmental entity, the lien threshold remains at the current \$25,000. The bill preserves existing statutory provisions making the lien contingent on notice by the lien claimant, but removes the requirement that a lien claimant give notice before any payment is made to a public work contractor. The notice deadline, under remaining provisions of existing law, becomes the 15th day of the second month following the month in which the labor or material was supplied.

**House Bill 2521****Effective:** 9-1-09**House Author:** Pickett et al.**Senate Sponsor:** West

House Bill 2521 amends the Government Code to require the comptroller of public accounts and each state agency conducting an advertising campaign that involves the creation or production of a commercial to give preference to a commercial production company and advertising agency located in Texas if the services meet state requirements regarding the service to be performed and regarding expected quality, and the cost of the service does not exceed the cost of other similar services of similar expected quality that are offered by a bidder that is not entitled to preference. The bill grants the Music, Film, Television, and Multimedia Office within the office of the governor exclusive rulemaking authority for purposes of determining whether an advertising campaign is subject to the requirements of the bill, for establishing a bid process for purposes of the services, and for establishing criteria to determine whether a commercial production company or advertising agency is located in Texas.

**House Bill 2820****Effective:** Vetoed**House Author:** Chisum et al.**Senate Sponsor:** Wentworth

House Bill 2820 amends the Government Code to extend the application of the Professional Services Procurement Act to include the procurement of services that are within the scope of the practice of professional geoscience and are provided in connection with the professional employment or practice of a person who is licensed or registered as a professional geoscientist.

Reason Given for Veto: "House Bill No. 2820 would expand the definition of professional services to include geoscientists and landscape architects. The bidding procedure for professional services requires selection based on qualifications without regard to price. This bill would prevent price-based competition for services by geoscientists and landscape architects, and therefore does not guarantee the best value for taxpayers when government entities contract for these services."

**House Bill 3668****Effective:** 9-1-09**House Author:** Hopson**Senate Sponsor:** Nichols

Current law authorizes any property tax paying resident of a municipality to enjoin the performance of a municipal purchasing contract, including the payment of any money under the contract, if the contract is made without compliance with state law regulating the purchasing and

contracting authority of municipalities. House Bill 3668 amends the Local Government Code to authorize a person who submitted a bid for a contract to which the competitive sealed bidding requirement applies, regardless of residency, also to enjoin a municipal contract described above if the contract is for the construction of public works.

**House Bill 4493**  
**Effective:** 6-19-09

**House Author:** Eiland  
**Senate Sponsor:** Huffman

House Bill 4493 amends the Transportation Code to authorize, except as otherwise provided by the law governing harbor and port facilities in certain municipalities, the board of trustees of a facility located in a municipality to which that law applies to award a contract involving the expenditure of more than \$50,000, rather than more than \$25,000, only by competitive bidding.

**Senate Bill 229**  
**Effective:** 6-19-09

**Senate Author:** West  
**House Sponsor:** Callegari

Previous law restricted the authority for a local government to use the design-build procurement method for civil works projects before September 1, 2009, to a governmental entity with a population of 500,000 or more and would have authorized a local governmental entity with a population of more than 100,000 to use this procurement method only during the period beginning September 1, 2009, and ending August 31, 2011. Senate Bill 229 amends the Local Government Code to remove these restrictions, authorizing any local governmental entity with a population of more than 100,000 to use the design-build procurement method at any time.

**Senate Bill 899**  
**Effective:** 5-27-09

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

Senate Bill 899 amends the Government Code to authorize an officer or employee of a transportation or transit authority, department, district, or system, or a hospital district, to participate in the comptroller of public accounts' contracts for travel services if the officer or employee is engaged in official business. The bill specifies that participation by a hospital district officer or employee is for the purpose of obtaining reduced airline fares and travel agent fees. The bill authorizes the comptroller to charge a participating entity a fee not to exceed the costs incurred by the comptroller in providing such services and requires the comptroller to periodically review fees and to adjust them as needed to ensure recovery of costs incurred. The bill requires the comptroller to deposit the fees collected from participating hospital districts to the credit of the hospital district airline fares account and establishes that this account is an account in the general revenue fund that may be appropriated only for the purposes of travel and vehicle fleet services. The bill requires the comptroller to adopt rules and to make or amend contracts as necessary to administer the hospital district provisions.

**Senate Bill 2381**  
**Effective:** 6-19-09

**Senate Author:** West  
**House Sponsor:** Dukes

Senate Bill 2381 amends purchasing provisions of the Government Code relating to the master bidding list to require the comptroller of public accounts to collect, in addition to the authorized list registration fee and biennial renewal fee, \$20 from each registrant to be used for the purpose of enforcing compliance with requirements of state purchasing statutes and the prevention of fraud in the historically underutilized businesses program. The bill removes the requirement that the comptroller set the amount of the registration fee and biennial renewal fee by rule.

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

House Bill 1705 - State Government

House Bill 2142 - Transportation

Senate Bill 882 - Special Districts



# Health and Medical Occupations

This chapter covers legislation on issues relating to health and medical occupations, including occupational regulation, licensing and registration requirements, and education requirements. The chapter also includes legislation on higher education loan repayment programs and the labeling, distribution, and dispensing of certain prescription drugs. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### **House Bill 233**

**Effective:** 9-1-09

**House Author:** Rodriguez et al.

**Senate Sponsor:** Uresti

House Bill 233 amends the Government Code to require the executive commissioner of the Health and Human Services Commission, not later than January 1, 2010, to establish an Advisory Committee on Qualifications for Health Care Translators and Interpreters. The bill prescribes the committee's composition and duties relating to qualifications for health care interpreters and translators. The bill prohibits a member of the committee from being compensated other than by reimbursement for expenses. The advisory committee is subject to the Texas Sunset Act.

### **House Bill 449**

**Effective:** See below

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

**Senate Sponsor:** Deuell

House Bill 449 amends the Health and Safety Code to authorize the executive commissioner of the Health and Human Services Commission to adopt rules to govern the development and administration of an examination for a laser hair removal applicant, and to provide for the certification of laser hair removal professionals, senior laser hair removal technicians, laser hair removal technicians, and laser hair removal apprentices-in-training. The bill requires a laser or pulsed light device used for laser hair removal in a laser hair removal facility to comply with all applicable federal and state laws and regulations, and provides that a person who adulterates or misbrands such a device is in violation of the Texas Food, Drug, and Cosmetic Act. The bill requires a laser hair removal facility to give each customer a written statement outlining the relevant risks associated with laser hair removal. Such a facility is required to have a written contract with a consulting physician to establish proper protocols for the services provided at the facility and to audit the facility's protocols and operations. These provisions take effect September 1, 2009.

House Bill 449 prohibits a person from performing or attempting to perform laser hair removal, or from operating a laser hair removal facility, unless the person holds the appropriate certificate or license as provided by the bill. The bill requires a laser hair removal facility to have a certified laser hair removal professional or a licensed health professional present to supervise the laser hair removal procedures performed at the facility during the facility's operating hours and provides for the continued performance of such procedures if the facility's certified laser hair removal professional leaves the facility. The bill prohibits a person, with exception, from operating a laser or pulsed light device with the intent to treat an illness, disease, injury, or physical defect or deformity and makes the person subject to penalties. A person who is in violation of the bill's provisions may also be subject to an administrative penalty not to exceed \$5,000 imposed by the Department of State Health Services, which may also suspend or revoke an applicable license or certificate. These provisions take effect September 1, 2010.

**House Bill 461**

**Effective:** See below

**House Author:** Eissler et al.

**Senate Sponsor:** Huffman et al.

House Bill 461 amends the Occupations Code to create a dyslexia practitioner license and a dyslexia therapist license and prohibits a person from using the title “licensed dyslexia practitioner” or “licensed dyslexia therapist” in Texas as of September 1, 2010, unless the person holds the appropriate license. The bill provides for the regulation and administration of the licenses by the Department of State Health Services, requires the department to appoint an advisory committee on administration not later than November 1, 2009, and requires the executive commissioner of the Health and Human Services Commission to adopt certain rules necessary to administer and enforce licensing requirements not later than June 1, 2010. The bill provides for the application for and issuance of a license and sets forth specific educational and training requirements a person must meet to be eligible for a license. The bill establishes requirements for a multisensory structured language education training program and also establishes competency examination requirements. The bill requires the executive commissioner, in consultation with the advisory committee, to establish continuing education requirements. The bill sets out provisions relating to license denial and complaint and disciplinary procedures. The bill authorizes the department to deny, suspend, or revoke a license under certain conditions and establishes procedures for administrative hearings related to an appeal of a license denial, revocation, or suspension. The bill sets forth provisions relating to penalties and enforcement procedures for violations.

House Bill 461 creates an interim committee to study and recommend legislation to increase awareness of early detection and treatment of dyslexia and related disorders. The bill provides study requirements and provides for the composition, election of a presiding officer, and report on the findings of the interim committee. Provisions relating to the interim committee expire September 1, 2011. Provisions relating to license denial and complaint and disciplinary procedures and provisions providing penalties and enforcement procedures take effect September 1, 2010. Except as otherwise provided, the bill’s provisions take effect September 1, 2009.

**House Bill 594**

**Effective:** 9-1-09

**House Author:** King, Tracy et al.

**Senate Sponsor:** Wentworth

House Bill 594 amends provisions of the Occupations Code relating to the licensing and regulation of hearing instrument fitters and dispensers. The bill clarifies that a person licensed under state law as an audiologist or an audiology intern who is applying for a license under this chapter is exempt from the examination required by this chapter but must comply with all other requirements under this chapter. The bill increases from 18 to 20 the number of hours of classroom continuing education required for an apprentice permit holder under this chapter. The bill replaces provisions requiring the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments to issue a license to a license holder from another state or territory whose licensing requirements are equal to or greater than the licensing requirements of this chapter with provisions requiring the committee to require an applicant who is a license holder in another state to provide certain information relating to the applicant’s standing in the other state. The bill authorizes the committee to deny an application based on the applicant’s criminal history or history of disciplinary action. If the committee approves an application, the applicant may take an examination given by the committee. The committee must issue a license to the applicant if the applicant passes the examination. The bill prohibits the committee from issuing a license to an applicant who is a licensed audiologist in another state, requiring the committee to refer the applicant to the State Board of Examiners for Speech-Language Pathology and Audiology.

House Bill 594 removes the requirement that the committee issue a temporary training permit to a person who has never held a temporary training permit in Texas and authorizes the committee to issue a new temporary training permit to a person on or after the 365th day after the person's previous temporary training permit expired. The bill specifies that a supervisor of a temporary training permit holder must be licensed under this chapter or the law governing speech-language pathologists and audiologists, other than the law allowing a person to practice speech-language pathology and audiology as a licensed intern or assistant. The bill establishes that a license under this chapter is valid for two years, rather than one year. The bill clarifies that the committee is prohibited from renewing a license unless the license holder provides proof that all equipment that is used by the license holder to produce a measurement in the testing of hearing acuity has been properly calibrated or certified by a qualified technician. The bill replaces provisions requiring a license holder to provide a bill of sale with provisions requiring the owner of a hearing instrument fitting and dispensing practice to ensure that each client receives a written contract at the time of purchase containing certain information about the license holder who dispensed the hearing instrument.

**House Bill 643**  
**Effective:** 9-1-09

**House Author:** Zerwas  
**Senate Sponsor:** Uresti

House Bill 643 amends the Health and Safety Code to establish minimum qualifications for employment as a surgical technologist. The bill prohibits a licensed health care facility from employing a surgical technologist who does not meet certain qualifications relating to certification, training, employment, and federal service unless the facility is unable to employ a sufficient number of qualified surgical technologists and retains a record of the hiring effort. The bill authorizes a facility to employ a graduate of an accredited educational program for surgical technologists without the required certification until the 180th day after the date the person graduates from the program but requires certification for continued employment beyond that date. The bill exempts from the minimum qualifications a licensed registered nurse or licensed vocational nurse or an individual whose primary functions include cleaning or sterilizing supplies, instruments, equipment, or operating rooms.

**House Bill 675**  
**Effective:** 9-1-09

**House Author:** Bonnen  
**Senate Sponsor:** Huffman

House Bill 675 amends the Occupations Code to authorize the Texas Optometry Board to allow a licensed optometrist or therapeutic optometrist to place the person's license on retired status provided that the person's practice is confined to voluntary charity care. Previous law provided that the board was authorized to renew an expired license if it had expired less than a year before but required the license holder to comply with the requirements for applying for an original license if the license had been expired for a year or more. House Bill 675 authorizes the board to renew the license of a person whose license has been expired for one year or more without requiring the person to comply with the requirements for an original license if the license is placed on retired status and the person's practice is confined to voluntary charity care.

**House Bill 1740**  
**Effective:** 6-19-09

**House Author:** Howard, Donna et al.  
**Senate Sponsor:** Uresti

House Bill 1740 amends the Occupations Code to clarify that a physician or therapeutic optometrist is not prevented by provisions of the Texas Pharmacy Act from dispensing and charging for therapeutic contact lenses. The bill also clarifies that certain provisions of that act do not authorize a therapeutic optometrist to prescribe, administer, or dispense a drug that is otherwise outside the therapeutic optometrist's scope of practice.

**House Bill 1785**

**Effective:** 6-19-09

**House Author:** Kuempel

**Senate Sponsor:** Nichols

House Bill 1785 amends the Occupations Code to revise educational requirements for an occupational therapist license applicant to require certain applicants to have a baccalaureate degree, certificate evidencing completion of undergraduate course work, or postbaccalaureate degree from a program approved by the Accreditation Council for Occupational Therapy Education, its predecessor organization, or another national credentialing agency approved by the Texas Board of Occupational Therapy Examiners. The bill modifies the conditions under which a person may renew a license that has been expired for one year or longer and under which an out-of-state practitioner may renew a license. The bill also includes provisions relating to a late fee for the renewal of licenses that have been expired less than one year.

**House Bill 2154**

**Effective:** 9-1-09

**House Author:** Edwards

**Senate Sponsor:** Hinojosa et al.

House Bill 2154 amends provisions of the Education Code relating to the physician education loan repayment program. The bill changes the eligibility requirements for a physician seeking to receive loan repayment assistance, decreases the number of years for which a physician is allowed to receive assistance, adds an option for repayment to be made in a lump sum directly to the lender or other holder of the loan, and sets the maximum amount of repayment for each of the four years and the total maximum amount for an individual physician. The bill creates the physician education loan repayment program account in the general revenue fund and prohibits the total amount of repayment assistance from exceeding the amount available in the account.

House Bill 2154 amends the Tax Code to set the tax rate on a tobacco product other than a cigar at a rate per ounce rather than a percentage of the manufacturer's list price. The bill provides for an incremental increase of three cents per ounce for a can or package of a tobacco product other than cigars in each state fiscal year beginning September 1, 2009, and ending September 1, 2012. The respective tax rate for each fiscal year expires on December 1 of the following year until the rate is set at \$1.22 per ounce. The bill provides for the computation of the tax rate based on a product's net weight as listed by the manufacturer and requires the net weight to be included in the reports and records required to be submitted or retained by tobacco distributors, wholesalers, and manufacturers.

**House Bill 2765**

**Effective:** 6-19-09

**House Author:** Anderson

**Senate Sponsor:** Hegar

Under certain circumstances, current law authorizes a veterinarian licensed in Texas to dispense a drug prescribed by another veterinarian licensed in Texas if the drug is not a controlled substance. House Bill 2765 amends the Occupations Code to allow a veterinarian licensed in Texas to dispense a drug prescribed by a veterinarian licensed in another state under those same circumstances.

**House Bill 2917**

**Effective:** 6-19-09

**House Author:** McReynolds

**Senate Sponsor:** Shapiro

House Bill 2917 amends the Government Code to expand the list of persons for whom the Department of State Health Services (DSHS) is authorized to obtain criminal history record information from the Department of Public Safety. The bill includes provisions relating to timelines for the destruction of criminal history record information and prohibits DSHS from considering moving violation offenses for which points are assessed by the Texas Department of Transportation to determine whether to hire or retain an employee or contract with a person on whom criminal history record information is obtained.



**House Bill 3450****Effective:** 9-1-09**House Author:** Legler et al.**Senate Sponsor:** Jackson, Mike

House Bill 3450 amends the Occupations Code to authorize the Texas Board of Chiropractic Examiners to issue a temporary faculty license to practice chiropractic for certain chiropractic faculty. The bill establishes eligibility requirements for a person wishing to obtain a temporary license, requires such a person to sign an oath on a form prescribed by the board, and requires a person holding a temporary license to file an affidavit with the board affirming acceptance of the imposed terms and limits on the person's chiropractic activities. The bill establishes procedures for temporary license issuance, application, renewal, and revocation and requires the board to adopt rules, fees, and an application form not later than January 1, 2010.

**House Bill 3717****Effective:** 6-19-09**House Author:** King, Susan**Senate Sponsor:** Nelson

House Bill 3717 amends the Occupations Code to add to the list of individuals who are exempt from the requirement to hold a license to practice physical therapy a physical therapist who is licensed in another jurisdiction of the United States if the person is engaging, for a limited period and under supervision of a physical therapist licensed in Texas, in a special project or clinic required for completion of a post-professional degree in physical therapy. The bill also exempts a person who practices physical therapy or is a physical therapy assistant and who either is practicing physical therapy in the United States armed services, United States Public Health Service, or Veterans Administration in compliance with federal regulations for licensure of health care providers or is licensed in another jurisdiction of the United States or credentialed to practice physical therapy in another country and the person's practice in Texas is of a temporary nature and attributable to the conditions specified in the bill.

**House Bill 3737****Effective:** 9-1-09**House Author:** Anchia et al.**Senate Sponsor:** Davis, Wendy

House Bill 3737 amends the Health and Safety Code to add a special care facility licensed by the Department of State Health Services to the definition of "facility" for purposes of provisions relating to the nurse aide registry and criminal history checks of employees and applicants for employment in certain facilities serving the elderly, persons with disabilities, or persons with terminal illnesses.

**House Bill 4281****Effective:** 6-19-09**House Author:** King, Susan**Senate Sponsor:** Nelson

House Bill 4281 amends the Occupations Code to require the Texas Board of Physical Therapy Examiners to adopt rules for the continuing competence activities of licensed physical therapists rather than for mandatory continuing education requirements for such persons. The bill authorizes, rather than requires, the board to identify the key factors for competent performance by a license holder of the license holder's professional duties and authorizes, rather than requires, the board to authorize appropriate organizations to approve continuing competence activities.

**Senate Bill 904****Effective:** 6-19-09**Senate Author:** Williams**House Sponsor:** McReynolds

Senate Bill 904 amends the Health and Safety Code to authorize a prescribing practitioner to issue multiple prescriptions authorizing a patient to receive a total of up to a 90-day supply of a Schedule II controlled substance under certain conditions. The bill establishes procedures for the issuance of multiple prescriptions of a Schedule II controlled substance and adds carisoprodol to the drugs classified as a Schedule IV controlled substance.

**Senate Bill 911**

**Effective:** See below

**Senate Author:** Williams et al.

**House Sponsor:** Hamilton

Senate Bill 911 amends the Occupations Code to establish a pain management clinic certification. The bill specifies the entities exempt from the certification requirement and sets out procedures relating to inspections, investigation of complaints, and certificate application, issuance, expiration, and renewal. The bill includes provisions relating to the regulation of persons affiliated with a pain management clinic and to disciplinary action. Provisions prohibiting the operation of a pain management clinic without certification take effect September 1, 2010, and all other provisions take effect September 1, 2009.

**Senate Bill 1058**

**Effective:** 9-1-09

**Senate Author:** Uresti

**House Sponsor:** Coleman

Senate Bill 1058 amends the Occupations Code to require each health occupation regulatory agency, not later than February 1 of each year, to file with the chairs of the house and senate committees with primary oversight of the agency a report that includes information relating to the number of persons regulated by the agency, complaints reported and investigated by the agency, the amount of fees collected by the agency, and the agency's expenses and unfunded needs. The Health Professions Council, not later than January 1, 2010, is required to adopt a standard format that must be used by health occupation regulatory agencies to report the required information.

**Senate Bill 1211**

**Effective:** 9-1-09

**Senate Author:** Fraser

**House Sponsor:** Madden

Senate Bill 1211 amends provisions of the Civil Practice and Remedies Code that give certain volunteer health care providers immunity from civil liability for actions taken on behalf of a charitable organization to extend such immunity to an audiologist, an assistant in audiology, a speech-language pathologist, or an assistant in speech-language pathology, who is either licensed in Texas or retired and eligible to provide care services under Texas law.

**Senate Bill 1271**

**Effective:** 5-27-09

**Senate Author:** Uresti

**House Sponsor:** Hopson

Senate Bill 1271 amends the Occupations Code to require a person licensed to practice orthotics or prosthetics who fabricates or assembles an orthosis or a prosthesis without an order from a licensed physician, chiropractor, or podiatrist for a specific patient to be licensed as a device manufacturer. The bill exempts from device manufacturer licensing requirements a person licensed to practice orthotics or prosthetics who measures, designs, fabricates, fits, assembles, adjusts, or services an orthosis or a prosthesis under an order from a licensed physician, chiropractor, or podiatrist for a specific patient.

**Senate Bill 1476**

**Effective:** 5-27-09

**Senate Author:** Ellis

**House Sponsor:** Coleman

Senate Bill 1476 amends the Occupations Code to require the Texas Optometry Board by rule to certify a health organization to contract with or employ an optometrist or therapeutic optometrist if the organization applies for certification and presents proof that the organization is a community health center. The bill prohibits such a community health center from controlling or attempting to control the professional judgment of an optometrist or therapeutic optometrist with whom the center contracts.

**Senate Bill 1484**  
**Effective:** 5-27-09

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

Senate Bill 1484 amends the Government Code to exempt from nurse licensing requirements the delivery of a service for which payment is provided under the consumer-directed service option for persons with disabilities and elderly persons if the person who delivers the service and the consumer who receives the service meet certain conditions. The bill sets out requirements relating to the presence and accessibility of a legally authorized representative at the time the service is performed under certain circumstances.

**Senate Bill 2420**  
**Effective:** 6-19-09

**Senate Author:** Deuell  
**House Sponsor:** Naishtat

Previous law required the Department of Assistive and Rehabilitative Services to conduct interpreter examinations in Austin at the department's office or in other space owned or leased by the state, or in other cities in the state in space that can be obtained free of charge. Senate Bill 2420 amends the Human Resources Code to require the examinations to be conducted in a space that can be obtained free of charge or at a facility selected in compliance with provisions of law relating to the use of state facilities for meetings, conferences, and examinations.

## **Pharmacists and Pharmacies**

**House Bill 19**  
**Effective:** 9-1-09

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

House Bill 19 amends the Occupations Code to require the label on a dispensing container of a prescription drug dispensed by a Class A or Class E pharmacy to indicate, in addition to other required information, certain information relating to the dispensing pharmacy, prescribing physician, patient's identity, dispensing date, quantity dispensed, instructions for use, and expiration date for a drug dispensed in a container other than the manufacturer's original container. The bill exempts from the additional label requirements a prescription drug dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication. The bill requires the Texas State Board of Pharmacy by rule to require pharmacists to include a statement regarding the disposal of medication on the dispensing container or in other information required to be provided to a consumer.

**House Bill 1409**  
**Effective:** 9-1-09

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

House Bill 1409 amends the Occupations Code to authorize a pharmacist to administer an influenza vaccination to a patient over seven years of age under the supervision of a physician without an established physician-patient relationship.

**House Bill 1924**  
**Effective:** 6-19-09

**House Author:** Heflin  
**Senate Sponsor:** Seliger

House Bill 1924 amends the Occupations Code to establish standards for withdrawing medication from rural hospital pharmacies. The bill authorizes a nurse or practitioner to withdraw a prescription drug or device from a rural hospital pharmacy to fill a prescription order if the pharmacy is closed or the pharmacist is off duty and to withdraw a prescription drug or device from the institutional pharmacy in the original manufacturer's container or a prepackaged container in a rural hospital using a floor-stock method of drug distribution. In both cases, the hospital pharmacist is required to verify the withdrawals and perform a drug regimen review

not later than the seventh day after withdrawal. The bill authorizes a rural hospital to allow a pharmacy technician under certain conditions to perform duties related to medication and drug order distribution during the hours that the institutional pharmacy is open without the direct supervision of a pharmacist.

House Bill 1924 authorizes the Texas State Board of Pharmacy to adopt rules regarding drug use reviews and requires the board to adopt rules relating to recordkeeping, policy and procedure requirements, and training requirements relating to the pharmacy technician verification process. The bill authorizes a Class C pharmacy that has an ongoing clinical pharmacy program to allow a pharmacy technician to verify the work of another technician and requires the pharmacist-in-charge of the program to adopt policies for the verification process.

**Senate Bill 381**

**Effective:** 9-1-09

**Senate Author:** Van de Putte

**House Sponsor:** Hopson

Senate Bill 381 amends the Occupations Code to authorize a physician to delegate to a properly qualified and trained pharmacist the implementation or modification of a patient's drug therapy under a protocol, including the authority to sign a prescription drug order for dangerous drugs, if certain conditions are met. The bill requires the Texas State Board of Pharmacy to provide on its website a list of pharmacists who are authorized to sign a prescription drug order, including the name of the pharmacist's delegating physician.

**Senate Bill 646**

**Effective:** 6-19-09

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

**House Sponsor:** Kolkhorst

Senate Bill 646 amends the Occupations Code to require the Texas State Board of Pharmacy to conduct a study on the license, transfer, use, and sale of prescription information records containing patient-identifiable and practitioner-identifiable information by pharmacy benefit managers, insurers, electronic transmission intermediaries, pharmacies, and other similar entities for the purpose of advertising, marketing, or promoting pharmaceutical products. The bill includes reporting requirements for submission of the results of the study as well as legislative recommendations. The bill creates a civil penalty for an entity that fails to provide information requested by the board for use in the study. The bill's provisions expire October 1, 2010.

**Senate Bill 1127**

**Effective:** 6-19-09

**Senate Author:** Van de Putte

**House Sponsor:** Hopson

Senate Bill 1127 amends the Occupations Code to authorize reports, formulas, and test results of samples of products compounded by pharmacies obtained by the Texas State Board of Pharmacy to be provided to the pharmacy that compounded the product but otherwise makes that information confidential. The bill authorizes the board to disclose such confidential information under certain conditions, prescribes the conditions under which a pharmacy is required to recall a compounded product, and authorizes the board to release test results associated with the recall. The bill requires the board to release the test results if a pharmacy is unable to or does not recall the compounded product within 48 hours of the board's request.

**Senate Bill 1853**

**Effective:** 6-19-09

**Senate Author:** Van de Putte

**House Sponsor:** Hopson

Senate Bill 1853 amends the Occupations Code to expand the conditions under which the Texas State Board of Pharmacy is authorized to take disciplinary action against an applicant or registrant for a pharmacy technician license. The bill establishes that a disciplinary action affecting the registration of a pharmacy technician trainee remains in effect if the trainee obtains

registration as a pharmacy technician. In enforcing a disciplinary action based on a determination that an applicant or registrant has developed an incapacity that prevents the applicant from practicing with reasonable skill, the board is authorized, on probable cause, to request a person to submit to a mental or physical examination. If the person refuses to submit to the examination, the board is required to issue an order to show cause of why the person will not submit to the examination and to schedule a hearing on the order. The bill sets forth hearing procedures.

## Physicians, Dentists, and Nurses

### House Bill 732

**Effective:** 9-1-09

**House Author:** Hartnett

**Senate Sponsor:** Huffman

House Bill 732 amends the Occupations Code to require the Texas Medical Board to remove any record of a formal complaint in the annual update of a physician's profile if the complaint was dismissed more than five years before the date of the update and the complaint was dismissed as baseless, unfounded, or not supported by sufficient evidence, or no action was taken against the physician's license as a result of the complaint. The bill requires the board to remove any record of the investigation of medical malpractice claims or complaints if the investigation was resolved more than five years before the date of the update and no action was taken against the physician's license as a result of the investigation.

### House Bill 3623

**Effective:** 9-1-09

**House Author:** Elkins

**Senate Sponsor:** Hegar

House Bill 3623 amends the Business & Commerce Code to specify that provisions relating to a covenant not to compete regarding the practice of medicine by a person licensed as a physician by the Texas Medical Board do not apply to a physician's business ownership interest in a licensed hospital or licensed ambulatory surgical center.

### House Bill 3674

**Effective:** 9-1-09

**House Author:** Thompson et al.

**Senate Sponsor:** Nelson et al.

House Bill 3674 amends the Occupations Code to remove the condition that the oath required of applicants for a license to practice medicine in Texas be subscribed to in writing before an officer authorized by law to administer oaths. Previous law required an applicant for a license to practice medicine in Texas to present proof satisfactory to the Texas Medical Board that each medical school attended by the applicant is substantially equivalent to a Texas medical school as determined by the board. The bill allows the applicant, as an alternative, to provide proof that the applicant is specialty board certified by a specialty board organization acceptable to the board.

House Bill 3674 also removes the requirement that an applicant for a license to practice medicine who graduated from a medical school outside the United States and Canada present proof to the board that the applicant is eligible for a license to practice medicine in the country in which the school is located. Previous law required such an applicant to provide proof that the applicant successfully completed at least three years of graduate medical training in the United States or Canada that was approved by the board. The bill allows the applicant, as an alternative, to provide proof that the applicant has successfully completed at least two years of board-approved graduate medical training in the United States or Canada and at least one year of graduate medical training outside the United States or Canada that was approved for advanced standing by a board-approved specialty board organization.

**House Bill 3961**

**Effective:** 6-19-09

**House Author:** McReynolds et al.

**Senate Sponsor:** Nelson

House Bill 3961 amends provisions of the Occupations Code, the Education Code, and the Health and Safety Code relating to the regulation of nursing. The bill makes personal information collected by the Texas Board of Nursing confidential, establishes the board's authority to require physical and psychological evaluations if the board has probable cause to believe that the nurse or applicant is unable to practice nursing with reasonable skill and safety to patients, authorizes the board to suspend temporarily a nurse's license on proof of a positive drug screening or dismissal from a board-ordered peer assistance program, authorizes the board to require random drug screening as a condition of probation, and limits probation revocation hearings to the issue of whether the nurse violated the terms of probation.

House Bill 3961 provides conditions under which a nursing program operated in another state is considered to meet standards substantially equivalent to those of the board, and it provides eligibility requirements for graduates of certain out-of-state nursing programs to apply for an initial nursing license in Texas. The bill requires the nursing resource section to conduct a study of alternative ways to assure clinical competency of graduates of nursing educational programs. The bill makes changes to the surcharge assessed for a registered nursing license and a vocational nursing license.

**House Bill 4353**

**Effective:** 9-1-09

**House Author:** Gonzales

**Senate Sponsor:** Lucio

House Bill 4353 amends the Occupations Code to authorize the Texas Board of Nursing to issue a special one-year license to a person currently licensed to practice nursing in Mexico if the person has received a score acceptable to the board on an English version of the appropriate National Council Licensure Examination, is eligible for employment in the United States, will practice nursing as an employee of a hospital in a county that borders Mexico, and meets other criteria. The special license is limited to a single issuance, does not prohibit the holder from applying for another type of nursing license under Texas law, and does not entitle the holder to a multistate licensing privilege. The license program described above expires September 1, 2013.

**House Bill 4471**

**Effective:** 6-19-09

**House Author:** Kolkhorst et al.

**Senate Sponsor:** Nelson

House Bill 4471 amends the Education Code to require the Texas Higher Education Coordinating Board to establish a process under which a public or private institution of higher education that offers a professional nursing program may apply for a nursing shortage reduction grant and the commissioner of higher education, contingent on appropriations for that purpose, selects applicants to receive such a grant. The bill includes procedures for joint application for a grant, application requirements, and actions the commissioner of higher education is authorized to take if a professional nursing program fails to meet certain conditions agreed to in an application. The bill authorizes the appointment of an advisory committee to advise the board and commissioner in implementing the grant program, requires the coordinating board to adopt rules permitting newly established professional nursing programs to participate in the grant program, and provides for the continued eligibility to participate in the grant program for certain professional nursing programs offered by an entity other than a public or private or independent institution of higher education.

**Senate Bill 97****Effective:** 9-1-09**Senate Author:** Van de Putte**House Sponsor:** Villarreal

Senate Bill 97 amends the Occupations Code to add to the locations at which a qualified dental hygienist is authorized to perform a service, task, or procedure delegated by a licensed dentist to include a community health center. The bill limits to six months the period of time during which a hygienist is authorized to perform a delegated service, task, or procedure with respect to a patient unless the patient has been examined by a dentist.

**Senate Bill 202****Effective:** 9-1-09**Senate Author:** Shapleigh et al.**House Sponsor:** Gonzales

Senate Bill 202 amends the Occupations Code to require the Texas Medical Board to grant to an applicant who is licensed and in good standing in another state a provisional license to practice medicine in an area designated by the federal government as a health professional shortage area or by the federal or state government as a medically underserved area. The bill prohibits the board from granting a provisional license to certain applicants, specifies requirements for a provisional license applicant, provides for the expiration of a provisional license, and establishes conditions under which a license to practice medicine is required to be issued to a provisional license holder. The provisions of the bill apply to an application for a provisional license submitted on or after January 1, 2010.

**Senate Bill 292****Effective:** See below**Senate Author:** Nelson**House Sponsor:** King, Susan

Senate Bill 292 amends the Occupations Code to require each person licensed to practice medicine in Texas to submit updated emergency contact information to the Texas Medical Board not later than December 1, 2009. The board is prohibited from publishing or releasing the contact information except to certain entities in the event of a public health emergency declared by the governor.

Senate Bill 292 also establishes the Texas Physician Health Program to promote physician and physician assistant wellness and the treatment of all health conditions that have the potential to compromise the physician's or physician assistant's ability to practice, including mental health, substance abuse, and addiction issues. The bill provides for the appointment of a medical director for the program, governing board of the program, and physician health and rehabilitation advisory committee to assist the governing board, and sets forth duties and requirements for each. The bill authorizes the board or the physician assistant board to make referrals to the program and to require participation in the program as a prerequisite for issuing or maintaining a license to practice medicine. The bill includes provisions relating to the program's funding and authorizes the board to set and collect a fee for the administration of the program not to exceed \$1,200 for a program participant. Effective January 1, 2010, the bill repeals several provisions relating to rehabilitation orders placed on physicians and physician assistants as a prerequisite for issuing a license. All other provisions take effect September 1, 2009.

**Senate Bill 455****Effective:** 9-1-09**Senate Author:** Shapiro et al.**House Sponsor:** Hopson et al.

Senate Bill 455 amends the Occupations Code to create a coronal polishing certificate issued by the Texas State Board of Dental Examiners to a dental assistant who meets the requirements set forth in the bill. The bill also authorizes additional services and duties to be delegated by a licensed dentist to a dental assistant, specifies the type of supervision required for a dental assistant to perform certain services, and provides continuing education requirements for a dental

assistant. The bill clarifies the conditions under which a dental assistant is considered to be under the general supervision of a dentist and further clarifies that the dentist's physical presence in the dental office when a dental assistant performs a delegated service does not require that the supervising dentist be in the treatment room during the service.

**Senate Bill 476**  
**Effective:** 9-1-09

**Senate Author:** Nelson et al.  
**House Sponsor:** Howard, Donna et al.

Senate Bill 476 amends the Health and Safety Code to require the governing body of a hospital to adopt, implement, and enforce a written nurse staffing policy to ensure that an adequate number and skill mix of nurses are available to meet the level of patient care needed and sets forth the requirements and standards for such a policy. The bill requires a hospital to establish a nurse staffing committee as a standing committee of the hospital and sets forth the composition, duties, and responsibilities of the committee. The bill requires a hospital to report annually certain information relating to the committee and its findings and recommendations to the Department of State Health Services.

Senate Bill 476 prohibits a hospital from requiring nurses to work mandatory overtime, as defined by the bill, except in certain emergencies; authorizes a nurse to refuse to work overtime; provides that such a refusal does not constitute patient abandonment or neglect; and prohibits a hospital from retaliating against a nurse who refuses to work mandatory overtime.

**Senate Bill 532**  
**Effective:** 9-1-09

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

Senate Bill 532 amends the Occupations Code to clarify the conditions under which a physician is authorized to delegate the carrying out or signing of a prescription drug order for a controlled substance, clarifies the information required to be provided by a physician relating to that delegation under Texas Medical Board rule, and authorizes the development of an online delegation registration process. The bill increases from three to four the maximum number of physician assistants, advanced practice nurses, or nurse midwives to whom certain duties may be delegated by a physician at a primary practice site, alternate practice site, or facility-based practice site. The bill authorizes the board, under the specified circumstances, to modify or waive that limitation, mileage limitations, or on-site supervision requirements.

**Senate Bill 806**  
**Effective:** 6-19-09

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

Senate Bill 806 amends the Health and Safety Code to update provisions relating to the nurse aide registry and health facility employee misconduct registry and to make a nursing facility administrator subject to certain disciplinary actions based on a conviction for a criminal offense that would bar other nursing personnel from employment in certain health care facilities. The bill prohibits a facility from employing an applicant until it has verified that the applicant is not designated in the health care facility employee misconduct registry, in addition to the nurse aide registry, for a finding concerning abuse, neglect, or mistreatment, or misappropriation of a health care facility consumer's property. The bill requires certain facilities to conduct annual employee searches of the nurse aide registry and employee misconduct registry. The bill includes provisions requiring the removal of a finding from the employee misconduct registry that was entered based on its inclusion in the nurse aide registry if that finding is subsequently removed from the nurse aide registry and expanding the facilities required to notify its employees about the employee misconduct registry.



**Senate Bill 887**  
**Effective:** 9-1-09

**Senate Author:** Nelson  
**House Sponsor:** Zerwas

Senate Bill 887 amends the Occupations Code to authorize the State Board of Dental Examiners by rule to establish procedures for the alternative informal assessment of administrative penalties for violation of dentistry provisions of the Occupations Code. Such penalties are capped at \$1,000 per violation and \$3,000 per person in a calendar year. The bill updates the renewal process for professionals licensed and certified by the board, includes criminal penalties for failure to comply with the Dental Practice Act, and updates provisions relating to board member qualifications and term limits.

**Senate Bill 1225**  
**Effective:** 6-19-09

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

Previous law authorized the Texas Medical Board to issue, under certain conditions, a faculty temporary license to practice medicine to a physician appointed by a medical school in Texas to a full-time salaried faculty position of at least the level of assistant professor. Senate Bill 1225 amends the Occupations Code to clarify that a physician must hold a salaried position equivalent to at least the level of assistant professor and work full-time at one of the institutions enumerated in the statute. The bill adds to the list of such institutes an institutional sponsor of an accredited graduate medical education program or a certified nonprofit health corporation.

**Senate Bill 1415**  
**Effective:** 9-1-09

**Senate Author:** Hegar  
**House Sponsor:** McReynolds

Senate Bill 1415 amends the Occupations Code to require the Texas Board of Nursing, not later than February 1, 2010, to determine the feasibility of conducting a pilot program designed to evaluate the efficacy and effect on the public's protection of board deferral of disciplinary action against a licensed nurse in cases in which the board proposes to impose a sanction other than a reprimand or a denial, suspension, or revocation of a license. If determined feasible, the board is required to develop and implement the pilot program not later than February 1, 2011, and the program must conclude not later than January 1, 2014. During the pilot program and for any applicable sanction the board proposes to impose, the board may defer final disciplinary action against a licensed nurse if the nurse conforms to conditions imposed by the board, and may dismiss the complaint if the nurse successfully meets those conditions. The bill requires the board to appoint an advisory committee to assist in overseeing the pilot program and its evaluation, and authorizes the board to contract with a third party for the evaluation.

Senate Bill 1415 authorizes the board to impose a corrective action consisting of a fine or remedial education, or both, on a licensed nurse who violates the Nursing Practice Act. The board is required to adopt guidelines for the types of violations for which a corrective action may be imposed, and the executive director is authorized to give written notice of the determination and recommendation for corrective action to a person subject to a corrective action. Such a person may accept and satisfy the corrective action, thereby closing the case, or not accept the corrective action, thereby requiring the executive director to dispose of the matter as a complaint. The executive director is required to report periodically to the board on corrective actions imposed.

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

- House Bill 3456 - Higher Education
- Senate Bill 63 - Human Services
- Senate Bill 1728 - Higher Education



## Health and Safety

This chapter covers legislation on issues relating to health and safety, including diseases and medical conditions, organ donation, vaccinations and immunizations, and health code enforcement. The chapter also includes legislation relating to health care facilities, medical records, personal health information, and cemetery and funeral services establishments. Bills relating to Medicaid, Medicare, CHIP, indigent health care, nursing homes, assisted living facilities, and related facilities are in the **Human Services** chapter. Bills relating to medical professions are in the **Health and Medical Occupations** chapter. Bills relating to hospital districts are in the **Special Districts** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 703**

**Effective:** 5-23-09

**House Author:** Rose et al.

**Senate Sponsor:** Nelson

House Bill 703 amends the Human Resources Code to designate the week that begins on the first Sunday of each year that falls after the date of the autumnal equinox “Fall Prevention Awareness Week” and authorize the Department of Aging and Disability Services to develop a fall prevention policy that includes raising public awareness about preventing falls among older Texans, educational efforts and public and private policy and program initiatives to reduce the incidence and risk of falls, and incorporating fall prevention guidelines into certain state and local planning documents.

#### **House Bill 1067**

**Effective:** 5-23-09

**House Author:** Naishtat

**Senate Sponsor:** Nelson

House Bill 1067 amends the Health and Safety Code to authorize a medical examiner, local registrar, local health authority, local mental health authority, or community mental health center or certain other entities to enter into a memorandum of understanding to share suicide data that does not identify a deceased individual. The bill specifies the information that may be included in the shared data and authorizes an entity that receives such data to periodically release the data to an agency or organization with recognized expertise in suicide prevention to be used only for suicide prevention purposes. The bill expressly states that suicide data described above is not confidential and that an authorized recipient of suicide data is not civilly or criminally liable for receiving or providing such data under the memorandum of understanding.

#### **House Bill 1240**

**Effective:** 9-1-09

**House Author:** Villarreal et al.

**Senate Sponsor:** Uresti

House Bill 1240 amends the Health and Safety Code to require a hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or at delivery of an infant to provide the woman and the father of the infant, if possible, or another adult caregiver with a resource guide that includes information in both English and Spanish relating to the development, health, and safety of a child from birth until age five, if the woman is a recipient of Medicaid assistance. The bill specifies information to be included in the resource guide, authorizes use of the guide provided on the Department of State Health Services website or an alternative guide, and authorizes use of an existing publication created by another health and human services agency as the resource guide. The bill also provides for a printable version of the guide and the guide’s distribution to health care providers. House Bill

1240 requires the Health and Human Services Commission to develop performance measures to evaluate the effectiveness of the resource guide in reducing costs to the state and improving outcomes for children and to submit a report to the legislature, not later than December 1 of each even-numbered year, on the effectiveness of the guide, including legislative recommendations concerning the guide.

**House Bill 1310**

**Effective:** See below

**House Author:** Solomons et al.

**Senate Sponsor:** Nelson

House Bill 1310 amends the Health and Safety Code to raise from 13 to 16.5 years of age the minimum age of a person allowed to use a tanning device. The bill prohibits a tanning facility from allowing a person younger than 18 years of age from using a tanning device unless the person's parent or legal guardian, in person at the facility, consents in writing. The bill requires the Texas Medical Board, not later than January 1, 2010, to adopt an advisory statement warning of the dangers of indoor and outdoor tanning and its association with skin cancer, eye damage, and other health risks and to post the statement on the board's website. Provisions relating to the board's advisory statement and the form of the parental consent statement take effect September 1, 2009. All other provisions of the bill take effect January 1, 2010.

**House Bill 1357**

**Effective:** See below

**House Author:** Isett et al.

**Senate Sponsor:** Deuell et al.

House Bill 1357 amends the Health and Safety Code and Insurance Code to create a freestanding emergency medical care facility license issued by the Department of State Health Services. The bill establishes the licensing process, sets out exemptions from the licensing requirement, and includes provisions relating to the adoption of rules for the licensing process, the setting of fees, and inspections of licensed facilities. The bill requires rules adopted by the executive commissioner of the Health and Human Services Commission to include certain minimum standards for the facilities and sets out temporary provisions relating to facilities not in continuous operation.

House Bill 1357 provides for the enforcement of the licensing requirements, including the denial, suspension, or revocation of a license, emergency license suspension, probation, and injunction, along with the imposition and collection of an administrative penalty. The bill also makes it a Class C misdemeanor to operate a freestanding emergency medical care facility without a license. Provisions relating to enforcement and penalties take effect March 1, 2010, except that provisions relating specifically to the criminal offense take effect September 1, 2010. All other provisions take effect September 1, 2009.

**House Bill 1622**

**Effective:** 9-1-09

**House Author:** Giddings et al.

**Senate Sponsor:** Zaffirini

House Bill 1622 amends the Agriculture Code to require the Department of Agriculture to develop and implement a children's access to nutritious food program to award grants to nonprofit organizations for the purpose of allowing food banks to provide children at risk of hunger or obesity with access to nutritious food outside the school day. The bill establishes eligibility requirements for a nonprofit organization to receive such a grant. An organization must have at least five years of experience in coordinating a statewide network of food banks and charitable organizations offering similar programs. The bill authorizes a grant recipient to use the grant only for the purchase of specified nutritious foods. It requires a grant recipient to report to the department at regular intervals on the results of the recipient's program.

**House Bill 1671****Effective:** 9-1-09**House Author:** Crownover et al.**Senate Sponsor:** Nelson

House Bill 1671 amends the Health and Safety Code to authorize the Department of State Health Services to enter into a mutual aid agreement to provide newborn screening laboratory services to another state and to receive newborn screening laboratory services from another state in the event of an unexpected interruption of service, including an interruption caused by a disaster. The bill requires each agreement to include provisions relating to confidentiality and the return of specimens and records to the state that received screening services.

**House Bill 1795****Effective:** See below**House Author:** Pierson et al.**Senate Sponsor:** Uresti et al.

House Bill 1795 amends the Health and Safety Code to create the Newborn Screening Advisory Committee to advise the Department of State Health Services regarding strategic planning, policy, rules, and services related to newborn screening and additional newborn screening tests. The bill clarifies that tests required under the newborn screening program are also to include screening for disorders in the secondary targets of the uniform newborn screening panel recommended by the American College of Medical Genetics. The bill authorizes the department, with the advice of the advisory committee, to require additional tests for other disorders or conditions but permits the department to exclude screening for galactose epimerase and galactokinase.

House Bill 1795 clarifies provisions relating to the blood sample required to be taken from a woman during gestation or at the delivery of an infant to be tested for syphilis, HIV infection, and hepatitis B infection and requires a similar sample or other appropriate specimen to be taken at an examination in the third trimester of pregnancy to be submitted for an additional test for HIV infection. The bill requires the results of the test to be retained in the woman's medical records and requires another sample or specimen to be taken at delivery or within two hours of the birth if the results of the third trimester test are not found by the physician or person attending at delivery. The bill prohibits a test for HIV infection from being performed after the birth of a child on objection by a parent, guardian, or managing conservator. Provisions of the bill relating to additional testing for HIV infection apply after January 1, 2010.

House Bill 1795 takes effect June 19, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**House Bill 1802****Effective:** See below**House Author:** Bohac**Senate Sponsor:** Ellis

House Bill 1802 amends the Health and Safety Code to require a person desiring to operate a mobile food unit in a municipality with a population of 1.5 million or more to obtain from the municipality an individual medallion for each mobile food unit. The bill prescribes the manner in which the medallion is required to be displayed by the food unit and for the application for and issuance of a medallion. The bill clarifies that municipal regulations and ordinances applicable to a food service establishment also apply to a mobile food unit's commissary or other fixed food service establishment from which the unit is supplied.

A municipality with a population of 1.5 million or more in a county with a population of 2.8 million or more must require certain mobile food units to obtain a time and date stamp on required documentation indicating that the unit has been serviced daily. A person is not required to obtain a medallion before October 1, 2009, and a municipality must approve time and date stamp units not later than December 1, 2009. Provisions relating to time and date stamp requirements for daily servicing documentation take effect January 1, 2010; all other provisions take effect June 19, 2009.

**House Bill 1850**  
**Effective:** 6-19-09

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

House Bill 1850 amends the Health and Safety Code to change the name of the South Texas Health Care System to the Rio Grande State Center.

**House Bill 1884**  
**Effective:** 6-19-09

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

House Bill 1884 requires the Department of State Health Services to transfer certain state real property to Hidalgo County for the provision of outpatient health care services or another public purpose. The bill sets forth the conditions of the transfer, providing for the automatic reversion of the property to the department if the county fails to use the property in the prescribed manner for more than 180 continuous days. The bill sets forth the boundaries of the property to be transferred.

**House Bill 2027**  
**Effective:** 9-1-09

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

House Bill 2027 amends the Health and Safety Code to adopt the Revised Uniform Anatomical Gift Act. The bill includes provisions relating to procedures for making an anatomical gift as a donor or on behalf of a decedent and amending or revoking an anatomical gift, conditions under which a person may refuse to make an anatomical gift, and rights, duties, and requirements for organ procurement organizations. The bill makes it a Class A misdemeanor for a person to knowingly purchase or sell a body part for transplantation or therapy for valuable consideration except as permitted under provisions of the bill. The bill also makes it a Class A misdemeanor for a person to intentionally falsify, forge, conceal, or obliterate documentation relating to an anatomical gift in order to obtain financial gain. House Bill 2027 establishes and provides for the administration of the Glenda Dawson Donate Life-Texas Registry donor education, awareness, and registry program.

**House Bill 2585**  
**Effective:** 9-1-09

**House Author:** Hartnett  
**Senate Sponsor:** Uresti

House Bill 2585 amends the Health and Safety Code to authorize a declarant, witness, or notary public to sign an advance directive or a written revocation of the directive using a digital signature or electronic signature that meets certain requirements. The bill requires the executive commissioner of the Health and Human Services Commission by rule, not later than December 1, 2009, to modify the advance directive forms as necessary to provide for the use of such signatures.

House Bill 2585 authorizes a declarant to sign an advance directive and an out-of-hospital do not resuscitate (DNR) order and have the signature acknowledged before a notary public in lieu of signing the directive or order in the presence of witnesses and authorizes a doctor to use a digital or electronic signature to sign an out-of-hospital DNR order under certain circumstances. The bill authorizes a principal to sign a medical power of attorney and have the signature acknowledged before a notary public in lieu of signing the power of attorney in the presence of witnesses and authorizes a person signing a medical power of attorney at the express direction of the principal, because the principal is physically unable to sign, to use a digital or electronic signature.

**House Bill 3004****Effective:** 6-19-09**House Author:** Coleman**Senate Sponsor:** Jackson, Mike

House Bill 3004 amends the Health and Safety Code to authorize a county to enforce, but not establish, standards for operating an animal shelter and prohibit a county from enforcing such standards at an animal shelter operated by a municipality. The bill prohibits a person from causing, suffering, allowing, or permitting a violation of animal shelter standards or a rule relating to such standards and establishes a civil penalty for a person who violates those standards or related rules. The bill sets the amount of the civil penalty and establishes procedures authorizing the county or municipality in which a violation occurs to institute a civil suit in district court. The bill exempts an animal shelter operated by a municipality from its provisions regarding civil penalties.

**House Bill 3012****Effective:** 9-1-09**House Author:** Coleman**Senate Sponsor:** Nelson

House Bill 3012 amends the Health and Safety Code to authorize a county, a public health district, or the Department of State Health Services (DSHS) to require food handling certification for each food handler who is employed by a food service establishment to which it issues a permit and in which food is prepared on-site for sale to the public. The bill authorizes a county, a public health district, or DSHS, on or after January 1, 2010, to either require a food service establishment to post a sign in a place conspicuous to employees describing a food service employee's responsibilities to report certain health conditions or require that each food service employee sign a written agreement to report those health conditions. The executive commissioner of the Health and Human Services Commission must adopt the form of the sign and the form of the employee agreement. The bill also revises provisions related to hand washing and bare-hand contact with exposed food.

**House Bill 3866****Effective:** 9-1-09**House Author:** Naishtat et al.**Senate Sponsor:** Watson

House Bill 3866 amends the Government Code to require that a fire safety inspection required by a state or local law, rule, regulation, or ordinance be conducted in accordance with the most recent local fire code or the most recent fire code adopted by the state fire marshal. The bill establishes that, effective September 1, 2011, only an individual certified by the Texas Commission on Fire Protection as a fire inspector is authorized to conduct a fire safety inspection described above. The bill exempts from its provisions state agency personnel who conduct a life safety code survey of a building or health care facility in connection with determining whether to issue or renew a license under certain Health and Safety Code or Human Resources Code provisions.

**House Bill 4029****Effective:** 6-19-09**House Author:** Marquez**Senate Sponsor:** Shapleigh

House Bill 4029 amends the Health and Safety Code to expand the meaning of "health care information" to include a patient's payment information for purposes of determining information subject to disclosure requirements. The bill makes a request from a patient or legally authorized representative for payment information subject to itemized statement requirements and establishes a maximum fee that may be charged by a hospital for providing health care information other than payment information on a digital or other electronic medium, including e-mail.

**House Bill 4127**

**Effective:** 9-1-09

House Bill 4127 amends the Health and Safety Code to update the standards with which playground equipment and surfacing for the area under and around playground equipment must comply to qualify for purchase with public funds. The bill changes from September 1, 1997, to September 1, 2009, the date by which playground equipment must meet those standards and clarifies that equipment or surfacing purchased before that date qualifies for public funds for maintenance even if the equipment or surfacing does not comply with each of the safety standards on completion of the maintenance.

**House Author:** Hartnett

**Senate Sponsor:** Carona et al.

**House Bill 4642**

**Effective:** 6-19-09

House Bill 4642 amends the Health and Safety Code to name the outpatient clinic operated by the South Texas Health Care System in Harlingen, Texas, the Representative Jim Solis and Colonel H. William “Bill” Card, Jr., Outpatient Clinic.

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

**Senate Sponsor:** Lucio et al.

**Senate Bill 203**

**Effective:** 9-1-09

Senate Bill 203 amends the Health and Safety Code and Human Resources Code to expand the health care-associated infection reporting system by requiring each general hospital or ambulatory surgical center to report to the Department of State Health Services an incidence of certain preventable adverse events in addition to infections. The bill renames the system and the associated advisory panel and increases from 16 to 18 the number of members who serve on the panel. The bill prohibits a state employee or officer from being examined in a civil, criminal, or special proceeding regarding information or materials associated with the reporting system and requires the executive commissioner of the Health and Human Services Commission to adopt rules regarding the denial or reduction of reimbursement under Medicaid for preventable adverse events that occur in a hospital setting. The bill also clarifies that the causative pathogen of a laboratory-confirmed surgical site infection or central line-associated primary bloodstream infection is to be included in the health care-associated infection information reported to the department by certain facilities.

**Senate Author:** Shapleigh et al.

**House Sponsor:** Coleman et al.

**Senate Bill 343**

**Effective:** 6-19-09

Senate Bill 343 requires the executive commissioner of the Health and Human Services Commission and the commissioner of the Department of Agriculture to jointly establish a healthy food advisory committee to study and provide recommendations to the legislature regarding the areas of Texas that are underserved in the retail availability of fresh fruits and vegetables and other healthy foods and the impact of the limited retail availability on proper nutrition and on obesity and related chronic illnesses. The bill provides for the composition, meeting and reporting requirements, and duties of the advisory committee. The advisory committee is abolished and the bill’s provisions expire September 1, 2011.

**Senate Author:** Nelson et al.

**House Sponsor:** McReynolds

**Senate Bill 526**

**Effective:** 8-31-09

Senate Bill 526 amends the Health and Safety Code to make permanent the authority of the Department of State Health Services to make grants for federally qualified health centers. The bill also expands that authority to include making grants to support new or expanded services at such facilities.

**Senate Author:** Nelson et al.

**House Sponsor:** Martinez, “Mando”



**Senate Bill 527**  
**Effective:** 9-1-09

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

Senate Bill 527 amends the Health and Safety Code to require a facility whose mammography system fails to meet the Department of State Health Services certification standards by a failure that is a Severity Level I violation under the department's rules to notify each patient on whom a mammography was performed during the period in which the system failed to meet those standards, rather than each patient on whom a mammography was performed during the 30 days preceding the date of the inspection that revealed the failure. The bill requires the facility to recommend that the patient consult with the patient's physician regarding the need for another mammogram.

**Senate Bill 704**  
**Effective:** 9-1-09

**Senate Author:** Nelson  
**House Sponsor:** Kolkhorst

Senate Bill 704 amends the Government Code to prescribe disclosure requirements for an interagency exchange of information relating to the amounts charged by a pharmacy benefit manager for services provided under a prescription drug program and other requested pricing information relating to a contract for those services. The bill amends the Insurance Code to require the Texas Department of Insurance (TDI) to conduct a study to evaluate the ways in which pharmacy benefit managers use prescription drug information to manage therapeutic drug interchange programs and other drug substitution recommendations made by pharmacy benefit managers or similar entities. The bill requires TDI to submit a report on the study to the governor, presiding officers of the legislature, and appropriate standing committees of the legislature not later than August 1, 2010.

Senate Bill 704 requires the Employees Retirement System of Texas (ERS) board of trustees, in awarding a contract to provide pharmacy benefit manager services, to select a contract that meets certain established criteria. The same requirements apply to contracts to provide pharmacy benefit manager services under the Texas Public School Retired Employees Group Benefits Act, Texas School Employees Uniform Group Health Coverage Act, and State University Employees Uniform Insurance Benefits Act. The bill sets out provisions relating to the delivery of prescription drugs by mail under plans administered by the Teacher Retirement System of Texas and ERS, including the use of a benchmark index in setting prescription drug reimbursement rates, and prohibits the ERS board of trustees or a health benefit plan from requiring a participant who orders a multiple-month supply of a drug from a retail pharmacy to pay any cost-sharing obligation that differs from the amount paid for the drug through mail order. Provisions relating to cost-sharing for a multiple-month supply of a prescription drug from a mail order program apply to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2010.

**Senate Bill 968**  
**Effective:** 6-19-09

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

Senate Bill 968 amends the Health and Safety Code to require an owner, manager, operator, or attendant in charge of an interactive water feature or fountain maintained for public recreation purposes to maintain the feature or fountain in a sanitary condition. The bill prescribes sanitation standards for an interactive water feature or fountain, authorizes methods other than chlorination for disinfecting an interactive water feature or fountain, and authorizes a county, a municipality, or the Department of State Health Services to take certain actions relating to the regulation of an interactive water feature or fountain. The bill requires the executive commissioner of the Health and Human Services Commission to adopt emergency rules to implement these provisions not

later than the 30th day after the effective date of the bill, but provides that the bill's provisions do not apply to certain recreational water parks that use fresh water originating from a natural watercourse.

**Senate Bill 1027**

**Effective:** 9-1-09

**Senate Author:** Watson

**House Sponsor:** Kleinschmidt

Senate Bill 1027 amends the Agriculture Code to establish an interagency farm-to-school coordination task force charged with developing and implementing a plan to facilitate the availability of locally grown food products in public schools to promote a healthy diet for schoolchildren and to promote the business of small to mid-sized local farms and ranches. The task force is composed of one representative each from the Texas Department of Agriculture, Texas Education Agency, and Department of State Health Services, appointed by the respective commissioners of those agencies, and at least one representative each from fruit and vegetable producer organizations, school food service organizations, food distribution businesses, child nutrition and advocacy organizations, parent organizations, educational institutions that conduct research in the areas of agriculture and nutrition, and health nutrition educators who serve school districts, appointed in each case by the commissioner of agriculture. The bill sets forth the specific responsibilities of the task force, subject to available funding.

**Senate Bill 1082**

**Effective:** 9-1-09

**Senate Author:** Huffman

**House Sponsor:** Laubenberg

Senate Bill 1082 amends the Health and Safety Code to authorize the Department of State Health Services and the Texas Commission on Environmental Quality to use funds from the perpetual care account to pay for the storage and maintenance of mammography medical records and to pay for measures that assure availability of those records to affected patients. The bill authorizes the department or commission to provide for the storage, maintenance, and distribution of the records by the terms of a contract, lease, or certification or license issued by the department or commission. The bill exempts the department and commission from liability for the costs of storage, maintenance, or distribution arising from a certification holder's failure to store, maintain, or make the records available.

**Senate Bill 1171**

**Effective:** 6-19-09

**Senate Author:** Nichols

**House Sponsor:** McReynolds

Senate Bill 1171 amends provisions of the Health and Safety Code relating to the confidentiality and release of certain health-related reports, records, and information regarding communicable diseases or health conditions among public health districts, health authorities, local health departments, and the Department of State Health Services. The bill also authorizes certain test results to be released to a county or district court under certain conditions and authorizes a judge of a county or district court to issue a protective order to limit disclosure of the test results before that information is entered into evidence or otherwise released in a court proceeding.

**Senate Bill 1326**

**Effective:** 6-19-09

**Senate Author:** Nelson

**House Sponsor:** King, Susan

Senate Bill 1326 amends the Health and Safety Code to update provisions relating to the statewide health coordinating council and state health plan by changing certain outdated terminology and references to state agencies. The bill clarifies the council's authority to form advisory boards or ad hoc committees, removes the requirement that the staff of the former

Bureau of State Health Data and Policy Analysis continue to assist the council in the performance of its duties, and makes a hospital that does not submit certain data to the Department of State Health Services subject to a civil penalty.

**Senate Bill 1526**  
**Effective:** 6-19-09

**Senate Author:** Shapleigh  
**House Sponsor:** Pickett

Senate Bill 1526 amends the Education Code to revise the composition of the Border Health Institute by adding the Department of State Health Services and the Medical Center of the Americas Foundation and removing The University of Texas Health Science Center at Houston, School of Public Health, the El Paso County Medical Society, the Paso del Norte Health Foundation, and the Texas Department of Health. The bill revises the administration, duties, reporting requirements, and reporting schedule of the institute.

**Senate Bill 1732**  
**Effective:** 9-1-09

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

Senate Bill 1732 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission to adopt by rule pool safety standards necessary to prevent drowning at facilities used by the public and requires the standards to be at least as stringent as those imposed under the federal Virginia Graeme Baker Pool and Spa Safety Act. The bill requires an owner, manager, operator, or other attendant in charge of a public swimming pool or other artificial body of water typically used for recreational swimming, bathing, or play to comply with the pool safety standards.

**Senate Bill 1803**  
**Effective:** 9-1-09

**Senate Author:** Zaffirini  
**House Sponsor:** Laubenberg

Senate Bill 1803 amends the Health and Safety Code to require, rather than authorize, the Department of State Health Services (DSHS), in consultation with the Texas Organ, Tissue, and Eye Donor Council, to implement a training program for all appropriate Department of Public Safety (DPS) and Texas Department of Transportation (TxDOT) employees on the benefits of organ, tissue, and eye donation and the procedures for individuals to be added to the statewide Internet-based registry of organ, tissue, and eye donors. The bill requires the DPS training to include training on asking each applicant for a driver's license or personal identification certificate if the applicant would like to register as an organ donor. The bill clarifies provisions relating to what constitutes acceptable documentation indicating a donor has made an anatomical gift, including online donation registration.

Senate Bill 1803 amends the Transportation Code to require TxDOT, with input and support from the Texas Organ, Tissue, and Eye Donor Council, to add a link from the TxDOT website to the Donor Education, Awareness, and Registry Program of Texas and provide a method to distribute donor registry information to interested individuals in each office authorized to issue motor vehicle registrations. The bill requires DPS to distribute at all field offices Donate Life brochures that provide basic donation information in English and Spanish and that include a contact phone number and e-mail address. The bill requires DPS to include with registration renewal notices the question relating to whether the person would like to register as an organ donor and information on the donor registry website. DSHS, DPS, and TxDOT are required to implement provisions of the bill relating to training and distribution of donation information no later than January 1, 2010.

**Senate Bill 1932**  
**Effective:** 6-19-09

**Senate Author:** Carona  
**House Sponsor:** McReynolds

Senate Bill 1932 amends the Health and Safety Code to provide an exemption from end stage renal disease facility licensing requirements for a licensed hospital that provides dialysis only to individuals temporarily receiving outpatient services due to a disaster declared by the governor or a federal disaster declared by the president of the United States.

**Senate Bill 2423**  
**Effective:** 9-1-09

**Senate Author:** Deuell  
**House Sponsor:** Gonzalez Toureilles

Senate Bill 2423 amends the Insurance Code to require the operator of a discount health care program, if the operator engages in the transfer or sale of a member's patient information or patient prescription drug history, to provide each prospective member disclosure materials describing those practices before a prospective member is enrolled in the program. The bill provides for enforcement of the disclosure requirement. The bill clarifies that consideration provided to a discount health care program or a discount health care program operator includes patient information or patient prescription drug history provided by members, if the entity engages in the transfer or sale of such information, patient history, or drug manufacturer rebates.

**Senate Bill 2505**  
**Effective:** 6-19-09

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

Senate Bill 2505 amends the Health and Safety Code to prohibit a child from engaging in, and a parent or legal guardian of a child from knowingly or recklessly permitting the child to engage in, bull riding unless the child is wearing a bull riding helmet and a protective vest that meet standards adopted by rule by the executive commissioner of the Health and Human Services Commission. The bill establishes that failure to comply with this requirement does not constitute responsibility in a cause of action in which damages are sought for a child's injuries or death suffered in connection with bull riding. The bill requires a primary or secondary school that is associated with a rodeo in which children who attend the school are likely to participate to conduct a mandatory educational program on safety, including the proper use of protective gear, and prohibits a child from participating in such a rodeo unless the child has completed the program within a specified period. These provisions apply only to a rodeo that occurs on or after January 1, 2010.

## **Cemeteries and Funeral Services**

**House Bill 1404**  
**Effective:** 9-1-09

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

House Bill 1404 amends the Health and Safety Code to remove the municipal population threshold to permit a freestanding columbarium to be established and used on church grounds statewide.

**House Bill 2927**  
**Effective:** 9-1-09

**House Author:** Howard, Donna et al.  
**Senate Sponsor:** Nelson

House Bill 2927 amends the Health and Safety Code to clarify provisions relating to the consent and notice required for the removal of remains from a cemetery, provide requirements relating to the method of removal, and require the person removing the remains to give notice to the Texas Funeral Service Commission and the Department of State Health Services if the removed remains are not reinterred. The bill sets out requirements for notice of an abatement

and injunction and a court determination on such an action with respect to a cemetery considered to be a nuisance. The bill specifies that provisions limiting the location of a cemetery do not apply to a private family cemetery established on or before September 1, 2009, and clarifies provisions relating to an unknown or abandoned cemetery, including those relating to filing a record of such a cemetery.

House Bill 2927 transfers certain rulemaking authority from the Texas Funeral Service Commission to the Texas Historical Commission (THC) and grants additional rulemaking authority to THC and the Finance Commission of Texas relating to the removal of remains, abatement of a nuisance cemetery, and removal of a dedication with respect to cemeteries that are not perpetual care cemeteries. The bill makes a number of clarifying changes to provisions relating to the effect and removal of a cemetery dedication, local possession and control of an unkept or abandoned cemetery, and the private care of graves. The bill also authorizes the attorney general, on request of the Funeral Service Commission, to seek to enforce by injunction any commission rule or order, establishes a municipality's responsibility with respect to the maintenance of municipal cemeteries, and adds to the actions required to be described in a nonprofit corporation's written plan for the restoration, operation, and maintenance of a historic cemetery.

**Senate Bill 571**  
**Effective:** 6-19-09

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

Senate Bill 571 amends the Health and Safety Code to authorize a crematory to accept for cremation unidentified human remains from a county on the order of the county commissioners court or a court located in the county.

**Senate Bill 662**  
**Effective:** 9-1-09

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

Senate Bill 662 amends the Health and Safety Code to exempt from restrictions relating to the location of a cemetery within certain municipal boundaries the establishment and use of a mausoleum that is constructed beneath the principal church building owned by a tax-exempt organized religious society or sect that has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building and that is to be used only for such purpose.

## **Diseases and Medical Conditions**

**House Bill 1358**  
**Effective:** 6-19-09

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

House Bill 1358 amends the Health and Safety Code to revise provisions relating to the operation of the Cancer Prevention and Research Institute of Texas. The bill provides for the appointment of the research and prevention programs committee by the institute's executive director, authorizes the institute to supplement the salaries of the executive director and other senior staff, increases the term of service for members of the institute's oversight committee, grants the oversight committee rulemaking authority to administer provisions of law relating to the institute, and clarifies the information relating to the institute that constitutes public information subject to disclosure.

Under previous law, members of the research and prevention programs committee served four-year terms. House Bill 1358 clarifies that the terms of service for those members are to be determined by the institute's executive commissioner. The bill establishes the university

advisory committee to advise the institute regarding the role of institutions of higher education in cancer research. The bill also requires the oversight committee to create an ad hoc committee of experts to address childhood cancers. The bill clarifies provisions relating to the authorized uses of grant money awarded by the institute and modifies the grant award and evaluation procedures.

**House Bill 1362**

**Effective:** See below

**House Author:** Gutierrez

**Senate Sponsor:** Van de Putte

House Bill 1362 amends the Health and Safety Code to extend the methicillin-resistant Staphylococcus aureus (MRSA) reporting procedures pilot program until September 1, 2011. The bill clarifies that participation in the program by a health authority is voluntary and requires a participating health authority to administer the program locally and report to the Department of State Health Services. The bill clarifies and revises provisions relating to the pilot program's functions and reporting requirements. The bill exempts the report of an MRSA infection from certain health care-related infection reporting requirements for a health care facility located in an area served by a health authority participating in the pilot program during the period beginning September 1, 2009, and ending September 1, 2011. The bill's provisions expire and the pilot program is abolished on September 1, 2011. Provisions relating to the exemption from certain health care-related infection reporting requirements take effect September 1, 2009. All other provisions of the bill take effect June 19, 2009.

**House Bill 1363**

**Effective:** 9-1-09

**House Author:** Gutierrez et al.

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

House Bill 1363 amends the law to extend the diabetes mellitus registry pilot program until September 1, 2011, and add to the information tracked by the registry the diagnosis codes of each person who has a laboratory test to determine glycosylated hemoglobin levels performed in the public health district participating in the program. The bill establishes procedures for submission of the diagnosis codes by the physician ordering the test to the lab performing the test and then by the lab to the public health district and the Department of State Health Services. The bill also includes provisions relating to the development by the department of a form by which a patient can opt out of having the patient's information included in the registry.

**House Bill 1510**

**Effective:** 9-1-09

**House Author:** Bonnen et al.

**Senate Sponsor:** Jackson, Mike

House Bill 1510 amends the Health and Safety Code to add information regarding sudden infant death syndrome (SIDS), including current recommendations for infant sleeping conditions to lower the risk of SIDS, to the information required to be included in the resource pamphlet provided to the parent or caregiver of an infant by a hospital, birthing center, physician, nurse midwife, or midwife. The Department of State Health Services is required to update the resource pamphlet on the department's website to include information about SIDS not later than January 1, 2010, but a hospital, birthing center, physician, nurse midwife, or midwife is not required to provide an updated brochure before March 1, 2010.

**House Bill 1574**

**Effective:** 9-1-09

**House Author:** Thompson et al.

**Senate Sponsor:** Gallegos

House Bill 1574 amends the Human Resources Code to require the Health and Human Services Commission, in consultation with the Texas Council on Autism and Pervasive Developmental Disorders, to establish and administer an autism spectrum disorders resource center to coordinate

resources for individuals with autism and other pervasive developmental disorders and their families. The bill also requires the executive commissioner of the Health and Human Services Commission to conduct a study to determine the costs and benefits of initiating a pilot program to provide services to adult persons with autism and other related disabilities with similar support needs. The bill specifies the factors the study is required to use in determining the costs and benefits of the pilot program and prescribes elements required to be included by the executive commissioner in conducting the study. The bill requires the executive commissioner, not later than September 1, 2010, to submit a report of the findings and conclusions of the study to the presiding officer of each house of the legislature and the standing committees with primary jurisdiction over the provision of services to persons with disabilities.

**House Bill 1672**

**Effective:** 5-27-09

**House Author:** Crownover et al.

**Senate Sponsor:** Deuell

House Bill 1672 amends the Health and Safety Code to require the Department of State Health Services (DSHS) to include sickle-cell trait in the newborn screening program and to develop a disclosure statement for the parent, managing conservator, or guardian of a newborn child relating to the management and use of genetic material used in newborn screenings. The bill sets out requirements and procedures for the form, content, and distribution of the disclosure statement. The bill authorizes the parent, managing conservator, or guardian of a newborn child to file a written statement prohibiting the retention of genetic material and requires the material to be destroyed not later than the 60th day after DSHS receives the statement. The bill provides for the confidentiality and disclosure of information obtained or developed by DSHS under the phenylketonuria, other heritable diseases, hypothyroidism, and other disorders detection and treatment program. The bill requires the speaker of the house of representatives to charge a house standing committee or select members to form a committee to conduct an interim study on newborn screening in Texas. The committee must file a report with both houses of the legislature on the results of the study not later than December 15, 2010.

**House Bill 2055**

**Effective:** 8-31-09

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 2055 amends the Health and Safety Code to extend from September 1, 2009, to September 1, 2011, the Chronic Kidney Disease Task Force. The bill changes the duties of the task force to require development of a cost-effective plan for prevention, early screening, diagnosis, and management of chronic kidney disease and a plan for surveillance and data analysis to assess the impact of chronic kidney disease.

**House Bill 2330**

**Effective:** 9-1-09

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 2330 amends the Health and Safety Code to require a laboratory performing a serum creatinine test on a sample from a person 18 years of age or older to calculate and include in the reported results the person's estimated glomerular filtration rate or perform an alternative equivalent calculation if the laboratory receives the information necessary to make the calculation. The bill requires the physician requesting that test to provide the laboratory information necessary to make the calculation, unless the physician determines the calculation is unnecessary.

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### **House Bill 3597**

**Effective:** 9-1-09

**House Author:** Parker

**Senate Sponsor:** Nelson

House Bill 3597 amends the Government Code to designate October as Hydrocephalus Awareness Month and to require regular observance of Hydrocephalus Awareness Month through appropriate activities in public schools and other places to increase awareness of hydrocephalus.

### **Senate Bill 291**

**Effective:** 6-19-09

**Senate Author:** Nelson

**House Sponsor:** McReynolds

Senate Bill 291 amends the Education Code to clarify that a rule adopted by the executive commissioner of the Health and Human Services Commission that requires a hepatitis B vaccination for students enrolled at an institution of higher education who are pursuing a course of study in a human or animal health profession may apply only to students enrolled in a course of study that involves potential exposure to human or animal blood.

### **Senate Bill 870**

**Effective:** 9-1-09

**Senate Author:** Lucio

**House Sponsor:** Castro et al.

Senate Bill 870 amends the Health and Safety Code to clarify provisions relating to the interagency obesity council and expand the council's duties to include the creation of an evidence-based public health awareness plan. The bill prescribes elements required to be included in the plan, requires the council to solicit input on the plan from the private sector and to provide certain information to the Department of State Health Services (DSHS) on effective strategies for employers to use in promoting workplace wellness, requires DSHS to post such information on its website, and establishes reporting requirements for the council relating to the plan.

Senate Bill 870 amends the Government Code to require the Health and Human Services Commission and the Department of State Health Services to establish an obesity prevention pilot program in one or more health care service regions in the state. The bill prescribes the program's purpose and duration and establishes reporting requirements relating to the operation of the pilot program.

### **Senate Bill 1612**

**Effective:** 9-1-09

**Senate Author:** Lucio et al.

**House Sponsor:** Rodriguez

Senate Bill 1612 amends the Human Resources Code to require the Health and Human Services Commission to ensure that each health and human services agency that provides intervention services to young children is provided with certain information developed by the commission regarding velocardiofacial syndrome. The bill requires each agency to provide the information to appropriate health care coordinators and therapists and to parents of a child who is known by the agency to have a minimum number of certain conditions.

## **Vaccinations and Immunizations**

### **House Bill 448**

**Effective:** See below

**House Author:** Hopson

**Senate Sponsor:** Carona

House Bill 448 amends the Health and Safety Code to require the Department of State Health Services to implement a provider choice system for the vaccines for children program and the adult safety-net vaccination program. The bill requires the department to ensure that



participating health care providers may select any licensed vaccine, including combination vaccines and certain dosage forms, and to provide such a vaccine only if the cost of doing so is not more than 115 percent of the cost of the lowest-priced equivalent vaccine. The bill creates an exception to its provisions in the event of a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency. The bill takes effect September 1, 2009, except that a provision repealing a section of the Health and Safety Code relating to procurement by the department of equivalent vaccines for the vaccines for children program takes effect September 1, 2010.

**Senate Bill 346****Effective:** 9-1-09**Senate Author:** Nelson et al.**House Sponsor:** Kolkhorst et al.

Senate Bill 346 amends the Health and Safety Code to expand the immunization registry to permit information regarding an individual 18 years of age or older to be submitted to and maintained by the registry. The bill establishes procedures for the submission and maintenance of such information, including requiring written or electronic consent before the registry may include the information of an individual who is 18 years of age or older. The bill requires the Department of State Health Services (DSHS) to coordinate with the Texas Education Agency to distribute educational materials regarding the immunization registry to students and parents through local school districts and requires the executive commissioner of the Health and Human Services Commission to develop guidelines and procedures for obtaining consent from an individual after the individual's 18th birthday.

Senate Bill 346 authorizes an insurance company, a health maintenance organization, or another organization that pays a health care provider to provide health care benefits that receives data elements from a provider who administers an immunization to an individual 18 years of age or older, along with the health care provider, to submit the data elements to DSHS. The bill also requires DSHS to develop educational information for health care facilities that provide health care to children 14 to 18 years of age relating to the immunization registry and the option for an individual who is 18 years of age or older to consent to submission and retention of the individual's information in the immunization registry.

**Senate Bill 347****Effective:** 9-1-09**Senate Author:** Nelson**House Sponsor:** Kolkhorst et al.

Senate Bill 347 amends the Health and Safety Code to establish procedures for the receipt and release of certain immunization registry data by the Department of State Health Services (DSHS) on determination that residents of Texas have evacuated or relocated to another state or that residents of another state have evacuated or relocated to Texas in response to a disaster. The bill requires the executive commissioner of the Health and Human Services Commission to determine the period during which information received from another state is required to remain in the registry following the end of a disaster and requires DSHS to remove information received and included in the registry on written request. The bill makes it a Class A misdemeanor offense for a person to fail to remove immunization information as required.

**Senate Bill 1328****Effective:** 6-19-09**Senate Author:** Nelson**House Sponsor:** Naishtat

Senate Bill 1328 requires the Department of State Health Services to conduct a study to determine the feasibility of providing vaccines to a first responder who may be exposed to preventable diseases during deployment to a disaster area and the first responder's immediate family members. The bill identifies vaccines to be considered by the study and specifies

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assessment, evaluation, and recommendation requirements. The bill requires the designated statewide wellness coordinator to assist the department in obtaining data from state agencies that employ first responders. The department is required to submit a written report to the legislature containing the study's findings and recommendations not later than August 1, 2011. The bill's provisions expire September 1, 2011.

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

House Bill 216 - Human Services  
House Bill 281 - Public Education  
House Bill 1081 - Human Services  
House Bill 1093 - State Government  
House Bill 1468 - Occupational Regulation  
House Bill 2626 - Criminal Justice  
House Bill 3065 - Local Government  
House Bill 4560 - Public Officials and Employees  
Senate Bill 292 - Health and Medical Occupations  
Senate Bill 1058 - Health and Medical Occupations  
Senate Bill 1291 - Insurance  
Senate Bill 1409 - Emergency Response  
Senate Bill 1705 - Special Districts

# Higher Education

This chapter includes legislation affecting the governance of the state's public colleges and universities and junior and community college districts in general; the mission, operation, and funding of specific institutions; and the admission and enrollment of students at such institutions. The chapter also includes legislation affecting tuition, fees, student financial aid, and other higher education funding issues. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 101

**Effective:** 6-19-09

**House Author:** Brown, Fred

**Senate Sponsor:** Uresti

House Bill 101 amends the Education Code to provide that semester credit hours earned by a student before graduating from high school and used to satisfy high school graduation requirements do not count toward the cap on the number of semester credit hours earned by a student that may be included in a higher education institution's formula funding from the state. The bill makes its provisions applicable beginning with the formula funding recommendations made by the Texas Higher Education Coordinating Board for the 2011-2012 academic year.

### House Bill 269

**Effective:** 6-19-09

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

**Senate Sponsor:** Van de Putte

House Bill 269 amends the Education Code to require an institution of higher education to award an undergraduate student course credit for all required physical education courses and for up to 12 additional semester credit hours that may be applied to satisfy any elective course requirements for the student's degree program for courses outside the student's major or minor if the student graduated from a public or private high school accredited by a generally recognized accrediting organization or from a high school operated by the United States Department of Defense and is an honorably discharged former member of the armed forces of the United States who completed at least two years of service in the armed services or was discharged because of a disability. An institution of higher education may award additional course credit for a student's military service as the institution considers appropriate.

House Bill 269 requires the Texas Higher Education Coordinating Board, in consultation with institutions of higher education, to determine a standard fee for a course offered through a Reserve Officers' Training Corps program. The bill provides for the tuition charged for and the crediting toward a degree of a course in which the student enrolls for the purposes of an ROTC program.

### House Bill 518

**Effective:** Vetoed

**House Author:** Kolkhorst et al.

**Senate Sponsor:** Van de Putte

House Bill 518 amends the Education Code to establish student loan repayment assistance programs for certain correctional officers, speech-language pathologists and audiologists, and mathematics and science teachers and specifies eligibility criteria, the amount of assistance available to individuals, and funding sources for the programs. It requires the Texas Higher Education Coordinating Board to establish the Correctional Officer Loan Repayment Assistance Pilot Program to provide, through a trust fund created for the purpose, assistance for eligible correctional officers in the repayment of student loans related to junior-level and senior-level baccalaureate course work at Sam Houston State University or, if the pilot program is expanded,

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another academic institution approved by the board. It requires the board to provide, through repayment assistance grants, assistance in the repayment of student loans for eligible speech-language pathologists and audiologists employed by a public school or a communicative disorders program at an institution of higher education. The bill establishes the Texas Teach Corps Student Loan Repayment Assistance Program to be administered by the board to provide assistance in the repayment of student loans for eligible undergraduate students who agree to teach mathematics or science for a specified period in school districts determined by the Texas Education Agency to have shortages of such teachers, and creates the mathematics and science teacher investment fund to facilitate that purpose.

Reason Given for Veto: “House Bill No. 518 would provide student loan repayment assistance for certain correctional officers, speech-language pathologists, audiologists, and math and science teachers.

“The state currently funds 18 financial aid programs, four of which are major programs and the other 14 of which target smaller groups of students. Rather than creating new programs, the state should focus on fully funding the four main programs to make financial aid available to more students. The 2010–2011 state budget includes significant increases in funding for these key financial aid programs, which will provide assistance to more students than ever before. It is also more cost effective for the Texas Higher Education Coordinating Board and the institutions of higher education to administer a few large programs rather than many small programs.

“Additionally, the state already provides loan repayment assistance for math and science teachers through the Teach for Texas Loan Repayment Assistance Program, so another program for math and science teachers is duplicative.”

**House Bill 2480**  
**Effective:** 6-19-09

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

House Bill 2480 amends the Education Code to authorize a public junior college to enter into an agreement with a school district, organization, or other person that operates a high school to offer a course for joint high school and junior college credit regardless of whether the high school is located within the service area of the junior college district. The bill authorizes a public junior college to enter into such an agreement with respect to a high school located within the service area of another junior college district only if the other junior college district is unable to provide the requested course to the satisfaction of the school district.

**House Bill 4149**  
**Effective:** 6-19-09

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

House Bill 4149 amends the Education Code to require the Texas Higher Education Coordinating Board to conduct a study to identify achievable cost-saving measures in the management and operation of higher education institutions and to submit a report to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer for each legislative standing committee with primary jurisdiction over higher education not later than January 31, 2011, including the board’s recommendations concerning achievable cost-saving measures and an estimate of the potential savings during a five-year period through the implementation of each recommendation.

The bill also requires the board to conduct a study and recommend policies regarding the use and availability of electronic textbooks in higher education in Texas and in other states, including a specific focus on the results of the pilot program implemented by The University of Texas at Austin and addressing methods for encouraging the use of electronic textbooks at public or private institutions of higher education in Texas. The bill requires each student serving on a university or institution board of regents to assist the board in performing the board’s duties relating to such a study and requires the board to establish procedures to assist the student

regent. The bill requires the board, not later than December 1, 2010, to make an initial report and recommendations based on the study to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each legislative standing committee with primary jurisdiction over higher education.

**House Bill 4189**

**Effective:** 6-19-09

**House Author:** Rose

**Senate Sponsor:** Watson

House Bill 4189 amends the Education Code to require a first-time student of a public, private, or independent institution of higher education who resides in, or has applied for and been approved to reside in, an on-campus student housing facility or the student's parent or guardian to provide to the institution a certificate signed by a health practitioner indicating that the student has been vaccinated against bacterial meningitis. The bill exempts a student or student's parent or guardian if the student, parent, or guardian submits either an affidavit or a certificate signed by a physician stating that, in the physician's opinion, the vaccination would be injurious to the student's health and well-being or an affidavit signed by the student stating that the student declines the vaccination for reasons of conscience, except that the exemption for the latter reason does not apply during specified emergency situations. The bill requires the Texas Higher Education Coordinating Board, in consultation with institutions of higher education, to adopt rules for the administration of these provisions, including rules requiring a student to have received the vaccination not later than the date the student initially moves into an on-campus student housing facility. The bill makes these provisions applicable to first-time students enrolling in public, private, or independent institutions of higher education in Texas on or after January 1, 2010.

House Bill 4189 authorizes an institution of higher education that maintains a program for the purpose of ensuring compliance by its officers and employees with applicable laws, rules, regulations, and policies to establish procedures to permit private access to the compliance program office to preserve the confidentiality of communications and the anonymity of a person making a compliance report or participating in a compliance investigation. The bill makes confidential information that directly or indirectly reveals the identity of an individual who made a report to the compliance program office of an institution of higher education, sought guidance from the office, participated in an investigation conducted under the compliance program, or is alleged to have or may have planned, initiated, or participated in activities that are the subject of such a compliance report if, after completing an investigation, the compliance office determines the report to be unsubstantiated or without merit. The bill exempts from the confidentiality provisions an individual who consents to disclosure of the information. The bill exempts from disclosure under open records provisions information produced in a compliance program investigation the release of which would interfere with an ongoing compliance investigation. The bill authorizes information made confidential or excepted from disclosure by the bill's provisions to be made available to a law enforcement agency or prosecutor.

**Senate Bill 194**

**Effective:** 6-19-09

**Senate Author:** Shapleigh

**House Sponsor:** Howard, Donna

Senate Bill 194 amends the Education Code to prohibit a person employed in an institution of higher education's financial aid office from owning stock or holding another ownership interest in a student loan lender, other than through ownership of shares in a publicly traded investment vehicle in which the person does not exercise any discretion regarding the investment of the assets. The person is prohibited from soliciting or accepting any gift from a student loan lender. A person who engages in these prohibited activities is subject to dismissal or other disciplinary action.

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The bill makes a person employed by a career school or college in the financial aid office of the school or college subject to the same prohibitions. The bill requires a career school or college, if it discovers that its employee is in violation of such a prohibition, to promptly take action to cure the violation based on the severity of the violation and whether the violation was inadvertent. A career school or college may not knowingly employ a person who engages in the prohibited activities described above.

### **Senate Bill 1343**

**Effective:** Vetoed

**Senate Author:** Hinojosa

**House Sponsor:** Gonzales

Senate Bill 1343 amends the Education Code to exclude semester credit hours earned by a student before receiving an associate degree that has been previously awarded to the student and credit hours for a dual credit course for which the student received credit toward a high school diploma in determining whether the student has previously earned the number of semester credit hours allowed under the funding formulas proposed by the Texas Higher Education Coordinating Board for the use of the governor and the Legislative Budget Board in making appropriations recommendations to the legislature for higher education. The bill makes its provisions applicable beginning with the funding recommendations for the 2011-2012 academic year.

Reason Given for Veto: "Currently, higher education institutions may not receive formula funds for excess credit hours taken by students beyond the established cap, and they may charge students higher tuition rates for those hours. The cap is 30 hours above those required for the degree.

"Senate Bill No. 1343 would exclude all dual-credit courses and all credit hours earned by students prior to receiving an associate degree from counting toward the excess credit hour cap, and would increase the cap to 90 or more hours above those required for a degree.

"I have signed House Bill No. 101, which passed this session, because I agree with its provisions to exclude dual-credit courses from the excess credit hour cap.

"A provision in Senate Bill No. 1343 that would exclude all community college hours from the cap would not effectively address the real problem that many transfer students face: the fact that some credits do not count toward their baccalaureate degrees. This wastes students' time and money, and taxpayer dollars.

"The best solution is to improve articulation agreements and student advising so that students are able to transfer more hours to count toward their degrees. Instead, House Bill No. 1343 increases the cap to 90 or more hours above those required for a degree, removing important incentives for students and community colleges to focus on degree completion. The Texas Higher Education Coordinating Board is currently studying this issue, and I encourage the board members to continue looking for ways to ensure that more hours transfer. I am confident that they will find solutions that will benefit students and institutions."

### **Senate Bill 1729**

**Effective:** 6-19-09

**Senate Author:** West

**House Sponsor:** Alonzo

Previous law implicitly provided for one-year terms to be served by the student representatives appointed to certain Texas Higher Education Coordinating Board advisory committees by establishing annual deadlines for the various steps in the nomination, selection, and appointment process. Senate Bill 1729 amends the Education Code to expressly provide for a term of not less than two years for a student representative on a board advisory committee and to make conforming changes in each applicable deadline in the biennial nomination, selection, and appointment process, which begins not later than August 1 of each odd-numbered year, when the coordinating board is required to provide each institution of higher education with a list of available positions for student representatives on board advisory committees and related information about the members' terms, duties, and position requirements; the maximum number of nominees permitted per institution; and application forms for appointment to such advisory committees.

**Senate Bill 1735**  
**Effective:** 6-19-09

**Senate Author:** West  
**House Sponsor:** Branch

Senate Bill 1735 amends Education Code provisions relating to a mutual assistance agreement between a private institution of higher education and one or more local municipalities in which the institution's peace officers and the municipal peace officers assist each other in enforcing state or local law. The bill removes the requirement for a fall enrollment of more than 10,000 students at the institution; requires that property under the institution's control and jurisdiction be contiguous to or located within a home-rule municipality that has a population of 1.18 million or more and be located predominantly in a county that has a total area of less than 1,000 square miles, rather than contiguous to or located within a municipality with a population of more than one million; and clarifies the designated geographic area in which campus peace officers are authorized to assist municipal officers if the agreement is entered into with the home-rule municipality that elects all or part of the municipal governing body from election districts.

The bill amends provisions relating to the authority of a private, nonprofit medical corporation in a municipality with a population of 1.18 million or more to employ and commission security personnel for an institution of higher education or a private postsecondary education institution located within the corporation's medical complex or for a branch of the corporation. The bill extends this authority to the parent corporation of such a medical corporation and to a corporation that provides security services for another medical complex legally affiliated with or owned, leased, managed, or controlled by the medical corporation or parent corporation. The bill authorizes such corporations to employ and commission police officers as well as security personnel and expands the jurisdiction of an officer so commissioned to include any location in which the officer is performing duties assigned to the officer by the private, nonprofit medical corporation or its parent corporation if those duties are consistent with the mission of the medical corporation or its parent corporation and are being performed within a county in which the medical corporation or its parent corporation owns real property.

**Senate Bill 1760**  
**Effective:** Vetoed

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

Senate Bill 1760 repeals an Education Code provision that required the Prepaid Higher Education Tuition Board to establish a Texas Save and Match Program and replaces that program with a new Texas Save and Match Program under which the board opens a matching account for each eligible beneficiary and matches money paid under a prepaid tuition contract under either the Prepaid Higher Education Tuition Program or the Texas Tomorrow Fund II or money contributed to a savings trust account under the Higher Education Savings Plan with matching contributions or a matching purchase of tuition units, as applicable, using money appropriated by the legislature for the program and any contributions made by any person to the beneficiary's matching account. The bill entitles the program to participate in a state employee charitable campaign as if it were an eligible charitable organization.

Senate Bill 1760 sets forth residency, age, and household income criteria for determining a beneficiary's initial program eligibility; limits a beneficiary's participation in the program to not more than five calendar years, which may be either consecutive or nonconsecutive; and requires a minimum \$100 payment under a prepaid tuition contract or contribution to the beneficiary's savings trust account per year for a participating beneficiary to receive a matching grant or a purchase of matching tuition units to the beneficiary's matching account for that year. Contributions or purchases greater than \$500 are not eligible for a match. The bill also sets out limitations on the authorized uses of a matching account withdrawal and on institutions authorized to redeem tuition units in a matching account.

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Senate Bill 1760 requires the board to develop a variable formula based on adjusted annual household income to determine the annual amount of matching funds or matching purchases of tuition units to which beneficiaries are entitled, sets forth match ratio guidelines for the board to use in matching contributions or purchases, and establishes provisions for the administration of a matching account. The bill also authorizes the board to establish pilot projects under the program to promote participation in the Prepaid Higher Education Tuition Program, the Higher Education Savings Program, and the Prepaid Tuition Unit Undergraduate Education Program, including projects that award additional matching grants based on a beneficiary's achievement of specified academic goals, offer additional seed matching grants on the opening of a savings trust account or the purchase of a prepaid tuition contract, and provide incentives for employers to contribute matching funds to the program.

Senate Bill 1760 amends the Health and Safety Code and the Human Resources Code to prohibit the Health and Human Services Commission—for purposes of determining whether a child or other individual meets family or house income and resource requirements as a condition of eligibility for participation in certain financial or medical assistance programs or determining the amount of financial assistance provided—from considering as income, assets, or resources a right to assets held in, or a right to receive payments or benefits under, any fund or plan established under the Prepaid Higher Education Tuition Program, the Higher Education Savings Plan, the Texas Tomorrow Fund II, or the Texas Save and Match Program.

Reason Given for Veto: "Senate Bill No. 1760 would require the Texas Prepaid Higher Education Tuition Board to develop and implement the Texas Save and Match Program to assist qualifying beneficiaries who open a higher education savings plan (529 Plan) or purchase a prepaid tuition contract (Texas Tuition Promise Fund).

"During the 80th Legislative Session, the Prepaid Higher Education Tuition Board was authorized to establish a Save and Match Program as part of the Texas Tuition Promise Fund. Earlier this year, the comptroller's office established a 501(c)(3) foundation to receive tax-deductible donations for the program based on the enabling legislation.

"While I fully support this program, the legislation has an inadvertent drafting error that would no longer allow individuals to make tax-deductible donations to the foundation. My office will continue to work with the comptroller over the interim to draft new legislation to be considered by the 82nd Legislature."

**Senate Bill 1941**  
**Effective:** 6-19-09

**Senate Author:** Shapiro  
**House Sponsor:** Morrison

Senate Bill 1941 amends the Education Code to include the prepaid tuition unit undergraduate education program (Texas Tomorrow Fund II) among the programs under the Prepaid Higher Education Tuition Board that terminate with the board's abolition September 1, 2019, unless the board and the programs are continued in existence as provided by the Texas Sunset Act, and adds a career school to the educational entities at which the beneficiary of a prepaid tuition contract is entitled to apply purchased tuition units toward payment of the person's undergraduate tuition and required fees.

The bill establishes that the Texas Save and Match program is considered an eligible charitable organization entitled to participate in a state employee charitable campaign, entitles a state employee to authorize a payroll deduction for contributions to the program as a charitable contribution, and entitles the program to participate in the state employee charitable campaign conducted during the autumn of 2009 without regard to any limitation on the application period for an organization to participate in the campaign.

The bill authorizes the comptroller to designate the financial institution under contract with the coordinating board to serve as administrator of the higher education savings plan as



the comptroller's authorized representative to pay expenditures or transfer funds under certain provisions of the Texas Tomorrow Fund II program. The bill also requires the comptroller to provide to the coordinating board an annual statement of the amount of Texas Tomorrow Fund II assets in the custody of either the comptroller or the plan manager and requires the plan manager to provide to the comptroller a quarterly report of all funds distributed during the previous quarter. The comptroller may require more frequent reports or request that the plan manager provide any additional information at any time necessary to ensure that the fund's assets are adequately protected.

The bill removes provisions specifying that the amount of a transfer to a private or independent institution of higher education or an accredited out-of-state institution of higher education on the redemption of prepaid tuition units be based, in part and depending on the type of unit, on the tuition and required fees at certain public institutions in the sales year in which the unit was purchased. The bill removes similar sales year provisions relating to the value of an account for purposes of transfers among 529 plans authorized by the federal Internal Revenue Code of 1986.

**Senate Bill 2262**  
**Effective:** 6-19-09

**Senate Author:** Zaffirini  
**House Sponsor:** Branch

Senate Bill 2262 amends the Education Code to decrease from five years to two years the minimum number of years of relevant experience as a fully certified teacher that is required of a participant in a mathematics, science, or technology teacher preparation academy. The bill removes a provision that previously required the commissioner of education to submit a progress report on the implementation of such academies to the presiding officers of the house and senate committees with the appropriate jurisdiction, the Legislative Budget Board, and the Governor's Office of Policy and Planning.

## **Higher Education Funding, Capital Financing, and Bond Authority**

**House Bill 51**  
**Effective:** See below

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

House Bill 51 amends the Education Code to require each institution of higher education designated as a research university or an emerging research university to submit to the Texas Higher Education Coordinating Board a detailed, long-term strategic plan documenting how it intends to achieve recognition as a research university or enhance its reputation as such.

House Bill 51 authorizes The Texas A&M University System board of regents to issue tuition revenue bonds in an aggregate principal amount of up to \$5 million to finance capital acquisition, construction, or improvements, including roads or related infrastructure at Texas A&M University at Galveston to assist the institution in recovering from any damage or other impact caused by Hurricane Ike. The bill authorizes The University of Texas System board of regents to issue tuition revenue bonds in the aggregate principal amount of up to \$150 million to finance capital acquisition, construction, or improvements or related infrastructure at The University of Texas Medical Branch at Galveston to assist the institution in recovering from any damage or other impact caused by Hurricane Ike. Each board is authorized to transfer funds among institutions, branches, and other components of its respective system if there are insufficient funds for the board to meet its obligations under these provisions, but any transfer of funds to The University of Texas System board of regents to reimburse the board for debt service on its bonds is subject to prior approval of the Legislative Budget Board (LBB).

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House Bill 51 requires the coordinating board to determine biennially the amount the board considers appropriate to fund excellence in specific programs and fields at general academic teaching institutions and to make recommendations to the governor and the LBB for program funding in the next biennium; the bill also establishes an incentive grant program to encourage and assist institutions other than research universities or emerging research universities to develop and maintain specific programs or fields of study of the highest national rank or recognition.

House Bill 51 requires the coordinating board to review the institutional groupings under its accountability system at least once every 10 years. The bill reallocates the annual \$262.5 million appropriation to the higher education fund (HEF) allocated for fiscal years 2009 and 2010 as a corrective measure to the previous allocation for the five-year period ending August 31, 2010, and it sets forth the annual allocation of the HEF among eligible institutions for fiscal years 2011 through 2015. The bill entitles the University of North Texas at Dallas to participate in the HEF as soon as it operates as a general academic teaching institution, and it adds the Lamar Institute of Technology to the list of institutions receiving an allocation starting in fiscal year 2011.

House Bill 51 establishes the research university development fund to provide funding to research universities and emerging research universities for the recruitment and retention of highly qualified faculty and the enhancement of research productivity and requires the coordinating board to distribute funds to eligible research and emerging research universities in proportion to the average amount of total research funds spent by each institution annually during the three most recent fiscal years. The bill establishes performance incentive funding for general academic teaching institutions in which half of the funding is distributed among eligible institutions in proportion to any increase in the average number of degrees awarded annually by each institution in the two most recent fiscal years compared to the two-year average for the preceding fiscal biennium and the other half is distributed in proportion to the average number of degrees awarded in the three most recent fiscal years, with degrees weighted as prescribed in the bill. The bill also establishes the Texas Research Incentive Program, administered by the coordinating board, to provide matching funds to assist eligible institutions in leveraging private gifts for the enhancement of research productivity and faculty recruitment.

Contingent on voter approval of a constitutional amendment proposed by the 81st Legislature, the bill establishes the national research university fund, outside the state treasury and in the custody of the comptroller, to provide a dedicated, independent, and equitable source of funding to enable emerging research universities in Texas to achieve national prominence as major research universities. The bill sets forth eligibility requirements to receive distributions from the fund and provides for the use of such distributions by an eligible institution.

House Bill 51 repeals provisions relating to the research development fund and the HEF, and to the expenditure of funds allocated to Lamar University for the Lamar Institute of Technology. The bill creates a select interim committee to study the feasibility of collecting data and maintaining an electronic data collection relating to specialized technology research projects conducted by public universities, public university research facilities, or other state institutions to facilitate coordination and improve access to and awareness of the research and technology. The bill sets forth the study charges, committee composition, and reporting requirements and deadline, and it provides for the committee's abolishment on January 16, 2011.

Except for provisions relating to reallocations of the HEF, which take effect June 17, 2009, and provisions relating to money appropriated to or distributed from the research university development fund and the national research university fund, which take effect September 1, 2011, House Bill 51 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**House Bill 2805**  
**Effective:** 6-19-09

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

House Bill 2805 amends the Education Code to authorize a member institution of the East Williamson County Multi-Institution Teaching Center, a political subdivision, an entity created by a political subdivision, or a nonprofit corporation, individually or jointly, under the terms of a formal administration agreement, to issue bonds, notes, or other obligation to finance or refinance the acquisition, construction, renovation, enlargement, or equipping of physical facilities for the center's use. The bill authorizes such financing to be made through a long-term agreement with another member institution, political subdivision, or other entity described above, or through a guarantee of any bond, note, or other obligation but prohibits any such bond, note, obligation, long-term agreement, or guarantee from exceeding a term of 40 years. A bond, note, or other obligation issued or long-term agreement or guarantee made to finance such facilities is not subject to annual appropriation.

The bill authorizes a member institution or other entity described above to pledge irrevocably to the payment of bonds, notes, or other obligations issued or a long-term agreement or guarantee made under the above provisions, and to the extent permitted by law, all or any part of the available revenues, taxes, or any combination of revenues and taxes of the member institution or entity, but the amount of such a pledge may not be reduced or abrogated while any bonds, notes, or obligations for which the pledge is made, or any related refunding bonds, notes, or other obligations are outstanding. The bill authorizes an agreement providing for bonds, notes, or other obligations or a long-term agreement or guarantee under the above provisions to provide for a member institution or other related entity to have an ownership or other interest in the facilities to be financed in such manner or to participate in the facility's operation and authorizes a member institution or other entity to use a higher education facility authority for public or private schools to accomplish the purposes of these provisions.

**Senate Bill 1796**  
**Effective:** 9-1-09

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

Senate Bill 1796 amends the Education Code to increase the cost thresholds that determine whether Texas Higher Education Coordinating Board approval is required for certain construction, repair, or rehabilitation projects at public institutions of higher education. The bill increases from \$1 million to \$4 million the total project cost threshold for new construction projects requiring board approval and from \$2 million to \$4 million the total cost threshold for major repair and rehabilitation of buildings and facilities requiring board approval. The bill authorizes the board by rule to increase the total cost thresholds for projects requiring board approval as necessary to ensure that the board is required to approve only substantial construction, repair, or rehabilitation projects.

**Senate Bill 1952**  
**Effective:** 5-27-09

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

Senate Bill 1952 amends the Government Code to clarify that provisions governing the issuance of county and municipal higher education improvement bonds apply to a home-rule municipality with a population of 25,000 or more that has an institution of higher education, rather than a general academic teaching institution, located within its boundaries and to make those provisions applicable also to a municipality with a population of 25,000 or more that has entered into an agreement with an institution of higher education relating to the provision of services in furtherance of the completion of certificate programs, degree programs, or other higher education programs within the municipality by the institution of higher education. The

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bill authorizes a municipality that has entered into such an agreement to issue public securities to acquire, construct, or improve land, buildings, or other permanent improvements for use by an institution of higher education; impose property taxes to pay the principal of and interest on those securities and to provide a sinking fund; and pledge those taxes, any portion of the revenues received in connection with the agreement, or any combination of the taxes and revenues to secure payment of any portion of those securities.

### **Senate Bill 2240**

**Effective:** 6-19-09

**Senate Author:** Zaffirini

**House Sponsor:** Crownover

Senate Bill 2240 amends the Education Code to prohibit the attorney general from approving, and the comptroller of public accounts from registering, bonds issued by a municipality's higher education facility authority for public schools in the absence of a finding by the attorney general that the bonds have been issued in accordance with the Higher Education Facility Authority for Public Schools Act, constitute valid and binding obligations of an authority, and are secured. The bill requires an authority, when bonds to be issued to benefit an institution of higher education and the record relating to their issuance are submitted to the attorney general, to deliver notice of that action, including the amount of the bonds to be issued and a description of the facilities to be financed from the bond proceeds, to the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board. The bill removes a provision that made an officer or employee of any city creating a higher education facility authority for private schools ineligible for appointment as a director on such an authority's board of directors.

## **Institutional Policies and Procedures**

### **House Bill 103**

**Effective:** Vetoed

**House Author:** Brown, Fred

**Senate Sponsor:** Patrick, Dan

House Bill 103 amends the Education Code to require a general academic teaching institution with a student enrollment of more than 20,000 students in the preceding academic year to offer or sponsor, directly or through the university system of which the institution is a component, if applicable, one or more student health benefit plans, including at least one high deductible health plan, and to collect information from each student who declines to accept the coverage offered through the institution, including specific factors in the student's decision to decline coverage.

The bill requires the student health center of an institution of higher education with a student enrollment described above to assist a student or other person entitled to obtain health care services through the health center in receiving benefits under a health benefit plan in which that individual is an enrollee by filing or having a claim filed with the plan issuer on the individual's behalf and authorizes the institution to contract with a third-party billing service to provide this assistance. The bill authorizes an institution to contract on the health center's behalf with a health benefit plan issuer in the health service region established by the Department of State Health Services in which the institution is located to provide a health benefit plan covering health care services for students or other persons entitled to obtain health care services through the health center. The bill requires an institution to enter into contracts with at least three of the largest such health benefit plan issuers under which the institution's student health center serves either as a preferred provider under the issuers' preferred provider benefit plans or as a provider of in-network coverage under the issuers' health maintenance organizations, as applicable. The bill authorizes an institution to authorize the institution's health center to accept a student's medical services fee as payment toward a copayment, a deductible, or a charge or service not

covered by the student's health benefit plan and requires money received by the health center as a result of a claim filed by or on behalf of a student through a health benefit plan to be retained for use by the student health center.

The bill requires the governing board of an institution to report to the legislature not later than January 15 of each year the amount of money received for funding the institution's health center from student fees and charges, from the operation of the student health center's pharmacy, and as a result of claims filed by or on behalf of the institution's health center under a health benefit plan sponsored by or administered on behalf of the institution or under another plan.

Reason Given for Veto: "House Bill No. 103 amends current law relating to student health benefit plan provisions at public institutions of higher education and health benefit plan operations through student health centers (SHCs).

"The bill requires general academic teaching institutions with more than 20,000 enrolled students to offer one or more health benefit plans, at least one of which must be a high-deductible plan.

"House Bill No. 103 also requires these institutions to accept and process private health insurance at SHCs. SHCs must file insurance claims for covered individuals. The institutions may contract with a third-party billing service to provide assistance.

"While I appreciate the author's intent to increase efficiency in our universities' health care systems, House Bill No. 103 would likely increase health service costs for college students and their families without increasing the level of service or care. Currently, SHCs may file claims for students with private health insurance, but choose not to do so because of the high cost associated with filing claims with the large number of health plans that serve students. Since most SHCs do not have the administrative and technical capacity required to do insurance billing, SHCs would need to increase staff or contract this service to a third-party administrator; either option would needlessly increase costs to students.

"SHCs are designed to provide limited basic care services to students at low cost. Combined with a mandatory fee and inexpensive office visits, SHCs have been effective in helping students with their basic medical needs.

"Delivering reasonable health care to students is important, but House Bill No. 103 would precipitate a significant departure from current practices at SHCs without appreciably improving student health or access to care. Before undertaking such a dramatic shift in the administration of these services, we owe it to students and their families to take a closer look at the overall impact. Therefore, I am recommending that the lieutenant governor and speaker of the House conduct an interim study to review this issue."

**House Bill 746**  
**Effective:** 6-19-09

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

House Bill 746 amends the Education Code to authorize a public institution of higher education to make classrooms not scheduled for use between 5 p.m. and 10 p.m. on one or more weekdays or between 8 a.m. and 5 p.m. on one or more Saturdays available for use at that time by a public junior college for teaching either core curriculum courses or continuing education courses. The bill requires an institution that makes a classroom available to another institution to continue to make that classroom or a comparable classroom available to the other institution for the duration of the semester or academic term. The bill authorizes an institution of higher education to charge another institution for the use of a classroom at a rate not to exceed the rate set for this purpose by the Texas Higher Education Coordinating Board. The bill requires the coordinating board to set those rates in an amount to reimburse the host institution for utility costs and other costs based on the infrastructure formula funding that the host institution would receive if teaching a course in that space itself for that time.

**House Bill 1096**

**Effective:** 6-19-09

**House Author:** Vo et al.

**Senate Sponsor:** Van de Putte

House Bill 1096 amends the Education Code to require the Texas Higher Education Coordinating Board to prescribe procedures by which each institution of higher education is required to provide to each student enrolled at the institution written notice regarding the availability of required or recommended textbooks through university-affiliated bookstores and retailers other than university-affiliated bookstores. The bill requires the notice to be provided to each student at specified periods during each semester or summer session and to each student or prospective student attending an orientation and sets out requirements for the form and content of such notice. The bill requires the coordinating board to adopt rules to administer these provisions and makes its provisions applicable beginning with the 2009 fall semester.

**House Bill 2504**

**Effective:** 6-19-09

**House Author:** Kolkhorst et al.

**Senate Sponsor:** Shapiro

House Bill 2504 amends the Education Code to require each institution of higher education, other than a medical and dental unit, to post on the institution's website the following information for each undergraduate classroom course offered for credit by the institution: a syllabus, a curriculum vitae of each regular instructor, and, if available, a departmental budget report from the most recent semester or other academic term during which the institution offered the course. The bill requires the information to be accessible from the institution's website home page by use of not more than three links, searchable by keywords and phrases, and accessible to the public without requiring registration or use of a user name, password, or other user identification. The bill also establishes the semester or term deadline for making the information available, requires the institution to update the information as soon as practicable after the information changes, and requires the institution to designate an administrator to be responsible for ensuring implementation of these provisions. Each institution of higher education must submit a written report, not later than January 1 of each odd-numbered year, regarding the institution's compliance with these provisions to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over higher education. Institutions of higher education included in these provisions also must conduct end-of-course student evaluations of faculty and develop a plan to make evaluations available on the institution's website. The bill makes these provisions applicable beginning with the 2010 fall semester.

The bill requires each institution of higher education to establish and maintain an online list of work-study employment opportunities available to students on the institution's campus and to ensure that the list is easily accessible to the public through a clearly identifiable link that appears in a prominent place on the financial aid page of the institution's Internet website.

The bill requires the coordinating board to prescribe uniform standards intended to ensure that information regarding the total cost of attendance at institutions of higher education is available to the public in a manner that is consumer-friendly and readily understandable to prospective students and their families. Each institution of higher education that offers an undergraduate degree or certificate program must prominently display on its website in accordance with the uniform standards information regarding the cost of attendance at the institution by a full-time entering first-year student, must conform to the uniform standards in any electronic or printed materials intended to provide to prospective undergraduate students information regarding the cost of attendance, and must consider those standards when providing information to the public or to prospective students regarding the attendance cost for nonresident students, graduate students, or students in professional programs. The bill requires the coordinating board to prescribe

requirements for an institution to provide on the institution's website consumer-friendly and readily understandable information regarding student financial aid opportunities, which must be provided in connection with the required display of information regarding the cost of attendance by a full-time entering first-year student and must include a link to the primary federal student financial aid website intended to assist applicants for student financial aid.

The bill requires the coordinating board to provide on the board's website a program or tool that will compute the estimated net cost of attendance for a full-time entering first-year student attending an institution of higher education. The bill requires the coordinating board to require each institution to provide the information necessary to administer this provision. The bill requires the coordinating board to prescribe the initial standards and requirements under the bill's provisions not later than January 1, 2010, and to require institutions of higher education to comply with the standards and requirements not later than April 1, 2010.

The bill requires the coordinating board to encourage private or independent institutions of higher education approved to participate in the tuition equalization grant program, to the greatest extent practicable, to implement the practices required of public institutions regarding the display of the information described in the uniform standards on their websites and in electronic and printed materials and the inclusion of a link on their websites to the federal student financial aid website described above. The bill requires the coordinating board to make the net cost computation program or tool described above available to private or independent institutions of higher education and requires those institutions to make that program or tool, or another program or tool that complies with the net price calculator requirements of the federal Higher Education Act of 1965, available on their websites by a certain date.

**Senate Bill 175**

**Effective:** 6-19-09

**Senate Author:** Shapiro et al.

**House Sponsor:** Branch

Current law requires each general academic teaching institution in Texas to admit applicants who are Texas high school graduates or graduates of a high school operated by the U.S. Department of Defense and who graduate with a grade point average (GPA) in the top 10 percent of their class. Senate Bill 175 authorizes The University of Texas at Austin, beginning with admissions for the 2011-2012 academic year and ending with the 2015-2016 academic year, to limit automatic admissions under this law to fill not more than 75 percent of its enrollment capacity for first-time resident undergraduate students.

If the number of applicants qualifying for automatic admission exceeds 75 percent of the enrollment capacity for an academic year, the bill sets out a procedure for offering admissions based on the applicants' GPA percentile rank, starting with those in the top percentiles, up to the 75 cut-off, except that the university must offer admission to all applicants with the same percentile rank up to that point and must consider remaining qualified applicants in the same manner as other first-time applicants. A student admitted under these provisions must complete at least six semester credit hours during evening or other low-demand hours to ensure the efficient use of available classrooms. The bill requires the university to inform, via the school districts, Texas high school juniors and their parents by September 15 regarding the percentile rank of seniors anticipated to be offered admission under the 75 percent cap for the following year.

Senate Bill 175 prohibits the university from offering admission under the cap if by the admissions application deadline a final court order prohibits the university's consideration of race or ethnicity as a factor in admissions, or if such factors were not considered for the 2009-2010 academic year; from considering an applicant's legacy status as a factor in admissions; and from referring to the 75 percent cap in any communication as the reason for denial of admission unless the number of applicants qualifying for automatic admission fills 100 percent

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of the university's enrollment capacity designated for first-time resident students. The bill also restricts the number of nonresident students offered admission to the university to not more than 10 percent of the university's enrollment capacity for first-time undergraduate students for an academic year.

Senate Bill 175 requires The University of Texas at Austin to submit an annual report to the governor, lieutenant governor, and speaker of the house of representatives regarding its progress in the specific areas enumerated in the bill, and it requires the Texas Higher Education Coordinating Board to develop and implement a program to enhance general academic teaching institutions' outreach to high-performing high school seniors who are likely to be eligible for automatic admission and to prescribe best practices guidelines and standards for such student outreach. The bill also requires the coordinating board to publish an annual report on the impact of the 75 percent cap on the goals in the state's higher education plan.

Senate Bill 175 provides for the automatic admission to a general academic teaching institution of a transfer student who completes the core curriculum at a public junior college or other public or private lower division institution of higher education with a cumulative GPA of at least 2.5 on a four point scale, who graduated from high school not more than four years before the academic year for which admission is requested, and who either graduated in the top 10 percent of the student's high school graduating class or was previously offered admission by the institution under the top 10 percent law.

Senate Bill 175 expands the notice requirements regarding the automatic admissions provisions by requiring each district to provide each district student written notice of the substance of the top 10 percent law at the time the student first registers for a class required for high school graduation, to provide written notification regarding a student's eligibility for such automatic admission to each high school junior who has a GPA in the top 10 percent of the student's class, and to provide the latter notice to the student's parent or guardian as well as to the student. The bill requires a certified school counselor to explain the automatic admissions requirements to each high school student with a GPA in the top 25 percent of the student's class at the beginning of grades 10 and 11.

Senate Bill 175 establishes a scholarship program to encourage attendance at public institutions of higher education in Texas by outstanding high school students graduating in the top 10 percent of their class. The bill sets forth the initial eligibility requirements for a scholarship as well as requirements for a student's continuing eligibility, prescribes limitations on a scholarship's amount, sets out an application procedure, establishes criteria for determining the required satisfactory progress for continuing eligibility purposes, and provides certain exceptions to that requirement for hardship or other good cause. The bill requires the coordinating board to disseminate general program information and program rules and entitles each institution awarding a scholarship to reimbursement by the coordinating board. The bill also requires the coordinating board to develop a higher education assistance plan requiring each public high school in Texas that is substantially below the state average in the number of graduates who attend institutions of higher education to provide prospective students with enrollment information and assist students in completing admissions and financial aid applications.

**Senate Bill 1764**  
**Effective:** 6-19-09

**Senate Author:** Watson  
**House Sponsor:** Cohen

Senate Bill 1764 amends the Education Code to require the Texas Higher Education Coordinating Board to prescribe uniform standards to ensure that information regarding the cost of attendance at institutions of higher education is available to the public in a manner that is consumer-friendly and readily understandable to prospective students and their families. The bill requires the standards to address all of the elements that constitute the total cost of



attendance and to prescribe model language to be used to describe each such element. The bill requires each institution of higher education that offers an undergraduate degree or certificate program to prominently display on its Internet website in accordance with the uniform standards information regarding the cost of attendance at the institution by a full-time entering first-year student, to conform to the uniform standards in any electronic or printed materials intended to provide to prospective undergraduate students information regarding the cost of attendance, and to consider the uniform standards when providing information to the public or to prospective students regarding the attendance costs for nonresident students, graduate students, or students enrolled in professional programs.

The bill requires the coordinating board to prescribe requirements for an institution to provide on the institution's website consumer-friendly and readily understandable information regarding student financial aid opportunities, which must be provided in connection with the required display of information regarding the cost of attendance by a full-time entering first-year student and must include a link to the primary federal student financial aid website intended to assist applicants for student financial aid.

The bill requires the coordinating board to provide on the board's website a program or tool that will compute the estimated net cost of attendance for a full-time entering first-year student attending an institution of higher education. The bill requires the coordinating board to require each institution to provide the information necessary to administer this provision. The bill requires the coordinating board to prescribe the initial standards and requirements under the bill's provisions not later than January 1, 2010, and to require institutions of higher education to comply with the standards and requirements not later than April 1, 2010.

The bill requires the coordinating board to encourage private or independent institutions of higher education approved to participate in the tuition equalization grant program, to the greatest extent practicable, to implement the practices required of public institutions regarding the display of the information described in the uniform standards on their websites and in electronic and printed materials and the inclusion of a link on their websites to the federal student financial aid website described above. The bill requires the coordinating board to make the net cost computation program or tool described above available to private or independent institutions of higher education and requires those institutions to make that program or tool, or another program or tool that complies with the net price calculator requirements of the federal Higher Education Act of 1965, available on their websites by a certain date.

## **Specific Academic, Institutional, and State Programs**

### **House Bill 58**

**Effective:** 6-19-09

**House Author:** Branch

**Senate Sponsor:** Averitt et al.

House Bill 58 amends the Education Code to include a private or independent institution of higher education in the definition of an "eligible institution" for the purpose of participation in the advanced research program administered by the Texas Higher Education Coordinating Board.

### **House Bill 2425**

**Effective:** 6-19-09

**House Author:** Morrison

**Senate Sponsor:** Averitt

Current law requires the Texas Higher Education Coordinating Board to operate a one-week summer program on the campus of each general academic teaching institution that offers an engineering degree program to expose middle and high school students to mathematics, science, and engineering concepts students are likely to encounter in such a degree program and requires

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the coordinating board to establish a scholarship program for students who graduate from high school with certain credentials and are pursuing a degree in engineering at a general academic teaching institution. House Bill 2425 amends the Education Code to extend the one-week summer program to each private or independent institution of higher education that offers an engineering degree program and to make a student pursuing an engineering degree at such an institution eligible to receive an engineering scholarship from the coordinating board.

The bill also requires the coordinating board to conduct a study relating to the success of bachelor degree programs in the fields of applied science and applied technology offered by public junior colleges and to the feasibility of expanding the offering of such bachelor degrees by public junior colleges. The bill requires the study to consider the economic viability of expanding the degree programs, the workforce needs served by the degree programs for various areas of Texas, current and potential university course offerings, and other methods for making bachelor degrees available. The bill requires the coordinating board, not later than November 15, 2010, to report the results of the study to each standing committee of the legislature with primary jurisdiction over higher education.

**House Bill 3456**  
**Effective:** 5-19-09

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

Current law requires the Texas Higher Education Coordinating Board to contract with the Baylor College of Medicine for the administration, direction, and performance of services necessary or proper to the education, training, development, and preparation of resident physicians for a career in medicine. House Bill 3456 amends the Education Code to remove certain limitations on the staffing and compensation of resident physicians at the Baylor College of Medicine, including limits on the duration of residency compensated under these provisions, on the total number of compensated first-year resident physicians, and on the compensation level per resident physician appointed by the school. The bill removes the priority previously given to applicants demonstrating a willingness to practice in medically underserved areas of Texas and removes the percentage goals for the appointment of first-year residents in certain primary care areas of family practice. The bill removes the requirement that the coordinating board establish by contract with the college the method of disbursement and instead requires the coordinating board to disburse to the Baylor College of Medicine the money appropriated by the legislature to the board for that purpose. The bill requires the money disbursed under this provision to be spent by the school exclusively for the education, training, development, and preparation of resident physicians for a career in medicine. The bill repeals provisions relating to the inclusion of certain terms and conditions in contracts with Baylor College of Medicine and Baylor University College of Dentistry and to the appointment, under certain circumstances, of resident physicians who are not Texas residents at these colleges.

**Senate Bill 44**  
**Effective:** 6-19-09

**Senate Author:** Zaffirini  
**House Sponsor:** Branch

Senate Bill 44 amends the Education Code to expand the advanced research program to include the encouragement and support of basic research in the specified fields conducted by university students as well as by faculty members. The bill requires guidelines and procedures developed by the Texas Higher Education Coordinating Board for the program to require that, as a condition of receiving an award for a project under the program, an eligible institution must use a portion of the award to support, in connection with the project for which the award is made, basic research conducted by graduate or undergraduate students if the institution is a medical and dental unit or by undergraduate students if the institution is any other institution of higher education.

**Senate Bill 174**  
**Effective:** 6-19-09**Senate Author:** Shapiro et al.  
**House Sponsor:** Branch

Senate Bill 174 amends the Education Code to require the State Board for Educator Certification (SBEC) to propose rules setting standards to govern the approval and continuing accountability of educator preparation programs based on information that includes, in addition to information previously required, the achievement of students taught by beginning teachers for the first three years following certification and compliance with SBEC requirements regarding the frequency, duration, and quality of structural guidance and ongoing support provided by field supervisors to beginning teachers during their first year in the classroom. The bill authorizes SBEC to propose rules establishing minimum standards for approval or renewal of educator preparation programs or of certification fields offered by such programs and to propose a rule adopting a fee for program approval or renewal of approval or for the addition of a certificate or field of certification to the scope of a program's approval.

The bill requires SBEC rules for the sanction of educator preparation programs that do not meet accountability standards to provide for the assignment of an accreditation status of not rated, accredited, accredited-warned, accredited-probation, or not accredited-revoked. The rules may provide for the Texas Education Agency (TEA) to take any one or more necessary actions as enumerated in the bill, but the rules must provide for revocation of approval and closure of a program rated as accredited-probation for three consecutive years, provided that the program has been given the opportunity for a hearing before the closure. Any action authorized or required to be taken against an educator preparation program may be taken also with regard to a particular field of certification offered by a program. A revocation of a program's approval must be effective for at least two years, after which period the program may seek renewed approval to prepare educators for state certification. The bill requires a program's sponsor to pay the costs of technical assistance that the TEA may require the program to obtain or the costs associated with the appointment of a monitor, and it removes provisions authorizing SBEC's executive director to appoint an oversight team of educators to make recommendations and provide assistance to educator preparation programs that do not meet accreditation standards.

The bill requires SBEC to make consumer information regarding educator preparation programs in Texas available through its website and sets forth minimum requirements for the information to be made available. The bill authorizes SBEC to develop procedures for designating or ranking each program based on the information to be made available and, if SBEC develops such procedures, requires the inclusion of each program's designation or ranking in the publicly posted information. The bill also requires the board to provide information identifying employment opportunities for teachers in the various regions of Texas and to specifically identify each region with a shortage of qualified teachers.

The bill requires the Texas Higher Education Coordinating Board, not later than February 1, 2020, in consultation with institutions of higher education, to develop and maintain online resumes for each institution and, for such purpose, sets out the respective duties of the coordinating board and each institution. The bill requires the coordinating board to create and maintain two online resumes, one for use by legislators and other interested policy makers and another for use by prospective students of the institution, their parents, and other interested members of the public for each general academic teaching institution, each public junior college, public technical institute, and public state college, and each medical and dental unit and sets out requirements for the content to be included in each resume, tailored and appropriate both to the type of institution and category of user for which or for whom the resume is created.

**Senate Bill 1728**  
**Effective:** 6-19-09

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

Senate Bill 1728 amends the Education Code to remove a provision that required an undergraduate student to have enrolled at an institution of higher education not later than the first fall semester following the student's graduation from high school as a condition of eligibility for admission to the Joint Admission Medical Program or for selection as a program alternate, and repeals a provision that entitled a student who had applied for admission into the program and met the eligibility criteria to receive a scholarship and specified academic counseling to be paid with program funds. The bill makes these provisions applicable beginning with applicants for admission to the program during the 2009-2010 academic year. The bill also repeals a provision that prohibited a person from serving on the Joint Admission Medical Program Council for more than six years.

The bill adds the medical school at Texas Tech University Health Sciences Center at El Paso to the list of medical schools participating in the program and requires the medical school, as soon as practicable after the bill's effective date, to enter into the agreement with the council required by state law and to select an appropriate faculty member to represent the medical school on the council. The bill requires the medical school to provide internships and mentoring under the program as appropriate beginning with the 2011-2012 academic year, and to admit participating students under the program beginning with the 2012-2013 academic year.

### **Specific Institutions**

**House Bill 602**  
**Effective:** 5-12-09

**House Author:** Farabee  
**Senate Sponsor:** Estes

House Bill 602 amends the Education Code to change the designation of Midwestern State University from a state college to a public liberal arts university. The bill updates language relating to the university's mission.

**House Bill 1056**  
**Effective:** 6-19-09

**House Author:** Morrison  
**Senate Sponsor:** Hegar

House Bill 1056 amends the Education Code to expand the undergraduate course levels offered by the University of Houston-Victoria to include all undergraduate program levels, rather than only the junior and senior level undergraduate programs previously authorized. The bill removes a provision relating to the enrollment of a student who successfully completes a minimum amount of course work at another college or university and is concurrently enrolled at another college or university.

**House Bill 1325**  
**Effective:** 6-19-09

**House Author:** Rios Ybarra et al.  
**Senate Sponsor:** Lucio

House Bill 1325 amends the Education Code to authorize the Texas State Technical College System board of regents to offer and award an associate of science degree in a field of study at Texas State Technical College—Harlingen if the Texas Higher Education Coordinating Board determines that the degree in that field of study is appropriate to the role and mission of the system and meets the educational or workforce needs of the region in which the campus is located.

**House Bill 2424**  
**Effective:** 6-19-09

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

House Bill 2424 amends the Education Code to exempt Lamar State College–Orange and Lamar State College–Port Arthur, as long as such institutions operate as two-year lower-division institutions, from certain high school graduation or entrance examination requirements applicable to an applicant for admission to a public college or university who does not qualify for automatic admission.

**House Bill 3340**  
**Effective:** 6-19-09

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

House Bill 3340 authorizes the board of regents of The Texas A&M University System to convey 221.64 acres of real property in Cherokee County and provides a description of the property. The bill provides that the authorized conveyance is of fee title to the surface and is exclusive of all mineral rights. The bill requires that all instruments of conveyance be in a form acceptable to The Texas A&M University System.

**Senate Bill 98**  
**Effective:** 6-19-09

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

Senate Bill 98 amends the Education Code to authorize The University of Texas System board of regents to operate The University of Texas Health Science Center—South Texas as a component institution of the system with its main campus and administrative offices in Cameron County and which may consist of a medical school as well as other health-related degree programs and facilities that the board of regents considers appropriate. The bill authorizes the board of regents to include facilities located in certain South Texas counties in the health science center and to operate programs and activities and provide related services in those counties. If the health science center is established, the bill authorizes the establishment of The University of Texas Medical School—South Texas as a component of the health science center and as a component institution of the system.

The bill entitles the health science center and the medical school, if either institution is established, to participate in the available university fund and to receive funds from the permanent health fund for higher education; makes the health science center’s establishment subject to the availability of funding, either through appropriations or from another source; and authorizes the board of regents to enter into agreements under which additional facilities may be provided by a public or private entity. The bill provides that a teaching hospital considered suitable by the board of regents for the health science center may be provided by a public or private entity but prohibits the use of state funds for the hospital’s construction, operation, or maintenance.

The bill authorizes the board of regents to convert the Lower Rio Grande Valley Academic Health Center into The University of Texas Health Science Center—South Texas and to establish The University of Texas Medical School—South Texas at the health science center as soon as the board considers appropriate, considering available resources and the best interests of the system and the people of Texas and the South Texas region. The bill transfers the permanent endowment fund established for the benefit of the regional academic health center to the benefit of the health science center and its component institutions when the health science center is established and establishes that bonds authorized or issued for the academic health center are considered to have been authorized or issued for The University of Texas Health Science Center—South Texas and its component institutions if the health science center is established. The bill prohibits funds for a fiscal biennium ending on or before August 31, 2015, from being appropriated for the purposes of the health science center.

**Senate Bill 504**

**Effective:** 6-19-09

**Senate Author:** Ogden

**House Sponsor:** Brown, Fred

Senate Bill 504 amends the Education Code to increase from a maximum of five acres to a maximum of eight acres the area on the original main campus of Texas A&M University that The Texas A&M University System board of regents is authorized to lease to the Texas A&M Foundation for the foundation to construct and occupy a building for use consistent with the foundation's stated purposes.

**Senate Bill 596**

**Effective:** 6-19-09

**Senate Author:** Nichols

**House Sponsor:** Christian et al.

Senate Bill 596 amends the Education Code to prohibit the changing of the name of Stephen F. Austin State University.

**Senate Bill 629**

**Effective:** See below

**Senate Author:** West et al.

**House Sponsor:** Aycock et al.

Senate Bill 629 amends the Education Code to remove provisions that set the minimum full-time student enrollment equivalent threshold required for Texas A&M University—Kingsville System Center—San Antonio to operate as a general academic teaching institution known as Texas A&M University—San Antonio at either 1,000 full-time students for a semester contingent on the legislature authorizing the issuance of revenue bonds to finance educational and related facilities for the institution and the subsequent issuance of those bonds or at 2,500 full-time students for a semester in the absence of such bonding authority, allowing the center to become a freestanding public university upon reaching the enrollment equivalent requirement of 1,000 full-time students for one semester.

Senate Bill 629 removes a provision prohibiting the University of North Texas at Dallas from receiving general revenue in excess of the 2003 expended amount, with certain exceptions, before reaching 2,500 full-time equivalent students and a provision making the institution ineligible to receive the small school supplement in the General Academic Instruction and Operations Formula until it reaches a 2,500 full-time equivalent student enrollment.

Senate Bill 629 repeals Education Code provisions that prohibited The Texas A&M University System board of regents from issuing bonds for facilities at Texas A&M University—Central Texas and at Texas A&M University—San Antonio until the Texas Higher Education Coordinating Board certified each campus had reached an enrollment equivalent of 1,500 full-time students and that provided for the bonding authority's expiration if the enrollment thresholds were not reached by January 1, 2010. The bill repeals a similar provision that prohibited the University of North Texas System board of regents from issuing bonds for facilities at the University of North Texas Dallas Campus until that campus reached a coordinating board-certified enrollment equivalent of 1,500 full-time students and that provided for the bonding authority's expiration if the enrollment threshold was not reached by January 1, 2010.

Senate Bill 629 takes effect May 23, 2009, only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature. If a specific appropriation is not provided, the bill does not take effect.

**Senate Bill 811**

**Effective:** 5-19-09

**Senate Author:** Duncan

**House Sponsor:** Darby

Senate Bill 811 amends the Education Code to authorize the Texas Tech University System board of regents to transfer title to the real property and improvements of the San Angelo Museum of Fine Arts to a nonprofit organization if, before transferring title, the board complies with public

notice and meeting requirements; the board determines that the transfer will serve the interests of the university and the public and, at the time of the transfer, the university does not require the entirety of the real property or improvements for educational purposes; and the nonprofit organization to which the transfer is proposed to be made has demonstrated to the board's satisfaction that the organization intends to continue to use the real property and improvements for public purposes and to keep the museum open to the public on a frequent and regular basis. The bill requires the chair of the board of regents, in order to make the transfer, to execute a deed transferring title to the real property and improvements of the museum to the nonprofit organization and requires the deed to cite the board's authorization to make the transfer and to provide that title to the real property and improvements revert to the Texas Tech University System if the nonprofit organization discontinues using the real property or improvements for public purposes as required by the deed or executes a document that purports to convey title.

**Senate Bill 956**

**Effective:** See below

**Senate Author:** West et al.

**House Sponsor:** Branch et al.

Senate Bill 956 amends the Education Code to authorize the University of North Texas System board of regents to establish and operate a law school in the city of Dallas, to prescribe courses leading to customary degrees as are offered at other leading American law schools, and to award such degrees. The bill requires the board to administer the law school as a professional school of the system until the University of North Texas at Dallas has been administered as a general academic teaching institution for five years, at which time the law school is to become a professional school of the University of North Texas at Dallas. Until the law school becomes a professional school of the university, it is to be considered an institution of higher education and is entitled to formula funding as if the law school were a professional school of a general academic teaching institution. The bill also entitles the law school to participate in the higher education fund provided by the Texas Constitution for institutions of higher education. The bill establishes that venue for a suit filed solely against the law school or against officers or employees of the law school is in Dallas County and that in case of a conflict between this provision and any other law, this provision controls.

The bill requires the Texas Higher Education Coordinating Board, before the University of North Texas System board of regents establishes the law school but not later than June 1, 2010, to prepare a feasibility study to determine the actions the system must take to obtain accreditation of the law school; the bill also requires the coordinating board to study the need for and feasibility of establishing a public law school in areas of the state where a law school is not located, including the Texas-Mexico border region, and to deliver a copy of the study's results to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the legislative committees with jurisdiction over higher education not later than November 1, 2010.

The bill takes effect June 19, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**Senate Bill 2465**

**Effective:** 9-1-09

**Senate Author:** Seliger

**House Sponsor:** Lewis

Senate Bill 2465 amends the Government Code to authorize funds appropriated for the John Ben Shepperd Public Leadership Institute of The University of Texas of the Permian Basin to be used to pay for costs associated with the institute's educational programs for public secondary and university-level students, including registration fees, ground or air transportation, lodging, meals, training costs, and related expenses.

## **Student Financial Aid; Tuition and Fee Exemptions**

### **House Bill 1568**

**Effective:** 6-19-09

**House Author:** Gonzales et al.

**Senate Sponsor:** Zaffirini et al.

House Bill 1568 amends the Education Code to authorize the governing board of a junior college district to exempt a district employee who enrolls in courses offered by the district from the payment of all or part of the tuition and fees charged to a student at a junior college by the district.

### **House Bill 2013**

**Effective:** 6-19-09

**House Author:** Keffer et al.

**Senate Sponsor:** Hegar

House Bill 2013 amends the Education Code to extend an existing tuition and laboratory fees exemption for a paid firefighter enrolled in one or more courses offered as part of a fire science curriculum to include in the exemption any student enrolled in one or more such courses who is, and has been for at least a year, an active member of an organized volunteer fire department in Texas and who holds either an Accredited Advanced level of certification under the State Firemen's and Fire Marshals' Association of Texas volunteer certification program or Phase V (Firefighter II) certification under the Texas Commission on Fire Protection's voluntary certification program.

The bill makes continued eligibility for the exemption for a subsequent semester contingent on the student's making satisfactory academic progress toward a degree or certificate as determined by the institution for purposes of financial aid. The exemption does not apply to any additional tuition for repeated or excess undergraduate hours the institution elects to charge a resident undergraduate student or to any tuition the institution charges a graduate student in excess of the amount charged to similarly situated graduate students because the student has exceeded the formula funding cap on the number of semester credit hours of doctoral work. The bill requires the Texas Higher Education Coordinating Board to adopt rules governing the granting or denial of an exemption and a uniform listing of degree programs covered by the exemption. The bill makes its provisions applicable beginning with tuition and laboratory fees charged for the 2009 fall semester.

### **House Bill 2347**

**Effective:** See below

**House Author:** Thibaut et al.

**Senate Sponsor:** Whitmire

House Bill 2347 amends provisions of the Education Code relating to tuition and fee exemptions at public institutions of higher education for certain persons. The bill requires the governing board of an institution of higher education to exempt from the payment of tuition and laboratory fees for a criminal justice or law enforcement course an undergraduate student who is employed as a peace officer, is enrolled in a related degree program, and meets certain specified requirements. The bill provides restrictions on such an exemption and requires the Texas Higher Education Coordinating Board to adopt rules relating to such exemptions for firefighters and peace officers. For an exemption applicable to educational aides, the bill requires the institution of higher education at which a person seeking an exemption is enrolled, rather than the coordinating board, to certify the person's eligibility for such an exemption beginning with the 2009 fall semester. The bill is effective January 1, 2011, except for the provision relating to the exemption applicable to educational aides, effective June 19, 2009.



**House Bill 3452****Effective:** See below**House Author:** Gattis et al.**Senate Sponsor:** Ogden et al.

House Bill 3452 amends the Education Code to require the Texas Higher Education Coordinating Board to establish and administer the Texas Armed Services Scholarship Program under which the board provides an annual conditional scholarship to a student who meets the eligibility criteria and is appointed to receive a scholarship. The scholarship amount is the lesser of \$15,000 or the amount available for each scholarship from appropriations that may be used for scholarships for that academic year. The bill authorizes, each year, the governor and the lieutenant governor to each appoint two students and each state senator and representative to appoint one student to receive an initial scholarship. The bill sets forth requirements and guidelines for this process. The bill prohibits a person from receiving a scholarship after earning a cumulative total of 150 credit hours or after being awarded a baccalaureate degree, whichever occurs first.

House Bill 3452 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**House Bill 3951****Effective:** 6-19-09**House Author:** Turner, Chris et al.**Senate Sponsor:** Davis, Wendy et al.

House Bill 3951 amends the Education Code to require each institution of higher education to have an employee trained in state and federal student financial assistance programs available to military veterans or their family members, especially those specifically applicable to military veterans or their family members, and in assisting military veterans and eligible family members in obtaining the benefits available under those programs.

**House Bill 4476****Effective:** 5-27-09**House Author:** Cohen et al.**Senate Sponsor:** Zaffirini

House Bill 4476 amends Education Code provisions relating to eligibility requirements for the tuition equalization grant program. The bill requires a person, in order to be eligible for the grant in the first academic year in which the person receives the grant, to be enrolled in at least three-fourths of a full course load conforming to an individual degree plan, rather than a full course load, and to make satisfactory academic progress toward a degree or certificate as determined by the institution at which the person is enrolled. The bill specifies that the requirements for a person to have completed a specified minimum number of semester credit hours in order to be eligible to receive a grant in a subsequent academic year apply to credit hours completed in the person's most recent full academic year. The bill makes its provisions applicable beginning with tuition equalization grants awarded for the 2009-2010 academic year.

**Senate Bill 43****Effective:** 5-19-09**Senate Author:** Zaffirini et al.**House Sponsor:** Gonzalez Tourelles

Senate Bill 43 amends the Education Code to remove the condition that a student have been in foster care or other residential care in order to qualify for tuition and fee exemptions at public institutions of higher education on the basis of having been under the conservatorship of the Department of Family and Protective Services. The bill expands this exemption to include an exemption from tuition and fees charged by a public institution of higher education for a dual credit course or other course for which a high school student may earn joint high school and college credit and extends the exemption to a student who was under the department's conservatorship during an academic term in which the student was enrolled in such a course. The bill extends the deadline, from a student's 21st birthday to a student's 25th birthday, by

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which an eligible student must enroll in an institution of higher education as an undergraduate to be exempt from payment of tuition and fees and removes certain qualifying deadlines that such a student was required to meet to receive the tuition exemption. The bill makes its provisions applicable beginning with tuition and other fees charged for the 2010 spring semester.

### **Senate Bill 45**

**Effective:** 5-20-09

**Senate Author:** Zaffirini et al.

**House Sponsor:** Hochberg

Senate Bill 45 amends the Education Code to authorize the governing board of an institution of higher education to exempt from the payment of tuition and required fees a student who is taking a course, including an interdisciplinary course, at the institution under an interinstitutional academic program agreement but who is enrolled primarily at another institution of higher education or at a private or independent institution of higher education that is a party to the agreement and to which the student is responsible for the payment of tuition and fees.

### **Senate Bill 305**

**Effective:** 6-19-09

**Senate Author:** Shapleigh et al.

**House Sponsor:** Castro

Senate Bill 305 amends the Education Code to require each institution of higher education to establish and maintain an online list of work-study employment opportunities, sorted by department as appropriate, available to students on the institution's campus and to ensure that the list is easily accessible to the public through a clearly identifiable link that appears in a prominent place on the financial aid page of the institution's Internet website.

### **Senate Bill 1304**

**Effective:** 6-19-09

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

**House Sponsor:** Branch

Senate Bill 1304 amends the Education Code to require an institution of higher education that is required by state law to set aside a portion of a student's tuition payments for providing financial assistance for students enrolled in the institution to provide to each student who pays tuition from which a portion is required to be set aside for that purpose a notice regarding the specific amount that is required to be set aside by the institution. The bill specifies the means by which such notice is to be provided and requires the Texas Higher Education Coordinating Board by rule to prescribe minimum standards for the manner, form, and content of the notice. The bill makes its provisions applicable beginning with tuition charged for the 2010 spring semester.

### **Senate Bill 1798**

**Effective:** 6-19-09

**Senate Author:** Zaffirini

**House Sponsor:** Cohen

Senate Bill 1798 amends the Education Code to require an institution of higher education at which a person seeking an eligible educational aide exemption from tuition and fees is enrolled, rather than the Texas Higher Education Coordinating Board as the law previously required, to determine and certify the person's ability to receive the exemption and to give notice of its determination to the applicant and to the school district employing the applicant as an educational aide. The bill makes its provisions applicable beginning with the 2009 fall semester.

## **Tuition and Fees**

### **House Bill 2954**

**Effective:** 6-19-09

**House Author:** Coleman

**Senate Sponsor:** Ellis

House Bill 2954 amends the Education Code to raise the cap on the amount of the student center fee that the Texas Southern University board of regents may charge students at the

university from \$35 to \$75 per student for each semester of the regular term and from \$17.50 to \$37.50 per student for each summer term as the board determines is necessary for the purpose of operating, maintaining, improving, and equipping the student center and acquiring or constructing additions to the center. The bill makes any fee increase subject to approval by a majority vote of the students voting in an election held for that purpose, removing a previous requirement that a proposed fee increase had to exceed 10 percent in any academic year to trigger such a student referendum. The bill prohibits the fee from being charged after the fifth academic year in which the fee is first charged unless, before the end of that academic year, the university has issued bonds payable in whole or in part from the fee, in which event the fee may not be charged after the academic year in which all such bonds, including refunding bonds for those bonds, have been fully paid. The bill makes its provisions applicable beginning with student fees charged for the 2009-2010 academic year.

**House Bill 2961**

**Effective:** 6-19-09

**House Author:** Coleman

**Senate Sponsor:** Ellis

House Bill 2961 amends the Education Code to raise the cap on the amount of the student union fee that the University of Houston System board of regents may charge students at the University of Houston from \$35 to \$150 per student for each regular semester and from \$17.50 to \$75 per student for each term of the summer session. The bill prohibits the fee from being charged after the fifth academic year in which the fee is first charged unless, before the end of that academic year, the university has issued bonds payable wholly or partly from the fee, in which event the fee may not be charged after the academic year in which all such bonds, including refunding bonds for those bonds, have been fully paid. The bill makes its provisions applicable beginning with student fees charged for the 2009-2010 academic year.

**House Bill 3353**

**Effective:** 6-19-09

**House Author:** Naishtat et al.

**Senate Sponsor:** Shapleigh

House Bill 3353 amends the Education Code to authorize the governing board of an institution of higher education to charge each student enrolled at the institution an environmental service fee of up to \$5 per regular semester or summer term of more than six weeks or \$2.50 per summer term of six weeks or less to provide environmental improvements at the institution through services related to recycling, energy efficiency and renewable energy, transportation, employment, product purchasing, planning and maintenance, or irrigation, or to provide matching funds for grants to obtain such environmental improvements. The bill makes the initial levy and any fee increase subject to approval by a majority vote of the students voting in an election held for that purpose but prohibits an increase that would result in a fee exceeding \$10 per regular semester or summer term of more than six weeks or \$5 per summer session of six weeks or less.

The bill prohibits an institution that imposes the fee from using fee revenue to reduce or replace other money allocated by the institution for environmental projects and requires any fee revenue above the amount needed to cover current operating expenses for environmental services and any interest generated from that revenue to be used for the environmental improvements described above. The bill establishes that the fee is not considered in determining the maximum amount of student services fees that an institution of higher education may charge. The bill prohibits the fee from being charged after the fifth academic year in which the fee is first charged unless, before the end of that academic year, the institution has issued bonds payable in whole or in part from the fee, in which event the fee may not be charged after the academic year in which all such bonds, including refunding bonds for those bonds, have been fully paid.

**House Bill 4244**  
**Effective:** 6-19-09

**House Author:** Hochberg  
**Senate Sponsor:** Zaffirini

Previous law entitled a nonresident or noncitizen student holding a competitive scholarship of at least \$1,000 for the academic year or summer for which the student was enrolled to pay tuition and fees at the same rate charged Texas resident students without regard to the length of time the student had resided in Texas. House Bill 4244 amends the Education Code to remove that entitlement and instead authorize an institution of higher education to charge such a nonresident or noncitizen student those in-state resident tuition and fees. The bill entitles a nonresident or noncitizen student who would be entitled to pay resident tuition in the 2009-2010 academic year under the previous law as it existed on January 1, 2009, because the student is awarded a competitive scholarship of at least \$1,000 for that academic year before the beginning of the 2009 fall semester to continue to pay resident tuition under that provision in each semester or other term in which the student is awarded such a scholarship, as long as the student remains enrolled in the same certificate or degree program.

**House Bill 4501**  
**Effective:** 6-19-09

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

House Bill 4501 amends the Education Code to authorize the Texas Southern University board of regents to impose an intercollegiate athletics fee on each student enrolled at Texas Southern University in an amount not to exceed \$10 per semester credit hour, up to a maximum of 15 semester credit hours, to be used to develop and maintain an intercollegiate athletics program at the university. The bill makes the initial levy and any fee increase from one academic year to the next subject to approval by a majority vote of the students voting in an election held for that purpose and prohibits the fee from being considered in determining the maximum amount of student services fees that may be imposed under state law. The bill prohibits the fee from being charged after the fifth academic year in which the fee is first charged unless, before the end of that academic year, the university has issued bonds payable in whole or in part from the fee, in which event the fee may not be charged after the academic year in which all such bonds, including refunding bonds for those bonds, have been fully paid. The bill makes its provisions applicable beginning with the 2009 fall semester.

**Senate Bill 256**  
**Effective:** 5-27-09

**Senate Author:** Estes  
**House Sponsor:** Farabee

Senate Bill 256 amends the Education Code to authorize the board of regents of Midwestern State University to charge each student an intercollegiate athletics fee in an amount not to exceed the lesser of \$10 per semester credit hour or \$120 for each regular semester or each summer session of more than six weeks, or \$60 for each summer session of six weeks or less, to develop and maintain an intercollegiate athletics program at the university. The bill makes the initial levy and any increase in the fee amount of more than 10 percent of the amount of the fee charged for the same semester or summer session in the preceding academic year subject to approval by a majority vote of the students voting at an election held for that purpose and specifies that the fee is not considered in determining the maximum amount of student services fees that may be charged. The bill requires the university's chief fiscal officer to collect the fee and to deposit the revenue in an account to be known as the Midwestern State University intercollegiate athletics fee account. The bill prohibits the fee from being charged after the fifth academic year in which the fee is first charged unless, before the end of that academic year, the institution of higher education has issued bonds payable from the fee, in which event the fee may not be charged after the academic year in which all such bonds, including refunding bonds for those bonds, have been fully paid.

**Senate Bill 297****Effective:** 6-19-09**Senate Author:** Van de Putte et al.**House Sponsor:** Corte et al.

Senate Bill 297 amends the Education Code to entitle a person to pay resident tuition and fees at Texas institutions of higher education without regard to the length of time the person has resided in Texas if the person is eligible for benefits under the Post-9/11 Veterans Education Assistance Act of 2008 or any other federal law authorizing education benefits for veterans or is the veteran's spouse or child, including a stepchild, who is 25 years of age or younger on the first day of the academic term. Additionally, the person must file a letter of intent to establish residency in Texas and must reside in Texas while enrolled in the institution. The Texas Higher Education Coordinating Board must, by rule, prescribe procedures by which a person who suffered from a severe illness or other debilitating condition that affected the person's ability to use the resident tuition and fees benefit before reaching 25 years of age may be granted additional time to use the benefit corresponding to the time the person was unable to use the benefit because of the illness or condition.

Senate Bill 297 requires the governing board of an institution of higher education to exempt from the payment of tuition a dependent child, including a stepchild, of a member of the United States armed forces who is a resident of Texas or is entitled to pay resident tuition, for any academic term during which the member of the armed forces is deployed on active combat duty outside the United States. The bill requires, in its appropriations to institutions of higher education, the legislature to provide sufficient funds to cover the full costs of the exemptions. The bill makes its provisions applicable beginning with tuition and fees for the 2009 fall semester.

**Senate Bill 473****Effective:** 5-23-09**Senate Author:** Estes**House Sponsor:** Crownover

Senate Bill 473 amends the Education Code to authorize the University of North Texas System board of regents to charge each student enrolled at the University of North Texas an intercollegiate athletics fee in an amount not to exceed \$10 per semester credit hour, up to a maximum of 15 semester credit hours, for each semester or summer session. The bill restricts the use of revenue from the fee to financing, constructing, operating, maintaining, or improving an athletic facility or the operation of an intercollegiate athletics program at the university and prohibits the fee from being charged before the first semester a new football stadium is available for use at the university. The bill caps the fee for a student enrolled in more than 15 semester credit hours and requires the total amount of compulsory student services fees charged to a student to be reduced by \$3 per semester credit hour for the first semester in which an intercollegiate athletics fee is charged.

The bill makes the initial levy and any increase of 10 percent or more in the amount of the fee subject to approval by a majority vote of the students voting at an election held for that purpose and prohibits the fee from being considered in determining the maximum amount of student services fees charged each student at the university. The bill requires the university's chief fiscal officer to collect the fee and to deposit the revenue from the fee in an account to be known as the intercollegiate athletics fee account. The bill prohibits the fee from being charged after the fifth academic year in which the fee is first charged unless, before the end of that academic year, the university has issued bonds payable from the fee, in which event the fee may not be charged after the academic year in which all such bonds, including refunding bonds for those bonds, have been fully paid.

**Senate Bill 847**

**Effective:** 6-19-09

**Senate Author:** Averitt et al.

**House Sponsor:** Anderson

While certain military veterans and dependents are generally exempt from having to pay tuition and fees at public institutions of higher education, previous law authorized the governing board of a junior college district to set a fee for extraordinary costs associated with a specific course or program to which such exemption would not apply. Senate Bill 847 amends the Education Code to expand this authority and permit the governing board of a public junior college, public technical institute, or public state college to charge a fee for extraordinary course or program costs and to except this fee from the fee exemption otherwise granted to veterans and dependents. The bill makes its provisions applicable beginning with the 2009 fall semester.

**Senate Bill 1334**

**Effective:** 6-19-09

**Senate Author:** Hegar

**House Sponsor:** Zerwas

Senate Bill 1334 amends the Education Code to extend the intercollegiate athletics fee at Prairie View A&M University beyond its scheduled expiration date of September 1, 2013, if, before the end of the 2012-2013 academic year, The Texas A&M University System board of regents issues bonds that are payable wholly or partly from the fee. The bill prohibits the fee, if the board of regents issues such bonds, from being imposed in any semester or session beginning after the date on which all of those bonds have been fully paid.

**Senate Bill 2182**

**Effective:** 9-1-09

**Senate Author:** Shapleigh

**House Sponsor:** Naishtat

Senate Bill 2182 amends the Education Code to authorize the governing board of an institution of higher education to charge each student enrolled at the institution an environmental service fee to provide environmental improvements at the institution or to provide matching funds for grants to obtain such environmental improvements. The bill caps the amount of the fee at \$5 for each regular semester or summer term of more than six weeks or \$2.50 for each summer session of six weeks or less. The bill makes the initial levy and any increase of the fee subject to approval by a majority vote of the students voting at an election held for that purpose and prohibits an increase that would result in a fee exceeding \$10 for each regular semester or summer term of more than six weeks or \$5 for each summer session of six weeks or less. The bill prohibits an institution that imposes the fee from using the revenue generated by the fee to reduce or replace other money allocated by the institution for environmental projects and requires any fee revenue that exceeds the amount necessary to cover current operating expenses for environmental services and any interest generated from that revenue to be used only for environmental improvements. The bill establishes that the fee is not considered in determining the maximum amount of student services fees that an institution of higher education may charge. The bill prohibits the fee from being charged after the fifth academic year in which the fee is first charged unless, before the end of that academic year, the institution has issued bonds payable from the fee, in which event the fee may not be charged after the academic year in which all such bonds, including refunding bonds for those bonds, have been fully paid.

**Senate Bill 2244**

**Effective:** 1-1-10

**Senate Author:** Zaffirini

**House Sponsor:** Branch

Current law entitles a person to pay in-state tuition and fees at an institution of higher education if the person or an adult member of the person's family with whom the person resides and who is the person's primary caretaker establishes by the institution's enrollment date a residence in Texas because of the person's or caretaker's employment by a business or

organization established as part of the state's economic development and diversification program. Senate Bill 2244 amends the Education Code to limit the eligibility to pay in-state tuition and fees on the basis of such an employment-based relocation to a person who relocates to Texas because of the person's or caretaker's employment by a business or organization established not earlier than five years before the enrollment date. The bill requires the Texas Higher Education Coordinating Board, in consultation with the Texas Economic Development and Tourism Office, to establish procedures to determine whether a business or organization meets such requirements and the date on which the business or organization became established in Texas as part of the economic development and diversification program. The bill makes its provisions applicable beginning with tuition and required fees for the fall 2010 semester.

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

House Bill 962 - Government Purchasing  
House Bill 1423 - Public Education  
House Bill 1684 - Agriculture  
House Bill 2169 - Labor and Employment  
House Bill 2440 - State Government  
House Bill 3519 - Labor and Employment  
House Bill 4471 - Health and Medical Occupations  
House Joint Resolution 14 - Property Interests and Housing  
Senate Bill 93 - Military Forces and Veterans  
Senate Bill 291 - Health and Safety  
Senate Bill 2258 - Public Education





## Human Services

This chapter covers legislation on issues relating to human services, including financial, medical, and other services for individuals who are poor, elderly, or physically or mentally disabled. The chapter includes legislation on health and human services agencies, nursing homes, assisted living facilities, child protective services, adult day-care and child care, Medicaid, Medicare, CHIP, indigent health care, and the financing and administration of related health and human services programs. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 492**

**Effective:** 5-30-09

**House Author:** Zerwas et al.

**Senate Sponsor:** Deuell et al.

House Bill 492 amends the Government Code to expand the faith- and community-based health and human services and social services initiatives. The bill requires the executive commissioner of the Health and Human Services Commission (HHSC), in consultation with the governor, to designate by December 1, 2009, one employee from the commission and from each health and human services agency to serve as a governmental liaison for faith- and community-based organizations and requires the chief administrative officer of each agency specified in the bill, in consultation with the governor, to designate by the same date an employee from the agency to serve as such a liaison. The bill sets forth the general duties of a faith- and community-based organizations liaison and establishes an interagency coordinating group composed of each designated liaison. House Bill 492 creates the renewing our communities account in the general revenue fund to increase the capacity of certain nonprofit organizations, to assist in the promotion of local faith- and community-based initiatives, and to foster partnerships between state government and certain nonprofit organizations. The bill sets forth the powers and duties of HHSC and the State Commission on National and Community Service regarding the account and provides requirements relating to the administration of account funds. The bill directs the executive commissioner of HHSC to appoint a renewing our communities account advisory committee and a task force on strengthening nonprofit capacity.

#### **House Bill 583**

**Effective:** 6-19-09

**House Author:** Dukes

**Senate Sponsor:** Deuell

House Bill 583 amends the Government Code to expand the electronic eligibility information pilot project relating to establishing eligibility for benefits under state and federal health and human services programs. The bill requires the Health and Human Services Commission to expand the pilot project to at least one additional urban area where the commission has implemented the Texas Integrated Eligibility Redesign System (TIERS). The bill requires the commission to create a project in which regional indigent care networks interface with the commission through TIERS and automatically import the electronic application information submitted by those networks with minimal human intervention. The bill includes provisions relating to the timely review and processing of applications and to a monthly statistical report on that process. The bill requires the commission, not later than December 15, 2011, to assess the cost-effectiveness, efficacy, efficiency, and benefits of using electronic eligibility information imported from electronic systems operated by regional safety net provider collaborative organizations and report findings to the standing committees of the senate and house of representatives having primary jurisdiction over health and human services.

**House Bill 610**

**Effective:** 9-1-09

**House Author:** Naishtat et al.

**Senate Sponsor:** Van de Putte

House Bill 610 amends the Human Resources Code to establish the Legislative Committee on Aging to study and make recommendations on issues relating to the aging population of the state, including issues related to the health care, income, transportation, housing, education, and employment needs of that population. The bill provides for the committee's composition and leadership and specific powers and duties. The bill requires the committee to convene its initial meeting not later than November 1, 2009, and to report to the standing committees of the senate and the house of representatives having jurisdiction of issues related to the needs of the aging population not later than November 15 of each even-numbered year.

House Bill 610 also establishes the Chris Kyker Endowment for Seniors Fund to be used to fund a contract between the executive commissioner of the Health and Human Services Commission and an entity under which local forums are to be conducted to solicit input on and discuss policies regarding aging-related issues, related analysis, and education; research services are to be provided; and problems encountered by the aging population are to be identified. The bill includes provisions relating to the money to be deposited in the fund and the administration and management of the fund's assets.

**House Bill 748**

**Effective:** 6-19-09

**House Author:** Darby et al.

**Senate Sponsor:** Duncan

House Bill 748 amends the Human Resources Code to authorize a person who provides disability services to contract with a state school or state center for the school or center to provide services and resources to support individuals with developmental disabilities, including individuals with dual diagnosis disorders. The bill specifies the conditions under which a state school or state center is authorized to provide nonresidential services.

**House Bill 802**

**Effective:** 9-1-09

**House Author:** Davis, John et al.

**Senate Sponsor:** Zaffirini

House Bill 802 amends the Human Resources Code to require the Department of Aging and Disability Services to implement the lifespan respite services program to promote the provision of respite services through contracts with eligible community-based organizations or local governmental agencies. The bill establishes the eligibility criteria for participation in the program, prohibits the executive commissioner of the Health and Human Services Commission (HHSC) from specifying criteria that limit a person's eligibility based on the type of chronic serious health condition or disability of the person receiving care, and requires the department to contract with at least three community-based organizations or local governmental entities to provide and facilitate access to respite services. The bill establishes minimum eligibility requirements for contracting with the department, provisions required to be included in the contracts, and required functions of a respite services coordinator under contract with the department. The bill requires the executive commissioner of HHSC not later than November 1, 2010, to submit a report to the governor and the Legislative Budget Board regarding the program.

**House Bill 1055**

**Effective:** 9-1-09

**House Author:** Parker

**Senate Sponsor:** Harris

House Bill 1055 amends the Government Code to extend the deadline for submitting plans and specifications to the Texas Department of Licensing and Regulation for the construction or substantial renovation of buildings or facilities relating to the removal of architectural barriers

encountered by persons with disabilities. The bill sets the deadline at not later than the 20th day after the date the person issues the plans and specifications and applies the deadline to each issuance for plans and specifications issued on more than one date.

**House Bill 1218**

**Effective:** 9-1-09

**House Author:** Howard, Donna

**Senate Sponsor:** Watson et al.

House Bill 1218 amends the Government Code, Health and Safety Code, and Human Resources Code to require the Health and Human Services Commission to establish an electronic health information exchange pilot project in at least one urban area with the participation of at least two local or regional health information exchanges to determine the feasibility, costs, and benefits of exchanging secure electronic health information between the commission and such local or regional health information exchanges. The bill sets out requirements for the implementation, administration, and operation of the pilot project, including the appointment of an electronic health information exchange advisory committee, development of an electronic health information exchange system for the child health plan and Medicaid programs, and incentives to encourage use of the system. The bill requires the commission to submit an initial report regarding the exchange system to certain legislative committees not later than January 1, 2011, and a subsequent report not later than January 1, 2013.

House Bill 1218 also requires the executive commissioner of the commission, if feasible, to establish a quality of care health information exchange with certain nursing facilities, to establish a hospital health information exchange related to potentially preventable readmissions of Medicaid recipients, and to ensure compliance with federal standards of any health information technology used by the commission or an entity acting on behalf of the commission with respect to the child health plan and Medicaid programs.

**House Bill 2196**

**Effective:** 9-1-09

**House Author:** Truitt

**Senate Sponsor:** Deuell

House Bill 2196 requires the executive commissioner of the Health and Human Services Commission, not later than October 1, 2009, to establish a workgroup to recommend best practices in policy, training, and service delivery to promote the integration of health and behavioral health services in Texas. The bill provides for the composition and duties of the workgroup and requires the executive commissioner to file a report with the appropriate committees of the house and senate describing the workgroup's study and recommendations. Provisions relating to the workgroup expire and the workgroup is abolished on August 31, 2010.

House Bill 2196 amends the Health and Safety Code to create the Interagency Task Force for Children with Special Needs within the Health and Human Services Commission to improve the coordination, quality, and efficiency of services for special-needs children. The bill provides for the composition and duties of the task force, requires the task force to create a five-year plan, and requires the task force to submit a biennial report on the progress of each agency represented to the governor, lieutenant governor, and speaker of the house of representatives. The bill includes provisions relating to task force staffing, administration, and subcommittees. The task force is subject to sunset review, and unless continued in existence it is abolished September 1, 2015.

**House Bill 2303**

**Effective:** 6-19-09

**House Author:** Truitt et al.

**Senate Sponsor:** Uresti

House Bill 2303 amends the Health and Safety Code to authorize a community center to provide health and human services and supports as provided by a contract with or a grant received

## Human Services

from a local, state, or federal agency, in addition to the services described in the center's plan. The bill clarifies that it is the policy of the state that a community center be authorized to provide requested services to persons with developmental disabilities.

### **House Bill 2963**

**Effective:** 9-1-09

**House Author:** Coleman

**Senate Sponsor:** Patrick, Dan

House Bill 2963 amends the Health and Safety Code to clarify that a county, hospital district, or public hospital must pay a claim for services provided to an indigent patient to the extent that the county, hospital district, or public hospital is liable under the Indigent Health Care and Treatment Act. The bill authorizes a county, public hospital, or hospital district to provide or arrange to provide health care services for indigent residents through the purchase of health coverage or other health benefits, including benefits described by provisions governing health care programs for employees of small employers.

### **House Bill 3429**

**Effective:** 6-19-09

**House Author:** Gutierrez

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

House Bill 3429 amends the Education Code to require the Texas AgriLife Extension Service to make a presentation to the commissioner of education, the commissioner of agriculture, and the commissioner of the Department of State Health Services on the Expanded Food and Nutrition Education Program, the Better Living for Texans program, and other similar nutrition education programs as determined by the extension service. The bill requires the extension service to provide copies of reports on those programs to the Texas Education Agency, the Texas Department of Agriculture, and the Department of State Health Services, and to any council in which representatives from all three of those agencies are members. The extension service, not later than December 15 of each even-numbered year, must provide a copy of each report to the legislature.

### **House Bill 3859**

**Effective:** 9-1-09

**House Author:** Herrero et al.

**Senate Sponsor:** Deuell

House Bill 3859 amends the Government Code to require the Health and Human Services Commission to conduct a thorough analysis of staffing needs, including the need for additional state employees and contractor staff, with respect to the enhanced eligibility system and expanded use of the Texas Integrated Eligibility Redesign System (TIERS). The bill requires the analysis to identify the number of full-time equivalent positions needed to ensure that the system remains fully functional and the number of full-time equivalent positions any contractor would need to perform contracted functions to implement the system. The bill requires the commission, in determining its total staffing needs, to consider the number of full-time equivalent positions necessary to comply with state and federal requirements related to health and human services program access and the commission's performance standards and benchmarks for health and human services programs.

### **House Bill 4154**

**Effective:** 9-1-09

**House Author:** Rose et al.

**Senate Sponsor:** Nelson et al.

House Bill 4154 amends the Government Code to create a volunteer advocate program for elderly individuals receiving services from or under the direction of the Health and Human Services Commission or a health and human services agency. The bill requires the executive commissioner of the commission to appoint and coordinate with an advisory committee to develop the program, specifies principles to which the executive commissioner and committee

are required to adhere in developing the program, and authorizes the executive commissioner to enter into agreements with nonprofit organizations to provide services under the program. The bill requires the commission to fund the volunteer advocate program through existing appropriations, prescribes the composition and duties of the advisory committee, and requires the committee, not later than December 1, 2010, to submit a report on the committee's activities, findings, and recommendations to the governor, lieutenant governor, speaker of the house of representatives, and standing committees of the legislature with primary jurisdiction over matters concerning health and human services.

**Senate Bill 37**  
**Effective:** 5-30-09

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

Senate Bill 37 amends the Human Resources Code to require the Department of Aging and Disability Services, subject to the availability of funds appropriated for the purpose, to provide home- and community-based services under the deaf-blind with multiple disabilities waiver program without regard to a person's age if the person applies for and is otherwise eligible to receive services under the waiver program. The bill clarifies that the department is not prevented from establishing an age requirement with respect to other programs or services offered to persons who are deaf-blind and have multiple disabilities.

**Senate Bill 63**  
**Effective:** 9-1-09

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

Senate Bill 63 amends the Government Code to require the executive commissioner of the Health and Human Services Commission to adopt by rule a career ladder for persons who provide intervener services under the deaf-blind with multiple disabilities waiver program. The bill establishes the minimum qualifications for each level of the career ladder classification and authorizes the executive commissioner to adopt a career ladder based on credentialing standards for interveners developed by the Academy for Certification of Vision Rehabilitation and Education Professionals or any other private credentialing entity that the executive commissioner determines appropriate.

**Senate Bill 271**  
**Effective:** 6-19-09

**Senate Author:** Harris  
**House Sponsor:** Rose

Senate Bill 271 amends the Human Resources Code to require the Department of Aging and Disability Services to coordinate with area agencies on aging and authorizes the department to coordinate with other local entities to coordinate public awareness outreach efforts regarding the role of informal caregivers in long-term care situations. The bill prescribes duties the department is required to perform to assist a local entity with outreach efforts. The bill requires the department to create or modify a form as part of the eligibility determination process for long-term care benefits for older persons under Medicaid that can be used to identify informal caregivers for referral to available support services. The form may also be used in systems for long-term care support services that are not a part of Medicaid. The bill includes provisions relating to the development and implementation of a protocol to gather data and evaluate the needs of certain informal caregivers and requires the department to submit a related report to the governor and the Legislative Budget Board.

Senate Bill 271 amends the Probate Code to authorize a court, under certain conditions, to appoint the department as a successor guardian of the person or estate, or both, of a ward who has been adjudicated as totally incapacitated. The bill limits the annual number of such appointments to 55 and prescribes requirements relating to the distribution of the appointments

among health and human services regions of the state. The bill requires citation to be issued and served on the department for an application on which the department is named as a proposed successor guardian but the department is not the applicant.

**Senate Bill 282**

**Effective:** See below

**Senate Author:** Nelson

**House Sponsor:** Eissler

Senate Bill 282 amends the Agriculture Code to authorize the Texas Department of Agriculture (TDA) to develop an outreach program to promote better health and nutrition programs and prevent obesity among children in Texas. The bill amends the Education Code to require the TDA to develop a program under which the TDA awards grants to public school campuses for best practices in nutrition education. It amends the Human Resources Code to require the TDA to develop a program under which the TDA awards grants to participants in the Child and Adult Care Food Program, Head Start program, or other early childhood education programs to operate nutrition education programs for children who are at least three years of age but younger than five years of age, as well as to community and faith-based initiatives that provide recreational, social, volunteer, leadership, mentoring, or developmental programs to incorporate nutrition education into programs provided for children younger than 19 years of age.

Senate Bill 282 takes effect June 19, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**Senate Bill 395**

**Effective:** 9-1-09

**Senate Author:** Lucio

**House Sponsor:** Lucio III

Senate Bill 395 amends the Health and Safety Code to require the Texas Department of Agriculture (TDA) to establish the Early Childhood Health and Nutrition Interagency Council containing specified representatives from the TDA, Health and Human Services Commission, Department of State Health Services, Texas Workforce Commission, Texas Education Agency, Department of Family and Protective Services, and Texas AgriLife Extension Service. The bill requires the council to review current research to assess the health of children under the age of six, the significance of nutrition and physical activity among children in that target age range, and the existence of nutrition and physical activity requirements and practices in early childhood care settings. It requires the council to review the status of related programs administered by member agencies and the availability of existing state and federal funding sources for the promotion of health and nutrition in those settings. The council must develop an early childhood nutrition and physical activity plan that includes methods to increase fruit and vegetable consumption and decrease malnutrition and undernourishment among children under age six, increase daily physical activity in early childhood care settings, facilitate the consumption of breast milk in such settings, increase parental awareness of the benefits of breast feeding as well as healthy childhood eating and activity, and engage community and state resources and service providers to educate and increase parental and caretaker awareness regarding the need for proper nutrition. The council must submit the plan to the legislature and governor not later than November 1, 2010. The bill also requires reports by the council to the legislature and governor, the first of which is due not later than November 1, 2012.

**Senate Bill 643**

**Effective:** 6-11-09

**Senate Author:** Nelson et al.

**House Sponsor:** Rose et al.

Senate Bill 643 provides for the reorganization of the system of state-owned-and-operated residential institutions that serve individuals with intellectual or developmental disabilities. Previously known as state schools, these institutions are now referred to as “state supported

living centers” under provisions of the bill. The bill establishes a classification system to determine residents’ placement in specific state centers based on a behavioral assessment of each resident or the reason the resident was committed to the institution. Residents committed as a result of a criminal conviction or delinquent conduct are classified as “alleged offender residents” and residents determined to be at risk of inflicting substantial physical harm to another are classified as “high-risk alleged offender residents.” Senate Bill 643 also reorganizes the system for investigating reports of suspected abuse, neglect, or exploitation of residents or clients of a state-owned-and-operated residential institution, an intermediate care facility for the mentally retarded (ICF-MR), or a home- and community-based services program by transferring responsibility for those investigations from the Department of Aging and Disability Services (DADS) to the Department of Family and Protective Services (DFPS).

Senate Bill 643 amends the Health and Safety Code to require DADS to establish a separate forensic state supported living center for the care of high-risk alleged offender residents apart from other clients and residents and to designate the Mexia State Supported Living Center for that purpose. The bill requires DADS to begin operating the Mexia State Supported Living Center as the forensic state supported living center not later than September 1, 2011. The bill establishes procedures for the determination of high-risk alleged offender status by an interdisciplinary team and the transfer to and placement in the forensic state supported living center of residents found to be high-risk alleged offenders. The bill includes provisions relating to training on the delivery of services for direct care employees of the forensic state supported living center. The bill requires DADS to ensure that the forensic state supported living center complies with ICF-MR certification requirements under the Medicaid program and has additional center employees, including direct care employees, to protect the safety of center employees, residents, and the community.

Senate Bill 643 requires DADS to collect data regarding the commitment of alleged offender residents to state supported living centers and to submit an annual report of the information collected to the governor, lieutenant governor, speaker of the house of representatives, and standing committees with jurisdiction over the state centers. The bill requires criminal history checks for employees and volunteers of state supported living centers, requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt a random illegal drug testing policy for center employees and a policy for reporting illegal drug use, requires DADS to provide specified competency training for center employees, and requires DADS to install and operate a video surveillance system at state supported living centers to detect and prevent exploitation of residents and clients.

Senate Bill 643 establishes the office of independent ombudsman for the purpose of investigating, evaluating, and securing the rights of residents and clients of the state centers, including the forensic state supported living center and the ICF-MR component of the Rio Grande State Center. The bill requires the governor to appoint the independent ombudsman and includes provisions relating to the hiring of an assistant ombudsman at each center, conflicts of interest, duties and powers of the ombudsman, promoting awareness of the ombudsman, and retaliation for cooperating with an ombudsman investigation. The bill provides for confidential communication between the ombudsman and any resident or client, authorized representative of a resident or client, family member of a resident or client, or other interested party. The bill requires the ombudsman to submit a biannual report to the governor, lieutenant governor, speaker of the house of representatives, and chairs of the standing committees of the legislature with primary jurisdiction over state supported living centers and specifies the information required to be included in the report. The office of independent ombudsman is also required to establish a permanent, toll-free number for receiving information concerning a violation of a right of a resident or client.

Senate Bill 643 requires HHSC's office of inspector general to employ and commission peace officers for the purpose of assisting a state or local law enforcement agency in the investigation of an alleged criminal offense involving a resident or client of a state supported living center. The bill requires the inspector general to prepare a summary report for each investigation conducted with the assistance of the inspector general and an annual status report of the inspector general's activities with regard to assisting law enforcement with such investigations. The bill specifies the information to be included in both the investigation and summary reports and the individuals and entities to whom the reports are to be delivered.

Senate Bill 643 amends the Human Resources Code to require HHSC, DFPS, DADS, the office of independent ombudsman, and HHSC's office of inspector general to enter into a memorandum of understanding that delineates the responsibilities of each agency regarding investigations of abuse, neglect, or exploitation of residents or clients of state supported living centers of the ICF-MR component of the Rio Grande State Center. During the negotiation of the memorandum, the bill requires the agencies to jointly determine whether the forensic training received by relevant staff of DFPS is adequate. The bill enhances the penalty for failing to report certain suspected abuse, neglect, or exploitation of a disabled person if the person is a disabled person with mental retardation who resides in a state supported living center, the ICF-MR component of the Rio Grande State Center, or an ICF-MR facility. The bill also requires a caseworker immediately to report suspected abuse, neglect, or exploitation believed to constitute a criminal offense, clarifies procedures relating to investigations in community centers and local mental health and mental retardation authorities, and requires the commissioner of DADS to employ an assistant commissioner of state supported living centers.

Senate Bill 643 requires DADS, at least every 12 months, to conduct an unannounced on-site survey in each group home, other than a foster home, at which home- and community-based services are provided. The bill requires DADS, in consultation with DFPS, to develop and maintain an electronic database of information relating to investigations of abuse, neglect, and exploitation of residents at publicly or privately operated ICF-MR or group homes at which home- and community-based services are provided.

Senate Bill 643 amends the Education Code to establish a school district program to provide educational services to alleged offender residents of the forensic state supported living center who are under 22 years of age. The bill establishes procedures for determining a resident's enrollment and the educational services to be provided to the resident, performing functional behavioral assessments for participating residents, and developing a memorandum of understanding between the forensic state supported living center and the school district in which alleged offender residents are enrolled. The bill provides for an additional annual allotment to the school district for each alleged resident offender in average daily attendance.

Senate Bill 643 amends the Government Code to authorize the Department of State Health Services (DSHS) and DADS to obtain criminal history record information on certain applicants, employees, and volunteers who would be placed in direct contact with a resident or client of a state supported living center or the ICF-MR component of the Rio Grande State Center. The bill also requires the executive commissioner of HHSC to establish an independent mortality review system to review the death of an individual with developmental disabilities who, at the time of death, resided in or received services from an ICF-MR operated or licensed by DADS, a community center, or the ICF-MR component of the Rio Grande State Center, or who received residential assistance through a home- and community-based waiver program. The bill requires the executive commissioner to contract with a patient safety organization to conduct independent mortality reviews and establishes procedures relating to the review process.



Senate Bill 643 establishes the Interim Select Committee on Criminal Commitments of Individuals with Mental Retardation to study the criminal commitment process for individuals who are found incompetent to stand trial or who are acquitted by reason of insanity. The bill specifies the analysis required to be conducted as part of the study, sets out the committee's membership, and requires the committee to report findings and recommendations to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature not later than December 1, 2010. The bill requires DADS to evaluate and determine the types of training needed by an employee or owner of a licensed ICF-MR or licensed or certified provider of home- and community-based waiver services and to report the results of the evaluation not later than December 1, 2010, to the governor, lieutenant governor, speaker of the house of representatives, and chairs of the standing committees of the legislature with primary jurisdiction regarding persons with mental retardation. The bill also requires an employee of DADS who performs duties primarily related to consumer rights and services at state schools to reapply for employment.

Senate Bill 643 amends the Penal Code to enhance the penalty for intentionally or knowingly committing an offense involving bodily injury to certain disabled individuals residing in a state center or ICF-MR if the actor is an employee of the center or facility whose employment involved providing direct care for the victim.

Senate Bill 643 is an omnibus bill and amends or repeals provisions of the Code of Criminal Procedure, Family Code, and Health and Safety Code primarily related to technical corrections and conforming changes that are not specified in the above summary.

**Senate Bill 705**

**Effective:** See below

**Senate Author:** Nelson

**House Sponsor:** Naishtat

Senate Bill 705 amends provisions of the Human Resources Code and the Government Code relating to long-term care consumer information and Medicaid waiver programs. The bill requires the Department of Aging and Disability Services (DADS), in consultation with the Health and Human Services Commission (HHSC), to streamline the administration and delivery of services through home- and community-based services waiver programs and identifies initiatives DADS may consider for the streamlining effort. The bill also requires certain long-term care services information to be made available on the HHSC and DADS websites and prescribes requirements relating to the form, purpose, and content of that information, including availability of printed copies.

Senate Bill 705 repeals provisions of the Government Code relating to a pilot program for consolidating home- and community-based services waiver programs effective September 15, 2009, and provides for continuous eligibility, enrollment, and services through other waiver programs for each person receiving services through the consolidated waiver program. Except as otherwise provided, the bill takes effect June 19, 2009.

**Senate Bill 1646**

**Effective:** See below

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

**House Sponsor:** Naishtat et al.

Senate Bill 1646 amends the Government Code to create the Council on Children and Families, whose purpose is to coordinate the state's health, education, and human services systems to ensure that children and families have access to needed services; improve coordination and efficiency in state agencies, advisory councils, and local levels of service; prioritize and mobilize resources for children; and facilitate an integrated approach to providing services for children and youth. The bill sets forth the composition of the council, specifies the duties of the council, and requires the council to submit a biennial report regarding child welfare to the

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governor, presiding officers, and members of the legislature that contains requests, plans, and recommendations of the council. The council is subject to the Texas Sunset Act and is abolished September 1, 2019, unless continued in existence.

Senate Bill 1646 takes effect June 19, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

### **Senate Bill 1824**

**Effective:** 9-1-09

**Senate Author:** Lucio

**House Sponsor:** Lucio III

Senate Bill 1824 amends the Health and Safety Code to create an interagency task force for children with special needs to develop a five-year plan to improve the coordination, quality, and efficiency of services for those children. The bill establishes duties of the task force as well as requirements for developing the plan and includes provisions relating to the organization, staffing, administration, and operation of the task force. The bill requires the task force to report biennially to the governor, lieutenant governor, and speaker of the house of representatives and specifies the elements required to be included in the report. The task force is subject to the Texas Sunset Act and expires September 1, 2015, unless continued in existence.

### **Senate Bill 1878**

**Effective:** See below

**Senate Author:** Nelson

**House Sponsor:** Chavez

Senate Bill 1878 amends the Government Code to require the Texas Department of Housing and Community Affairs to create a housing and health services coordination council to coordinate and increase state efforts to offer service-enriched housing. The bill includes provisions relating to the council's composition, operation, and duties. The bill provides for the assignment of department staff to provide advisory support to the council and the terms of membership, compensation, and appointment of council members. The bill requires the council to develop a biennial plan to implement prescribed goals and to deliver a report of findings and recommendations to the governor and the Legislative Budget Board not later than August 1 of each even-numbered year.

Senate Bill 1878 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

## **Medicaid and Chip**

### **House Bill 497**

**Effective:** 6-19-09

**House Author:** Zerwas et al.

**Senate Sponsor:** Nelson

House Bill 497 requires the Health and Human Services Commission and the Texas Department of Insurance to conduct a joint study of the effects of a reduced, or significantly altered or abolished, Medicaid program on the health care delivery system in Texas. The bill requires the commission and department to submit a report not later than July 1, 2010, to the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services. The bill sets out elements required to be a part of the study and the planning provisions and analyses required to be included in the report.

### **House Bill 1487**

**Effective:** 9-1-09

**House Author:** Pitts et al.

**Senate Sponsor:** Nelson

House Bill 1487 amends the Government Code to require the Health and Human Services Commission to review and modify forms, rules, and procedures related to orders for diabetic

equipment and supplies under the Medicaid program to conform to the ordering system for diabetic equipment and supplies under the Medicare program. The bill requires the ordering system to permit forms to be completed electronically or by hand and includes provisions authorizing a provider of diabetic equipment and supplies to bill and collect payment.

**House Bill 1966**

**Effective:** 6-19-09

**House Author:** Davis, John et al.

**Senate Sponsor:** Nelson

House Bill 1966 requires the Health and Human Services Commission to develop an e-prescribing implementation plan under the vendor drug program for the Medicaid and child health plan programs designed to improve patient safety and standardize electronic prescribing systems used in the program. Along with establishing general requirements for the plan, the bill requires the commission to submit an initial and a final report to the governor and the Legislative Budget Board regarding the plan and specifies the deadlines by which these reports must be submitted.

**House Bill 1990**

**Effective:** 5-23-09

**House Author:** McReynolds et al.

**Senate Sponsor:** Duncan

House Bill 1990 amends the Government Code to require the Health and Human Services Commission to establish a diabetes self-management training pilot program under the state Medicaid program. The bill specifies the qualifications for participation in the program and sets out requirements for the commission in establishing the program relating to certification of diabetes self-management training providers, assessment of potential program participants, minimum training and education for program participants, group session training, and repeat participant training as medically necessary. The bill requires the commission to ensure that the pilot program measures the progress of program participants using specific health outcomes for diabetes disease management and requires the commission to submit a report to the governor, presiding officers of the legislature, standing committees of the legislature with appropriate subject matter jurisdiction, and the Texas Diabetes Council not later than December 1, 2012. The pilot program expires September 1, 2013.

**House Bill 2030**

**Effective:** 9-1-09

**House Author:** Zerwas

**Senate Sponsor:** Deuell

House Bill 2030 amends provisions of the Government Code relating to the Medicaid Drug Utilization Review Program and prescription drug use under the Medicaid drug program. The bill requires the Health and Human Services Commission to provide for an increase in the number and types of retrospective drug use reviews performed each year as compared to the reviews performed in the state fiscal year ending August 31, 2009, and sets forth requirements of the commission relating to the review program and the associated annual report. The bill includes provisions relating to conflicts of interest for a member of the Medicaid Drug Utilization Review Board, prescription drug use and expenditure patterns, and periods of validity for prescriptions. The bill sets forth provisions regarding the confidentiality of certain drug name information, the information that may be contained in preferred drug lists, methods for submitting requests for prior authorization for reimbursement for certain prescription drugs, certain publication and website posting requirements relating to the preferred drug list, and meeting requirements for the Pharmaceutical and Therapeutics Committee.

**House Bill 2163**

**Effective:** 9-1-09

**House Author:** Turner, Sylvester et al.

**Senate Sponsor:** Uresti

House Bill 2163 amends the Government Code to require the Health and Human Services Commission to conduct a study to determine the appropriateness and safety of providing antipsychotic or neuroleptic medication through the Medicaid vendor drug program to children younger than 16 years of age. The bill prescribes the factors required to be considered by the study and requires the executive commissioner of the commission not later than November 10, 2010, to report the results of the study to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the Senate Committee on Health and Human Services and the House Committee on Public Health.

**House Bill 3231**

**Effective:** 6-19-09

**House Author:** Davis, John et al.

**Senate Sponsor:** Nelson

House Bill 3231 clarifies the intent of the legislature in directing the Health and Human Services Commission to enroll newborns in Medicaid managed care plans. The bill clarifies that by enacting H.B. 2896 (Chapter 1447, Acts of the 76th Legislature, Regular Session, 1999) and H.B. 2641 (Chapter 1460, Acts of the 76th Legislature, Regular Session, 1999), the legislature specifically intended the commission to continue to enroll newborns into managed care and expedite the enrollment process. The bill removes a provision relating to the temporary assignment of newborn infants to the traditional fee-for-services component of Medicaid and clarifies that this provision was not intended to prohibit enrollment in a Medicaid managed care plan of newborn infants whose eligibility was known or determined at birth.

**Senate Bill 187**

**Effective:** 9-1-09

**Senate Author:** Deuell et al.

**House Sponsor:** Lucio III

Senate Bill 187 amends the Government Code to require the executive commissioner of the Health and Human Services Commission, not later than December 1, 2009, to develop and implement a Medicaid buy-in program for disabled children whose family incomes do not exceed 300 percent of the applicable federal poverty level. The bill requires any rules adopted by the executive commissioner relating to the buy-in program to require a participant to pay a monthly premium according to a sliding scale based on family income and subject to federal requirements.

**Senate Bill 531**

**Effective:** 9-1-09

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

**House Sponsor:** Zerwas

Senate Bill 531 amends the Government Code to require the Health and Human Services Commission, if cost-effective and feasible, to expand the Medicaid billing coordination system and to process claims for all other health care services provided through the Medicaid program in the manner claims for acute care services are currently processed by the system, except for claims being processed by an alternative billing coordination system prior to September 1, 2009.

Senate Bill 531 amends the Human Resources Code to require the commission to provide reimbursement under Medicaid to a licensed pharmacist who is authorized to administer immunizations and who administers an immunization to a Medicaid enrollee to the same extent a physician or other health care provider is reimbursed for the administration of that immunization. The bill sets forth requirements of third-party health insurers relating to Medicaid enrollees and to the state's activities in recovering certain Medicaid payments.

**Senate Bill 1645**  
**Effective:** 6-19-09

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

Senate Bill 1645 requires the Health and Human Services Commission to conduct a feasibility study of establishing separate reimbursement rates under the Medicaid vendor drug program for pharmacies that provide certain pharmacy care management services to patients who are administered specialty pharmacy drugs or any other biologic or therapy that requires complex care. The bill provides requirements relating to the study and requires the commission to report results of the study to the legislature not later than September 1, 2010.

Senate Bill 1645 amends the Health and Safety Code to exempt a state agency or a political subdivision of the state that distributes prescription drugs to certain nonprofit or local health care facilities from provisions relating to wholesale prescription drug distributor's license requirements. The bill authorizes the executive commissioner of the commission to exempt from those provisions specific purchases of prescription drugs by state agencies and political subdivisions under certain conditions.

**Senate Bill 1804**  
**Effective:** 9-1-09

**Senate Author:** Zaffirini  
**House Sponsor:** Hughes

Senate Bill 1804 amends the Human Resources Code to authorize the Health and Human Services Commission to provide Medicaid reimbursement for the provision of, or the performance of a major modification to, a wheeled mobility system if certain conditions are met.

**Senate Bill 2424**  
**Effective:** 6-19-09

**Senate Author:** Deuell  
**House Sponsor:** Naishtat

Senate Bill 2424 amends the Human Resources Code to revise provisions relating to the required authorization from the Health and Human Services Commission to transport a Medicaid recipient by ambulance in nonemergency situations. The bill clarifies that commission rules must require authorization to be obtained on the same day if the transportation is for only one day and require a single authorization to be obtained before an ambulance is used if the request is for transportation on more than one day. The rules are also required to provide for the availability of the commission or a person authorized to act on behalf of the commission to evaluate requests for ambulance transportation not less than 12 hours each day, excluding weekends and holidays. The bill clarifies that a request for authorization required to be immediately granted under certain conditions is effective for a period of not more than 180 days.

**Senate Bill 2435**  
**Effective:** 9-1-09

**Senate Author:** Uresti  
**House Sponsor:** Naishtat

Senate Bill 2435 amends the Human Resources Code to authorize a court that appoints a guardian for a Medicaid recipient to order certain compensation and costs relating to the guardianship to be paid under the Medicaid program. The bill amends the Texas Probate Code to identify the compensation and costs permitted and set the maximum amounts to be paid for each.

## **Mental Health and Mental Retardation**

**House Bill 888**  
**Effective:** 6-19-09

**House Author:** Naishtat  
**Senate Sponsor:** Uresti

House Bill 888 amends the Health and Safety Code to extend from 12 p.m. to 4 p.m. on the first succeeding business day the time until which a person accepted by a mental health facility

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for a preliminary mental health examination may be detained if the 48-hour maximum custody period ends on a Saturday, Sunday, or legal holiday or before 4 p.m. on the first succeeding business day.

### **House Bill 890**

**Effective:** 9-1-09

**House Author:** Naishtat

**Senate Sponsor:** Wentworth

House Bill 890 amends the Government Code and Health and Safety Code to change from “master” to “associate judge” references in law describing an associate judge appointed to preside over a court-ordered mental health services proceeding.

### **House Bill 1023**

**Effective:** 6-19-09

**House Author:** Deshotel

**Senate Sponsor:** Williams

House Bill 1023 amends the law that provided for the transfer of certain state property to Spindletop MHMR Services to authorize the Health and Human Services Commission, the Department of State Health Services, or the Department of Aging and Disability Services to amend or supplement by addendum an agreement providing for the transfer of the former site of the Beaumont State Center to Spindletop MHMR Services to require Spindletop MHMR Services to use the property in a manner that primarily promotes a public purpose of Texas by using the property to provide community-based physical health, health-related, mental health, or mental retardation services. The agreement as amended or supplemented by addendum must be executed by the parties to the agreement and recorded in the real property records of Jefferson County, Texas.

### **House Bill 1232**

**Effective:** 9-1-09

**House Author:** Menendez

**Senate Sponsor:** Van de Putte

House Bill 1232 requires the Department of State Health Services to establish a local behavioral health intervention pilot project for children in Bexar County. The bill specifies the elements required to be implemented under the pilot project, including collaboration between a local mental health authority and state agencies to provide uniform early intervention behavioral health services to children, identifying children at risk of placement in an alternative setting for behavior management, obtaining parental consent for participation, and developing best practices for the administration of the project. The bill includes provisions relating to disclosure of information relating to children who may participate in the program, funding sources to implement the pilot project, and complaint procedures. The bill requires the local mental health authority involved in the project, not later than December 1, 2010, to submit a report to the department regarding the efficacy of the project and any findings and recommendations. The bill clarifies that its provisions do not authorize the implementation of school-based mental health screening. The pilot project expires September 1, 2011.

### **House Bill 1454**

**Effective:** 5-20-09

**House Author:** Naishtat et al.

**Senate Sponsor:** Zaffirini

House Bill 1454 amends the Government Code to require the Health and Human Services Commission to create a volunteer-supported decision-making advocate pilot program for persons with intellectual and developmental disabilities and persons with other cognitive disabilities. The bill requires the commission to select at least one rural community and at least one urban community in which to implement the program, convene a work group to develop the rules and structure of the pilot program, and contract with one or more entities to administer the program and recruit and train volunteer advocates to provide services through the program. The bill sets

out procedures for the award of such a contract, clarifies that the program is to provide services to persons living in the community, and prohibits the pilot program from serving residents of a state school.

House Bill 1454 requires the commission to publish a report before each regular session of the legislature that includes an evaluation of the program, recommended improvements, and a recommendation to continue, expand, or eliminate the program. The executive commissioner of the Health and Human Services Commission is required to appoint members to the work group not later than January 1, 2010. The program's statutory authorization expires September 1, 2013.

**House Bill 2039**

**Effective:** 6-19-09

**House Author:** Truitt

**Senate Sponsor:** Uresti

House Bill 2039 authorizes the Department of Aging and Disability Services to transfer certain state property from the department to the following community mental health and mental retardation centers: the Anderson Cherokee Community Enrichment Services d/b/a ACCESS, the Border Region Mental Health Mental Retardation Community Center, the Bexar County Board of Trustees for Mental Health Mental Retardation Services d/b/a The Center for Health Care Services, the Heart of Texas Region Mental Health Mental Retardation Center, the Hill Country Community Mental Health Mental Retardation Center, Lakes Regional Mental Health Mental Retardation Center, Mental Health Mental Retardation of Tarrant County, Texana Center, Texas Panhandle Mental Health Mental Retardation, and West Texas Centers for Mental Health Mental Retardation. The bill specifies the boundaries for each of the properties to be transferred.

**House Bill 4276**

**Effective:** 9-1-09

**House Author:** Menendez et al.

**Senate Sponsor:** Uresti et al.

House Bill 4276 amends the Health and Safety Code to require the facility administrator of a mental health facility, in conjunction with the local mental health authority, to create a transportation plan for a person scheduled to be discharged or furloughed from the facility. The bill requires the plan to account for the person's capacity, be in writing, and specify certain details about the transportation. On consent of the person discharged or furloughed, the facility is required to forward the plan to a family member of the person before the transport.

**House Bill 4451**

**Effective:** 6-19-09

**House Author:** McReynolds et al.

**Senate Sponsor:** Hinojosa

House Bill 4451 amends the Human Resources Code to establish that if a child who is mentally ill or mentally retarded is discharged from the Texas Youth Commission (TYC) because the child has completed the minimum length of stay for the offense and because TYC determines that the child is unable to progress in TYC's rehabilitation programs because of the child's mental illness or mental retardation, the child is eligible to receive continuity of care services from the Texas Correctional Office on Offenders with Medical or Mental Impairments. The bill authorizes TYC to petition the appropriate juvenile court for the initiation of mental health commitment proceedings for a child who is committed to TYC under a determinate sentence for habitual felony conduct or certain other specified offenses, and prescribes provisions relating to the juvenile court proceedings and the terms of a child's commitment to an inpatient mental health facility that result from the petition.

House Bill 4451 amends the Health and Safety Code to authorize a child with mental illness who is receiving continuity of care services during parole from TYC and who is no longer eligible to receive services from a local mental health authority when the child becomes 17 years of

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age because the child does not meet the requirements of a local service area plan under state law to continue to receive continuity of care services from the office until the child completes the child's parole. The bill authorizes a child with mental illness or mental retardation who is discharged from TYC as described above to receive continuity of care services from the office for a minimum of 90 days after discharge and for as long as necessary for the child to demonstrate sufficient stability to successfully transition to services provided by a local mental health and mental retardation authority.

### **Senate Bill 584**

**Effective:** 6-19-09

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

**House Sponsor:** Gonzales

Senate Bill 584 amends the Health and Safety Code to require state-operated mental health facilities and residential care facilities to provide written notice at the time a patient is admitted for voluntary or involuntary inpatient mental health services that certain trusts of which the patient is a beneficiary are not liable for the patient's support. The bill requires further explanation of the notice within 24 hours of the patient's admission and also requires the notice to be attached to any request for payment for the patient's or resident's support.

### **Senate Bill 1054**

**Effective:** 5-20-09

**Senate Author:** Uresti

**House Sponsor:** Hilderbran

Senate Bill 1054 amends the Health and Safety Code to convert the Hill Country local mental health authority crisis stabilization unit pilot project into a permanent crisis stabilization unit on the grounds of the Kerrville State Hospital. The Department of State Health Services is required to contract with the local mental health authority serving the Hill Country area, including Kerr County, to operate the unit.

## **Nursing Home, Assisted Living, Day Care, and Related Facilities**

### **House Bill 216**

**Effective:** See below

**House Author:** Menendez et al.

**Senate Sponsor:** Shapleigh

House Bill 216 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission, not later than September 1, 2010, to develop and publish model standards for the operation of a boarding home facility. The bill specifies the elements to be included in the standards. The bill authorizes a county or municipality to require a person to obtain a permit to operate a boarding home facility, establish permitting procedures, and conduct an inspection, survey, or investigation. The bill establishes procedures for the reporting and investigation of abuse, neglect, or exploitation of certain boarding home residents and requires a county or municipality that issues a boarding home permit to submit an annual report to the commission not later than September 30 of each year following the establishment of the permit requirement. The bill specifies the information required to be included in the municipal and county reports and requires the commission to compile that information as part of a biennial report to the legislature. The bill prohibits the exclusion of an entity that meets county or municipal requirements established under the bill's provisions from a residential area by zoning ordinances or similar regulations. The bill also includes within the meaning of "assisted living facility" an establishment that provides administration of medication or assistance with or supervision of the administration of medication. Provisions of the bill relating to local regulation of boarding home facilities, permit procedures, posting requirements, inspections, and interlocal cooperation for inspecting and permitting facilities take effect September 1, 2010. All other provisions take effect September 1, 2009.



**House Bill 392**  
**Effective:** 9-1-09

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

House Bill 392 amends the Health and Safety Code to require convalescent homes, nursing homes, and related institutions to have available for use an automated external defibrillator and requires each institution to comply with provisions of law relating to the training, use, and notification requirements for automated external defibrillators. The bill requires use of an automated external defibrillator to be consistent with a resident's advance directive executed or issued under provisions relating to out-of-hospital do-not-resuscitate orders and requires an institution to employ at least one person trained in the proper use of an automated external defibrillator.

**House Bill 415**  
**Effective:** 9-1-09

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

House Bill 415 amends the Human Resources Code to increase from fewer than 50 to fewer than 100 the maximum number of full-time employees employed by a corporation, partnership, sole proprietorship, or other legal entity that qualifies such entity as a small employer for purposes of regulating employer-based day-care facilities.

**House Bill 1081**  
**Effective:** 9-1-09

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

House Bill 1081 amends the Health and Safety Code to require the Department of Aging and Disability Services to post detailed compliance information regarding each institution licensed by the department on the department's website, including information about the rights of residents, notice of citation for a violation of those rights, and a statement of an institution's record of compliance. The bill requires the department to update the website once a month to provide the most current compliance information regarding each institution.

**House Bill 2191**  
**Effective:** 9-1-09

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

House Bill 2191 amends the Health and Safety Code to require a health care facility that serves the elderly or persons with disabilities and that employs a person pending a criminal history check to ensure that the person has no direct contact with a consumer until the facility obtains the person's criminal history record information and verifies the person's employability.

**House Bill 2972**  
**Effective:** 9-1-09

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

House Bill 2972 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission to adopt rules, not later than June 1, 2010, to implement an expedited fire safety inspection process through which convalescent and nursing home and related institution license holders or license applicants may obtain a life safety code and physical plant inspection within 15 days of the request. The rules are required to permit the Department of Aging and Disability Services (DADS) to charge a fee for the expedited inspection that may vary based on the size and type of the institution.

Under previous law DADS was authorized to issue a provisional license to newly constructed assisted living facilities if certain conditions were met; House Bill 2972 instead requires DADS to issue such a license under those same conditions and additionally requires the license applicant to submit working drawings and specifications for review before beginning construction. The bill also requires DADS to conduct a life safety code inspection of a facility as soon as possible

after issuing a provisional license and, following a passed inspection, to issue a license if the applicant meets all necessary requirements. The bill authorizes DADS to collect an additional fee for conducting more than two life safety code inspections at an applicant's facility and requires DADS to annually report the number of life safety code surveys for an initial assisted living facility license.

House Bill 2972 clarifies that a controlling person of a convalescent and nursing home or a related institution, an assisted living facility, or a business entity that operates such an entity that is a publicly traded corporation or is controlled by a publicly traded corporation means an officer or director of the corporation but not a shareholder or lender.

**Senate Bill 68**

**Effective:** See below

**Senate Author:** Nelson

**House Sponsor:** Darby et al.

Senate Bill 68 amends provisions of the Human Resources Code relating to licensing and inspection requirements of the Department of Family and Protective Services (DFPS) for certain facilities and homes that provide child care. The bill defines "before-school or after-school program" and "school-age program," for purposes of establishing these programs as child-care facilities that are required under current law to be licensed by DFPS, and adds these programs to the list of facilities for which DFPS must adopt standards.

Among other provisions, Senate Bill 68 exempts DFPS from complying with Occupations Code provisions relating to a criminal conviction for purposes of a license issued or a background check conducted under the Human Resources Code. The bill expands the exemptions from licensing requirements that apply to certain facilities, homes, and agencies and repeals law relating to exemptions from licensing requirements that apply to an educational facility operating in a county with a population of less than 25,000. Senate Bill 68 establishes new provisions and modifies existing provisions relating to rules and standards for certain child-care facilities, including the standards relating to background check information for a child-care facility located in a temporary shelter, including a family violence or homeless shelter, in which a child may temporarily reside.

Previous law required DFPS to adopt rules on background and criminal history checks for certain people and to establish the violations that pose a risk to the health and safety of children. Senate Bill 68 instead directs the executive commissioner to adopt these rules and to establish the criteria for determining whether the operation of a facility or family home poses such a risk. The bill requires a child-placing agency, foster home, or foster group to submit a complete set of fingerprints for specified people before a child for whom DFPS is the managing conservator is placed in such a facility, and establishes exemptions to this requirement. The bill also expands the list of people for whom a child-care facility is required to submit information to DFPS for use in conducting a background and criminal history check and prohibits a person from interfering with an investigation or inspection of a facility or family home conducted by DFPS. Senate Bill 68 expands the list of violations that are subject to a civil penalty to include knowingly failing to meet or maintain any criterion of an authorized exemption and engaging in activities that require a license or registration, or failing to inform DFPS of a change in status and knowing that the change requires a person to be licensed or registered. Except for the provisions relating to the licensing of before-school or after-school programs and child-care facilities located in a temporary shelter, which take effect on the later of the date on which minimum standards are adopted or September 1, 2010, the bill takes effect September 1, 2009.

**Senate Bill 95****Effective:** 9-1-09**Senate Author:** Van de Putte et al.**House Sponsor:** Menendez

Senate Bill 95 amends the Human Resources Code to prohibit a licensed day-care center, licensed group day-care home, or registered family home from using, or having on its premises, an unsafe children's product, unless the product is an antique or collectible children's product, or is being retrofitted to make it safe, and is not used by or accessible to any child in the facility. The bill establishes a presumption that a children's product is unsafe if it has been recalled for any reason by the U.S. Consumer Product Safety Commission (CPSC) and the recall has not been rescinded. An exception to the presumption applies if a product that has been recalled has been remanufactured or retrofitted so that it is safe. The bill requires the Department of Family and Protective Services (DFPS) to include on its Internet website a link to the CPSC website. It requires the DFPS to notify a child-care facility subject to the bill of the bill's provisions during a pre-application interview for a license, registration, or certification, and also during an inspection. The bill requires each affected child-care facility, at least annually, to certify that it has reviewed each of the bulletins and notices issued by the CPSC regarding unsafe children's products and that there are no unsafe prohibited products in the facility. The bill requires a facility to include, in the sign it posts describing reporting requirements applicable to the facility and certain childhood diseases and syndromes, a description of how to access a listing of unsafe children's products via the CPSC or DFPS websites.

**Senate Bill 572****Effective:** 9-1-09**Senate Author:** Shapiro et al.**House Sponsor:** Branch

Senate Bill 572 amends the Human Resources Code to require the Department of Family and Protective Services by rule to require an owner, operator, or employee of a day-care center, group day-care home, registered family home, child-care institution, foster group home, or agency foster group home who transports a child under the care of the facility whose chronological or developmental age is younger than nine years of age to complete at least two hours of annual training on transportation safety.

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

- House Bill 582 - Public Retirement Systems
- House Bill 1240 - Health and Safety
- House Bill 1630 - Family Law and Juvenile Justice
- House Bill 2628 - Taxes and Tax Administration
- Senate Bill 203 - Health and Safety
- Senate Bill 1027 - Health and Safety
- Senate Bill 1484 - Health and Medical Occupations



# Insurance

This chapter covers legislation relating to the regulation of companies and individuals licensed to sell insurance or annuities in Texas. The chapter also includes bills on the licensing of escrow officers, the review of claims processing, transactions between insurers and health care providers, and coverages provided by certain health benefit plans and the Texas health insurance pool. In addition, the chapter covers bills relating to health education and awareness programs administered by the Texas Department of Insurance and to the department's functions and operations. Bills relating to workers' compensation insurance are in the **Labor and Employment** chapter. Bills relating to health benefits coverage under public retirement systems are in the **Public Retirement Systems** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### **House Bill 651**

**Effective:** 9-1-09

**House Author:** Darby

**Senate Sponsor:** Harris

House Bill 651 amends the Insurance Code to increase from \$100,000 to \$150,000 the amount above which a domestic insurance company is prohibited from paying in any year as compensation or emolument to an individual, firm, or corporation, when added to any compensation or emolument paid to the person by an affiliated domestic insurance company, unless such payment is first authorized by a vote of the company's board of directors or a committee of the board that has the duty to authorize the payments.

### **House Bill 1757**

**Effective:** 6-19-09

**House Author:** Thompson et al.

**Senate Sponsor:** Van de Putte

House Bill 1757 amends the Insurance Code to require the commissioner of insurance or, at the commissioner's discretion, a vendor under contract with the Texas Department of Insurance (TDI) to review a license examination for a limited or single lines insurance agent license if, during any 12-month period beginning on September 1 of a year, that examination shows an overall pass rate of less than 70 percent for first-time examinees. In addition, the bill requires TDI to collect certain demographic information from an individual taking the license examination and to compile an annual report based on the commissioner's review indicating whether there was any disparity in the pass rate based on such information. The bill authorizes the commissioner by rule to establish procedures as necessary to collect the demographic information and to ensure that the annual review is conducted and the resulting report prepared, and requires the commissioner to deliver the report to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each year.

### **House Bill 1919**

**Effective:** 9-1-09

**House Author:** Kent et al.

**Senate Sponsor:** Ellis

House Bill 1919 amends a provision of the Insurance Code relating to the latest maturity date permitted by an annuity contract in determining the value of certain nonforfeiture benefits to remove the qualification that only if an annuity contract permits an election to have annuity payments begin on optional maturity dates is the latest permissible date not later than the later of the next anniversary of the contract that follows the annuitant's 70th birthday or the 10th anniversary of the contract. This change applies only to an annuity that is delivered, issued for delivery, or renewed on or after June 1, 2010.

**House Bill 1975**

**Effective:** 6-19-09

**House Author:** Hancock

**Senate Sponsor:** Lucio

House Bill 1975 amends the Insurance Code to increase from less than \$1 to less than \$5 the amount of excess unearned premiums that an insured is not entitled to receive as a refund from an insurance premium finance company when an insurance contract listed in a premium finance agreement is canceled, provided that the premium finance agreement contains an assignment or power of attorney for the benefit of the insurance premium finance company.

**House Bill 2449**

**Effective:** 9-1-09

**House Author:** Eiland

**Senate Sponsor:** Lucio

House Bill 2449 amends the Insurance Code to authorize a county mutual insurance company that, as of September 1, 2001, and continuously thereafter, appointed managing general agents, created districts, or organized local chapters to manage a portion of the company's business independent of all other business of the company to continue to operate in that manner and to appoint and contract with one or more managing general agents in accordance with state insurance laws only if the company cedes 85 percent or more of the company's direct and assumed risks to one or more reinsurers and has a private passenger automobile insurance business with a market share of not greater than five percent or that is predominantly nonstandard. The bill requires such a company to file, for each managing general agent, district, or local chapter program, the rating information required by the commissioner of insurance by rule and requires each managing general agent, district, or local chapter program to be treated as a separate insurer for purposes relating to prohibitions against discrimination by an insurer, rates, rating territories, and premium refunds for certain personal lines of insurance.

House Bill 2449 requires a county mutual insurance company that cedes 85 percent or more of the company's direct and assumed risks to one or more nonaffiliated reinsurers to maintain a specified amount of unencumbered surplus, or guaranty fund and unencumbered surplus. The bill requires the commissioner by rule to adopt a transition period of at least five years for such insurance companies to meet the new requirements and for the pro rata elimination of any deficiencies in the required amounts.

**House Bill 2456**

**Effective:** 6-19-09

**House Author:** Eiland

**Senate Sponsor:** Watson

House Bill 2456 amends the Insurance Code to authorize the commissioner of insurance to adopt rules requiring the holder of an insurance agent's license to be certified through specified education, training, examination, and experience requirements before selling certain complex insurance products or product lines. The bill requires the adopted rules to designate such products or product lines and to specify the reasons for the designation. The bill also authorizes the commissioner by rule to specify requirements for continuing education and precertification programs and requires the Texas Department of Insurance (TDI) to administer those programs. The bill also authorizes the commissioner to accept an examination administered by a testing service used for other insurance licensing purposes to satisfy the certification examination requirements under these provisions and requires the commissioner by rule to establish the applicability of the certification requirements and the date by which an agent must comply with those requirements. The bill requires TDI to issue a certificate to an agent if the agent has satisfied certain conditions and sets out provisions for the certificate's expiration and renewal.

**House Bill 3221**  
**Effective:** 6-19-09

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

House Bill 3221 amends the Insurance Code to specify that the notification an insurer is required to provide to a person relating to an increase in the amount of funds to be withdrawn from the person's account to pay premiums on insurance coverage be provided by mailing through the U.S. Postal Service a notice containing specified contact information for the insurer. The bill also identifies the means by which a policyholder may object to such an increase and specifies that the insurer may increase the amount withdrawn only if the insurer does not receive a valid objection to the increase on or before the fifth day before the date on which the increase is scheduled to take effect.

**House Bill 4291**  
**Effective:** 6-19-09

**House Author:** Smithee  
**Senate Sponsor:** Fraser

Previous law required the Texas Department of Insurance (TDI) to hold a hearing before denying an application for or revoking a certificate of authority or charter for a company that desired to enter the Texas market as an insurer. House Bill 4291 amends the Insurance Code to authorize TDI to deny an application for or revoke a certificate of authority or charter without being required to first hold a hearing and to allow an applicant to request a hearing after a denial or revocation. The bill authorizes an interested party to participate in any proceeding related to an application by a life, health, or accident insurance company or a stipulated premium insurance company.

**House Bill 4339**  
**Effective:** 6-19-09

**House Author:** Smithee  
**Senate Sponsor:** Fraser

House Bill 4339 amends the Insurance Code to create a tax-exempt unauthorized insurance guaranty fund to pay unpaid claims to individuals suffering damages as a result of policies issued by unauthorized insurers in Texas. The bill authorizes the commissioner of insurance to identify collected penalties to be deposited into the fund account from a group of specified penalties and sets forth requirements for the fund's operation. The bill identifies conditions for the advance of money from the fund account and for the use of such money.

**House Bill 4343**  
**Effective:** 6-19-09

**House Author:** Smithee  
**Senate Sponsor:** Fraser

House Bill 4343 amends the Government Code to add the Texas Department of Insurance to the list of noncriminal justice agencies and entities to which a criminal justice agency is authorized to disclose criminal history record information that is the subject of an order of nondisclosure.

**House Bill 4358**  
**Effective:** 6-19-09

**House Author:** Smithee  
**Senate Sponsor:** Fraser

House Bill 4358 amends the Insurance Code to authorize the commissioner of insurance to adopt and enforce reasonable rules the commissioner determines necessary to accomplish the purposes of provisions relating to administrative penalties for violations of the code. The bill also authorizes the commissioner to establish by rule the amount of an administrative penalty to be imposed for a specific violation and establishes that the existence or absence of a rule does not limit the commissioner's authority to take any action authorized by law.

**House Bill 4359**  
**Effective:** 6-19-09

**House Author:** Smithee  
**Senate Sponsor:** Duncan

House Bill 4359 amends Insurance Code provisions relating to the Texas Department of Insurance's surveillance of market conduct in other states, an audit or examination of an insurer, and a financial examination of a managing general agent to require a person with whom another state contracts to perform any market analysis or examination initiated by the other state of an insurer domiciled in Texas to register with and provide certain information to the department's chief examiner. The bill establishes that it is a violation of state insurance laws for a person to accept compensation from multiple states for the same examination if doing so results in duplicative costs to the insurer being examined but that it is not a violation of such laws for an examiner to conduct an examination of an insurer for multiple states in a coordinated examination and accept compensation from the participating states to reduce the costs to the insurer being examined.

**House Bill 4409**  
**Effective:** See below

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

House Bill 4409 amends the Government Code to extend the civil liability exemption for a member of the state military forces ordered into active service to an officer or employee of a state or local agency, or a volunteer acting at the direction of such an individual, if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster. The bill requires the division of emergency management in the office of the governor to define "individuals with special needs" in the context of a disaster. The bill requires the General Land Office and the Texas Department of Transportation to enter into pre-event contracts that may be activated in the event of a weather-related disaster declaration to obtain services for debris removal from beaches and the state highway system and requires those agencies to adopt the contracts not later than January 1, 2010. The bill requires the Texas Department of Housing and Community Affairs to enter into a similar contract to obtain temporary or emergency housing and authorizes an entity with charge and control of a critical government facility to equip the facility with a combined heating and power system if the expected energy savings exceed the expected costs.

House Bill 4409 amends Insurance Code provisions relating to the Texas Windstorm Insurance Association Act. The bill establishes that the primary purpose of the Texas Windstorm Insurance Association (TWIA) is to provide an adequate market for windstorm and hail insurance in the seacoast territory of Texas, specifies that TWIA is intended to serve as a residual insurer of last resort for such insurance in that territory, and removes from its purpose the provision of an adequate market for fire insurance. The bill requires TWIA to function in such a manner as to not be a direct competitor in the private market and to provide windstorm and hail insurance coverage to persons who are unable to obtain insurance coverage in the private market. The bill provides that TWIA is subject to review but not abolishment under the Texas Sunset Act, requires TWIA to be reviewed during the period in which state agencies abolished in 2015 are reviewed, and sets out provisions relating to the determination and payment of costs incurred by the Sunset Advisory Commission in performing the review. The bill provides that these sunset provisions expire September 1, 2015.

House Bill 4409 requires TWIA's board of directors to submit to the commissioner of insurance, the appropriate committees of each house of the legislature, and the commission a biennial report relating to TWIA's operations during the preceding biennium and sets forth requirements for the report's content. The bill authorizes the commissioner to adopt rules as reasonable and necessary to implement provisions relating to TWIA and removes the requirement



for a hearing before such a rule is adopted. The bill requires the Texas Department of Insurance (TDI) to maintain a list of all insurers that engage in the business of property and casualty insurance in the voluntary market in the seacoast territory and to develop incentive programs to encourage authorized insurers to write insurance on a voluntary basis and to minimize the use of TWIA as a means to obtain insurance. The bill amends provisions relating to member participation in TWIA and the use of its assets and establishes that losses not paid from available reserves of TWIA or the catastrophe reserve trust fund are required to be paid with proceeds from public securities issued in accordance with the bill's provisions or with reinsurance. The bill requires these funding sources to be used in a specified order, with any public securities proceeds received in a particular category being used before the proceeds of any public securities in a subsequent category are authorized to be used.

House Bill 4409 amends provisions relating to the composition, terms, officers, and meetings of TWIA's board of directors and establishes that the board's primary objectives are to ensure that TWIA operates in accordance with the law and commissioner rules, complies with sound insurance principles, and meets applicable standards. The bill abolishes the board, as it existed before amendment by this bill, on December 31, 2009, and requires the commissioner to appoint new board members not later than that date. The bill specifies that the term of a person who is serving as a board member immediately before the board's abolition expires on December 31, 2009, but provides that such a person is eligible for appointment to the new board.

House Bill 4409 requires TWIA's plan of operation to include procedures for obtaining and repaying amounts under any financial instruments authorized under the act; requires TWIA to make insurance available to each applicant in the catastrophe area whose property is insurable but who, after diligent efforts, is unable to obtain property insurance through the voluntary market, as evidenced by a declination of insurance by certain types of insurers; and requires each application for initial or renewal coverage also to contain a statement that the property and casualty agent submitting the application possesses proof of the declination and proof of flood insurance coverage or unavailability of that coverage. The bill prohibits TWIA, if all or any part of a qualified property is located in Zone V or a similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, and if flood insurance under the federal program is available, from issuing an insurance policy for initial coverage unless evidence that the property is covered by a flood insurance policy is submitted to TWIA. The bill requires an agent offering or selling a Texas windstorm and hail insurance policy in any area designated by the commissioner under these provisions to offer flood insurance coverage to the prospective insured if the coverage is available.

House Bill 4409 amends the requirements for canceling certain coverages; establishes that a nonrefundable surcharge established under the act is not refundable for any reason or purpose; expands the requirements for inspection by TWIA for consideration as insurable property eligible for coverage to include a structure that is altered, remodeled, or enlarged; requires evidence of previous insurance coverage of a structure under such consideration to reflect windstorm and hail coverage for the property within the 12-month period immediately preceding the date of the application for coverage through TWIA; and authorizes a residential structure insured by TWIA as of September 1, 2009, to continue such coverage subject to inspection requirements under provisions relating to mandatory building codes. The bill requires TDI to charge a reasonable fee for each inspection of each structure in an amount set by the commissioner, rather than as established by the board and approved by the commissioner; requires TDI to monitor TWIA's compliance with provisions relating to such inspections; prohibits TWIA from considering any request that a structure be certified as insurable property unless certain requirements are met; and, if a structure is rejected for coverage, authorizes a new request for certification and a

reinspection. The bill makes these provisions applicable to an inspection conducted by TWIA on or after September 1, 2009, and specifies that a structure that has been inspected and is the subject of a certificate of compliance issued by TDI under these provisions as they existed immediately before September 1, 2009, is not required to obtain a new inspection certificate to remain eligible for insurance coverage through TWIA, with certain exceptions.

House Bill 4409 establishes that, for any structure in a catastrophe area to be eligible for insurance through TWIA, all construction, remodeling, enlargement, and repair of or addition to the structure that is begun on or after the bill's effective date must be performed in compliance with the applicable building code standards, as set forth in the plan of operation. The bill prohibits TWIA from insuring such a structure until the structure has been inspected and a certificate of compliance issued; establishes that a noncompliant residential structure insured by TWIA as of June 1, 2009, that had been approved for insurability under the approval process regulations in effect on that date is subject to a specified annual premium surcharge, which applies to each policy issued or renewed by TWIA on or after the effective date of the bill and is due on the issuance or renewal of the policy; and requires the surcharge to be deposited in the catastrophe reserve trust fund. The bill establishes that the surcharge is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions and provides that failure to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

House Bill 4409 amends provisions relating to rate filings by TWIA and the commissioner's review and approval of such filings, authorizes the consideration of recognized catastrophe models in adopting rates for coverage, authorizes TWIA to establish rating territories and to vary rates among the territories, and authorizes a rating territory that subdivides a county to be used only under certain conditions. The bill removes language establishing that provisions relating to the duties of the State Office of Administrative Hearings and the commissioner in certain rate setting proceedings do not apply to an action taken by the commissioner to accept, modify, or reject a recommendation made by TWIA to reduce coverages or increase deductibles. The bill amends provisions relating to the establishment and use of the catastrophe reserve trust fund; authorizes TWIA to purchase reinsurance that operates in addition to or in concert with public securities, financial instruments, and assessments authorized under the act; and modifies the requirements for funding the mitigation and preparedness plan.

House Bill 4409 requires the board of directors of the Texas Public Finance Authority, at the request of TWIA and with the approval of the commissioner, to issue Class 1, Class 2, or Class 3 public securities in accordance with and subject to the requirements of Government Code provisions that apply to the issuance of a public security by a state agency. The bill requires TWIA to specify in its request to the finance authority board the maximum principal amount and the maximum term of the public securities and authorizes that amount to be increased to meet certain criteria. The bill requires the finance authority board to determine the terms of issuance of the securities, authorizes the board to enter into a credit agreement in connection with the public securities, and requires the public securities to be issued on behalf of TWIA. The bill authorizes the finance authority board to make additional covenants with respect to the public securities and the designated income and receipts of TWIA pledged to their payment, in addition to other responsibilities. The bill authorizes the public security proceeds to be deposited with the Texas Treasury Safekeeping Trust Company, establishes requirements for their use, and requires excess proceeds to be transferred to the catastrophe reserve trust fund if there are no outstanding public security obligations or public security administrative expenses. The bill provides for the repayment of TWIA's public security obligations and the notification

of the finance authority board of the amount of those obligations and the estimated amount of public security administrative expenses, if any; the deposit of collected revenue in the public obligation revenue fund and the use of the revenue; and the payment of amounts owed by the board under a credit agreement.

House Bill 4409 authorizes revenues received from the premium surcharges to be applied only as specified by these provisions, authorizes TWIA to pay public security obligations with other legally available funds, provides that public security obligations are payable only from sources provided for payment under these provisions, and sets out requirements for the payment of public securities from each source.

House Bill 4409 authorizes TWIA to request the finance authority board to refinance any public securities issued under these provisions with public securities payable from the same sources as the original public securities, establishes that a public security or credit agreement is payable solely from revenue, and specifies that a public security issued under these provisions, and any related credit agreement, is not a state debt. The bill sets forth the disclosure information that must appear on the face of each public security and any related credit agreement and prohibits the state, if public securities under these provisions are outstanding, from limiting or restricting the rights of TWIA to fulfill its responsibility to pay public security obligations or to impair the rights and remedies of the public security owners until the public securities are fully discharged. The bill establishes that a writ of mandamus and any other legal and equitable remedies are available to a party at interest to require TWIA or another party to fulfill certain agreements and to perform certain functions and duties. The bill exempts from state and local taxes a public security issued under these provisions, any related transaction, and profits made from the sale of the public security; exempts TWIA members, board members, employees, and certain other individuals and entities from personal liability as a result of exercising the rights and responsibilities granted under these provisions; and sets forth the statutory provisions under which public securities are considered authorized investments.

House Bill 4409 establishes the windstorm insurance legislative oversight board, sets forth the composition of the board and its powers and duties, and requires the board to report biennially to the governor, the lieutenant governor, and the speaker of the house of representatives on the board's activities and other specified matters. The bill specifies that a Lloyd's plan and a reciprocal and interinsurance exchange are subject to the act. The bill repeals provisions relating to the deletion of insurance coverages available through TWIA and to insurance coverage for certain governmental entities. The bill also repeals provisions relating to uniform rate requirements, the use of certain surcharges in developing rates, the effect on rates of certain other insurance coverages, and the Windstorm Building Code Advisory Committee.

House Bill 4409 requires the commissioner of insurance to adopt rules as required by these provisions as soon as possible after the effective date of the bill, but not later than the 30th day after that date. The bill requires TWIA, through its board of directors, to propose to the commissioner amendments to TWIA's plan of operation not later than March 1, 2010.

The bill takes effect June 19, 2009, except the Government Code provisions, which take effect September 1, 2009.

**House Bill 4461**  
**Effective:** 6-19-09

**House Author:** Smithee  
**Senate Sponsor:** Carona

House Bill 4461 amends the Insurance Code to provide that information or material acquired by the Texas Department of Insurance (TDI) that is relevant to an investigation is not a public record for the period that TDI determines is relevant to further or complete an investigation and

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that investigation files are not open records under the public information law. The bill specifies that TDI is not required to disclose information that is an attorney-client communication or an attorney work product or certain other protected information.

### **Senate Bill 698**

**Effective:** 9-1-09

**Senate Author:** Ellis

**House Sponsor:** Thompson

Senate Bill 698 amends the Insurance Code to require the commissioner of insurance, not later than January 1, 2010, to establish a registry of each legal entity engaged in the business of insurance in Texas that, formally or informally, has entered into an agreement with the Texas Department of Insurance (TDI) that disposes of allegations of race-based pricing and under which all or part of the relief agreed on to make insureds whole includes a claims-made offer that remains in place and has not otherwise expired under the terms of the agreement. The bill requires the registry to be prominently published on TDI's Internet website, to identify each insurance company that has entered into such an agreement and the eligibility and terms of the insurance company's claims-made offer, and to include a claim form and links to the Internet website of the company administering the offer.

Senate Bill 698 requires TDI to preserve all relevant documents regarding race-based pricing that TDI has gathered or created with respect to a race-based pricing investigation that is completed or ongoing on September 1, 2009, with certain exceptions, until the documents are eligible for delivery. The bill requires TDI, on completion of its investigation, but not later than January 15, 2011, to deliver the required records or copies of the records to the state archivist, and requires the state archives to preserve and catalogue the records and make them available to the public not later than January 15, 2015.

## Life and Health

### **House Bill 389**

**Effective:** 9-1-09

**House Author:** Zerwas

**Senate Sponsor:** Watson

House Bill 389 amends provisions of the Insurance Code relating to the expedited credentialing of certain physicians by managed care plans to redefine "medical group" to include a single legal entity owned by two or more physicians and to include a professional association composed of licensed physicians, rather than a professional corporation.

### **House Bill 739**

**Effective:** 9-1-09

**House Author:** Quintanilla

**Senate Sponsor:** Ellis

House Bill 739 amends the Insurance Code to require an insurance agent who sells, solicits, negotiates, or receives an application or contract for a Medicare-related product in Texas or who represents an insurer, a health maintenance organization, or a preferred provider organization in relation to such a product to meet certain professional training and continuing education requirements regarding those products. The bill prohibits an agent from selling a Medicare-related product without having completed the requisite training, requires the commissioner of insurance to adopt rules relating to these requirements by December 1, 2009, and makes these changes applicable to education requirements for agents whose license is issued or renewed on or after April 1, 2010.

**House Bill 806**  
**Effective:** 9-1-09

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

House Bill 806 amends the Insurance Code to require certain types of health benefit plans to provide coverage for prosthetic and orthotic devices and professional services related to the fitting and use of those devices equal to that of Medicare coverage. The bill sets out requirements for determining the appropriate manner of the coverage, establishes that coverage may be subject to annual deductibles, copayments, and coinsurance consistent with those for other coverage under the benefit plan, and prohibits annual dollar limits on the coverage. The bill limits the device models included in the covered benefits and establishes that the repair and replacement of a device is subject to applicable copayments and deductibles, with some exceptions. The bill authorizes covered benefits to be provided by a pharmacy that has employees with specified qualifications, authorizes the benefit plan to require prior authorization for a device in the same manner as for any other covered benefit, and sets out provisions for providing these benefits under a managed care plan. These changes apply only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2010.

**House Bill 1138**  
**Effective:** 9-1-09

**House Author:** Shelton et al.  
**Senate Sponsor:** Davis, Wendy

House Bill 1138 amends the Insurance Code to require the information on a pharmacy benefit identification card to include the enrollee's identification number and the bank's identification number for electronic billing and to specify that certain information on the card be located on the front of the card. In addition, the plan issuer may provide all the required information in electronically readable form on the back of the card. The bill expands the applicability of provisions governing such cards to include certain plans for state employees, the children's health insurance program for certain low-income children, and the Medicaid program, and requires rules relating to pharmacy benefit cards adopted by the commissioner of insurance to be consistent with national standards. These changes apply only to an insurance policy or contract or evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 2010.

**House Bill 1290**  
**Effective:** 9-1-09

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

House Bill 1290 amends the Insurance Code to require certain health benefit plans that provide coverage for medical screening procedures to cover tests for the early detection of cardiovascular disease for men older than 45 and younger than 76 and women older than 55 and younger than 76 who are diabetic or are at intermediate or higher risk of a heart attack. The minimum coverage required is up to \$200 per test for specified types of noninvasive screening tests once every five years. The bill also requires the Employees Retirement System of Texas board of trustees, not later than September 1, 2010, to develop a cost-neutral or cost-positive plan for providing bariatric surgery coverage for eligible state officers and employees under the group benefits program. These changes apply only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2010.

**House Bill 1293**  
**Effective:** Vetoed

**House Author:** Eiland  
**Senate Sponsor:** Ellis

House Bill 1293 amends the Insurance Code to require the commissioner of insurance by rule to adopt buyer's guides for consumers who are considering purchasing certain annuity contracts or certificates and specifies the types of guides the commissioner is authorized to

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adopt. The bill establishes standards and deadlines for presenting a disclosure document and the appropriate buyer's guide to an applicant for an annuity contract or certificate and sets forth minimum requirements for the information included in the disclosure document.

House Bill 1293 requires the insurer, in certain cases, to provide each contract owner with a report at least annually on the status of the contract that contains certain minimum information regarding the reporting period. The bill establishes that a violation of a requirement in the bill's provisions by an insurer or agent constitutes an unfair or deceptive act or practice in the business of insurance for the purposes of the state laws governing unfair methods of competition and unfair or deceptive acts or practices in the business of insurance and specifies that compliance with these provisions or with rules implementing these provisions is not an affirmative defense in any action brought by or for the Texas Department of Insurance alleging a violation of those and other insurance laws.

House Bill 1293 expands the conditions under which it is not a rebate or discrimination prohibited by state law to waive surrender charges under a life annuity contract and requires an insurer that offers to waive such charges to provide reasonable notice of such offers to its prospective or current contract holders through any available means. The bill's provisions apply to an application for an annuity contract or certificate, or a solicitation for an annuity contract, made on or after January 1, 2010.

Reason Given For Veto: "House Bill No. 1293 creates specific disclosure requirements and consumer education standards relating to the sale and marketing of life insurance annuities. Although the bill establishes standards of transparency and improvements that are important, I believe it will do more harm than good.

"This legislation designates any violation of these standards as an unfair or deceptive act or practice, which would expose agents and insurers to private claims for damages, attorney fees and costs for any such violation. Because the Texas Insurance Code already addresses suitable remedies for such offenses, I am opposed to this bill, which creates greater opportunities for frivolous litigation throughout the state."

### **House Bill 1294** **Effective:** 9-1-09

**House Author:** Eiland  
**Senate Sponsor:** Ellis

House Bill 1294 amends the Insurance Code to require a resident insurance agent who intends to sell, solicit, or negotiate a contract for an annuity in Texas or to represent an insurer in relation to such an annuity to submit evidence satisfactory to the Texas Department of Insurance of completion of at least four hours of appropriate training before soliciting individual consumers for the purpose of selling annuities. The bill also requires the completion of four hours of continuing education annually that specifically relates to annuities by a resident insurance agent who sells, solicits, or negotiates an annuity contract in the state, or who represents or purports to represent an insurer in relation to such a contract. The bill authorizes this training and continuing education to be used to satisfy continuing education requirements for other insurance-related licenses, and requires the commissioner of insurance by rule to adopt specified criteria for continuing education programs to satisfy these requirements not later than December 1, 2009. The bill establishes that subject matter determined by the commissioner to be primarily intended to promote the sale or marketing of annuities does not qualify as continuing education under these provisions. These changes apply to an insurance agent license issued or renewed on or after April 1, 2010.

House Bill 1294 prohibits an insurance agent from directly or indirectly using a certification or professional designation that implies that the agent holds a special certification or has specialized training in advising or servicing seniors regarding purchasing or selling a life insurance or annuity product. The bill specifies the types of certifications and designations

that are prohibited and the language the commissioner of insurance must consider in making a determination about the status of a certification or designation and establishes the applicability of these requirements to job titles used within certain state or federal financial services regulatory agencies. The bill makes these provisions applicable only to the solicitation of, sale of, or advice made in connection with a life insurance or annuity contract by an insurance agent on or after January 1, 2010.

**House Bill 1342**

**Effective:** 5-30-09

**House Author:** Menendez et al.

**Senate Sponsor:** Harris

House Bill 1342 amends the Insurance Code to require a health benefit plan issuer to use information technology that provides a participating health care provider and a plan enrollee with real-time information relating to the enrollee's costs and coverage by September 1, 2013, under rules adopted by the commissioner of insurance and with certain exceptions. The bill requires a health care provider that receives an overpayment from an enrollee to refund the amount of the overpayment not later than the 30th day after the date the overpayment is determined to have been made, excluding an overpayment by a preferred provider benefit plan or a health maintenance organization. The bill prohibits a health benefit plan issuer from refusing to contract or renew a contract with a physician or health care provider based in whole or in part on the physician or provider requesting or receiving a waiver or appealing a waiver determination or meeting the specified exemptions. The bill also prohibits a contract between a health benefit plan issuer and a health care provider from prohibiting the provider from collecting at the time of care the estimated amount for which the enrollee may be financially responsible and prohibits an issuer from directly charging or collecting a fee from an enrollee or health care provider to cover the costs incurred by the issuer in complying with the information technology requirements. The bill provides for a waiver from those requirements under certain circumstances established by commissioner rule and an appeal of a denial of a waiver request.

**House Bill 1761**

**Effective:** 6-19-09

**House Author:** Thompson

**Senate Sponsor:** Van de Putte

House Bill 1761 amends the Insurance Code to require the commissioner of insurance to update by rule the minimum reserve requirements for credit life and credit accident and health insurance. The bill requires insurers to establish an additional reserve liability that is equal to the excess of the net refund liability over the contract reserve recorded for all credit insurance contracts, if the net premium refund liability exceeds the aggregate recorded contract reserve. These changes apply to all credit life and credit accident and health insurance policies issued on or after January 1, 2009.

**House Bill 1888**

**Effective:** 9-1-09

**House Author:** Davis, John et al.

**Senate Sponsor:** Duncan

House Bill 1888 amends the Insurance Code to prohibit certain health benefit plan issuers from ranking physicians, classifying physicians into tiers based on performance, or publishing physician-specific information that includes comparisons of a physician's performance against standards, measures, or other physicians, unless certain conditions are met. The bill prohibits a physician from requiring or requesting that a patient of the physician enter into an agreement under which the patient agrees not to evaluate the physician, participate in surveys regarding the physician, or in any way comment on the patient's opinion of the physician.

House Bill 1888 requires the commissioner of insurance to adopt rules to implement these provisions and to ensure that a health benefit plan issuer that uses a physician ranking system

complies with certain standards and guidelines. The bill requires a plan issuer to ensure that practicing physicians participate in developing these standards and that the measures and methodology used in physician comparison programs are transparent and valid. The bill requires a plan issuer to comply with the bill's provisions not later than December 31, 2009, and provides that, effective January 1, 2010, a plan issuer that violates the provisions or a rule adopted under them is subject to sanctions set forth by the commissioner and that a violation by a physician constitutes grounds for disciplinary action by the Texas Medical Board.

**House Bill 2000**

**Effective:** 9-1-09

**House Author:** McCall

**Senate Sponsor:** Van de Putte

House Bill 2000 amends the Insurance Code to require certain health benefit plans to provide coverage for amino acid-based elemental formulas, regardless of the formula delivery method, that are used for the diagnosis and treatment of certain congenital allergies and related diseases. The bill requires such coverage if the treating physician has issued a written order stating that an amino acid-based elemental formula is medically necessary to treat an enrollee who is diagnosed with such a disease and requires the coverage to include any medically necessary services associated with the administration of the formula. The bill authorizes a utilization review agent acting on behalf of a health benefit plan issuer to review a treating physician's determination of the medical necessity of such a formula. These changes apply to a plan that is delivered, issued for delivery, or renewed on or after January 1, 2010.

**House Bill 2064**

**Effective:** 1-1-10

**House Author:** Smithee et al.

**Senate Sponsor:** Averitt

House Bill 2064 amends the Insurance Code to require discounted premiums to be offered on a sliding scale to certain participants in the Texas health insurance risk pool based on specified financial need. The bill provides for the funding of the discounts through the collection of penalties relating to a violation of certain claims payment provisions by a health maintenance organization (HMO) or an insurer. The bill requires an HMO, for a penalty relating to a clean claim submitted by a physician or health care provider other than an institutional provider, to pay the entire penalty to the physician or provider, except for any interest accrued, which is paid to the risk pool. For a penalty relating to a clean claim submitted by an institutional provider, the HMO is required to pay 50 percent of the total amount to the institutional provider and the remaining 50 percent to the risk pool. The bill requires an insurer, for a penalty relating to a clean claim submitted by a preferred provider other than an institutional provider and a penalty submitted by an institutional provider, to pay the penalty in the same manner as the HMO. The bill requires the risk pool's board of directors to collect these penalties and interest and limits the use of such funds to financing the premium discounts. These changes apply to premium rates for coverage through the risk pool that is in effect on or after January 1, 2011.

**House Bill 2256**

**Effective:** 6-19-09

**House Author:** Hancock et al.

**Senate Sponsor:** Duncan

House Bill 2256 amends the Insurance Code to establish a mandatory mediation process for settling out-of-network health benefit claims. The bill authorizes an enrollee in a preferred provider benefit plan or a health benefit plan offered under the Texas Employees Group Benefits Act to request mediation of such a claim if the amount for which the enrollee is responsible to a facility-based physician, after certain adjustments, is greater than \$1,000, and the claim is for a medical service or supply provided by a facility-based physician in a hospital that is a preferred provider or has a contract with the plan's administrator. The bill provides for a three-step dispute resolution process that includes a teleconference, mediation, and a trial by judge; outlines the



procedures for requesting and conducting the mediation; and establishes mediator qualifications. The bill provides for the confidentiality of information by the mediator, specifies the matters that may be considered in mediation, and establishes procedures to be followed if the parties do not reach a resolution. The bill identifies conduct that constitutes bad faith mediation and the resulting penalties, and requires the commissioner of insurance and the Texas Medical Board, as appropriate, to adopt rules regulating the investigation and review of a complaint filed that relates to the settlement of an out-of-network health benefit claim. The bill specifies the issues to be addressed by those rules and establishes requirements for the maintenance of information relating to such complaints and claims. The bill requires an out-of-network facility-based physician who bills a patient covered by a preferred provider benefit plan or a health benefit plan offered under the Texas Employees Group Benefits Act to include notice of the mandatory mediation process in a billing statement sent to the patient, if the amount for which the patient ultimately is responsible exceeds \$1,000.

House Bill 2256 requires the commissioner to adopt network adequacy standards that are adapted to local markets in which an insurer offering a preferred provider benefit plan operates and that ensure the availability of, and accessibility to, a full range of contract physicians and health care providers, allowing for departure from those standards under certain conditions.

House Bill 2256 amends the Health and Safety Code to include certain disclosures relating to medical services provided by facility-based physicians in the information that must be addressed by licensed ambulatory surgical centers, birthing centers, and hospitals in their written policies for the billing of health care services.

**House Bill 2570**

**Effective:** 9-1-09

**House Author:** Hancock

**Senate Sponsor:** Jackson, Mike

House Bill 2570 amends the Insurance Code to increase from \$15,000 to \$25,000 the maximum life insurance coverage a stipulated premium company is authorized to issue and authorizes the limit on the initial death benefit under such coverage to increase to an amount greater than \$25,000, rather than \$15,000. The bill amends provisions relating to the licensing of an agent for such a company to reflect these increased limits. These changes apply to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2010.

House Bill 2570 increases from \$15,000 to \$200,000 the minimum amount of capital stock a proposed stipulated premium company must possess and increases from \$7,500 to \$75,000 the surplus such a company must have in addition to its capital at the time of incorporation. The company is required to make these increases not later than a date prescribed by rule by the commissioner of insurance using intermediate increases over a 10-year phase-in period of these provisions. The bill authorizes the company's capital stock to be decreased to an amount that is less than \$200,000, rather than \$100,000, only to avoid insolvency and removes language prohibiting capital stock from ever being decreased to an amount less than the minimum amount of paid-up stock.

**House Bill 2690**

**Effective:** 9-1-09

**House Author:** Hancock

**Senate Sponsor:** Jackson, Mike

House Bill 2690 amends the Insurance Code to make provisions authorizing the issuance of a group life insurance policy to the trustees of a fund established by certain groups of employers and labor unions to insure the employer's employees or the union's members applicable to a fund that is adopted by such groups. This change applies to an insurance policy or contract or evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 2010.

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### **House Bill 2877**

**Effective:** 9-1-09

**House Author:** Sheffield

**Senate Sponsor:** Fraser et al.

House Bill 2877 amends the Insurance Code to increase the minimum indemnity payments for bodily injury that require an insurer to file a closed claim report, a summary closed claim report, or an aggregate report with the Texas Department of Insurance (TDI), and to authorize TDI to use a statistical reporting agency to reconcile closed claim data.

### **House Bill 3625**

**Effective:** 9-1-09

**House Author:** Elkins

**Senate Sponsor:** Van de Putte

House Bill 3625 amends the Insurance Code to specify that a utilization review agent's determination indicating whether health care services relating to a workers' compensation claim that are proposed by a health care provider in a preauthorization request are preauthorized must be issued and transmitted not later than the third working day, rather than the third calendar day, after the date the request is received.

### **House Bill 4290**

**Effective:** 9-1-09

**House Author:** Smithee

**Senate Sponsor:** Duncan

House Bill 4290 amends Insurance Code provisions relating to a utilization review agent's questioning of the appropriateness of a health care service before making an adverse determination to include the questioning of the experimental or investigational nature of such a service. The bill requires the agent to comply with the independent review organization's determination regarding the experimental or investigational nature of health care items and services for an enrollee. The bill removes a retrospective review program from the provisions of the Workers' Compensation Health Care Network Act and sets out requirements for the provision of written notice of an adverse determination under a retrospective utilization review to the provider of record and the patient within a specified period.

House Bill 4290 amends the Labor Code to remove a retrospective review from the types of utilization reviews or independent reviews that may be performed by a doctor in connection with certain health care services provided to an injured employee. The bill's provisions apply to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2010.

### **House Bill 4341**

**Effective:** See below

**House Author:** Truitt

**Senate Sponsor:** Shapiro

House Bill 4341 amends Insurance Code provisions relating to the regulation of discount health programs by the Texas Department of Insurance. The bill prohibits unfair methods of competition and unfair or deceptive acts or practices by a discount health care program and the use of certain content by a program operator for the purpose of advertising, marketing, or soliciting a discount health care program. The bill sets out duties required of a program operator and the conditions under which a program operator may market a discount health care program. The bill establishes procedures determining if a person has engaged in the use of unfair methods or deceptive acts or practices, enforcement by the attorney general, acceptance by the department of written assurance of voluntary compliance, and the registration of discount health care program operators. Provisions of the bill relating to enforcement by the attorney general take effect April 1, 2010, and a program operator is not required to register with the department before that date. Except as otherwise provided, the bill takes effect September 1, 2009.

**House Bill 4402****Effective:** 9-1-09**House Author:** Martinez Fischer et al.**Senate Sponsor:** Van de Putte

House Bill 4402 amends the Insurance Code to require the Texas Department of Insurance (TDI) to conduct a study to evaluate the ways in which pharmacy benefit managers use prescription drug information to manage therapeutic drug interchange programs and other drug substitution recommendations made by such managers or other similar entities. The bill specifies the information that must be included in the study and requires TDI, not later than August 1, 2010, to submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate standing committees of the legislature a report regarding the results of the study together with any recommendations for legislation. These provisions expire September 1, 2010.

**House Bill 4492****Effective:** 9-1-09**House Author:** Eiland**Senate Sponsor:** Ellis

House Bill 4492 amends the Insurance Code to establish that compliance with the conduct rules of the Financial Industry Regulatory Authority, rather than the National Association of Securities Dealers, relating to suitability satisfies the requirements for suitability of certain annuity transactions for the recommendation of annuities under the federal Securities Act of 1933 or rules or regulations adopted under that act.

**House Bill 4519****Effective:** 9-1-09**House Author:** Homer**Senate Sponsor:** Deuell

House Bill 4519 amends the Insurance Code to require the commissioner of insurance to adopt standards and rules that place certain restrictions on the ownership and operation of an independent review organization; that prohibit an attorney who is, or has in the past served as, the registered agent for an independent review organization from representing the organization in legal proceedings; and that prohibit an independent review organization from disclosing confidential patient information, except to a provider who is under contract to perform the review. In addition, the standards and rules must require an independent review organization to be based and certified in Texas and to locate its primary offices in the state, and to meet certain other certification requirements.

**Senate Bill 39****Effective:** 9-1-09**Senate Author:** Zaffirini et al.**House Sponsor:** Zerwas

Senate Bill 39 amends the Insurance Code to require certain health benefit plan issuers to provide benefits for routine patient care costs to an enrollee in connection with specified types of clinical trials conducted to prevent, detect, or treat a life-threatening disease or condition that meets certain approval requirements. The bill provides that the plan issuer is not required to reimburse the research institution conducting the clinical trial for the cost of routine patient care provided through the institution unless specific conditions are met, and places limitations on the coverage the plan issuer must provide. The bill establishes that benefits under these provisions are subject to deductible, coinsurance, or copayment requirements comparable to other such requirements under the plan, and prohibits the plan issuer from canceling or refusing to renew plan coverage solely because an enrollee participates in an approved clinical trial. The bill authorizes the commissioner of insurance to adopt rules to implement these provisions, which apply to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2010.

**Senate Bill 78**

**Effective:** See below

**Senate Author:** Nelson

**House Sponsor:** Smithee

Senate Bill 78 amends the Insurance Code to replace the Health Coverage Awareness and Education Program with the TexLink to Health Coverage Program, to be implemented and administered by a division of the Texas Department of Insurance (TDI) for that purpose, under the direction of the commissioner of insurance. The bill requires TDI to develop the TexLink program as a health coverage program that includes a public education and awareness component, and sets out other program requirements. The bill also establishes requirements for the division's development, production, and distribution of information about specific health benefit plan issuers, authorizes the division to operate a toll-free telephone hotline to respond to inquiries and provide information and technical assistance concerning health insurance coverage, and authorizes the Health and Human Services Commission to use its 2-1-1 telephone number to disseminate information regarding such coverage and to refer inquiries to the division's hotline. The bill authorizes the division to develop educational materials and a curriculum for high school students, conduct health coverage fairs, participate in community events, cooperate with colleges and universities to promote enrollment in their health coverage programs, and assist in developing community-based health coverage plans for uninsured individuals.

Senate Bill 78 authorizes the commissioner to appoint a task force to make recommendations regarding the division's duties under these provisions and specifies the composition of such a task force, if appointed. The bill authorizes TDI to create a federal tax "tool kit" that includes instructions for a small employer or single-employee business to obtain health coverage and certain federal tax benefits, authorizes TDI to assist those employers and businesses by having its staff respond to telephone inquiries and speak at events, and authorizes TDI to employ an accountant with experience in federal tax law and the purchase of group health coverage as necessary to implement these provisions.

Senate Bill 78 establishes the Healthy Texas Program to provide affordable access to quality small employer health benefit plans, encourage small employers to offer health benefit plan coverage to employees and their dependents, and maximize reliance on proven managed care strategies and procedures. The bill authorizes the commissioner to adopt rules as necessary to implement the program, sets forth the eligibility requirements for participating in the program, and authorizes the commissioner by rule to adjust those requirements as necessary to fulfill the program's purposes. The bill establishes minimum requirements for an eligible small employer to purchase a qualifying health benefit plan, and establishes the employer's share of premiums and the amount of coverage offered to eligible employees. The bill authorizes any health benefit plan issuer to participate in the program, but authorizes the commissioner to limit participation if necessary to achieve the program's purposes. The bill requires a health benefit plan offered under the program to include a preexisting condition provision as exists in the Health Insurance Portability and Availability Act, and exempts such a plan from state laws that require coverage or the offer of coverage of a health care service or benefit.

Senate Bill 78 establishes the coverage a qualifying health benefit plan may provide and authorizes the commissioner to approve additional benefits under certain conditions and to perform other specified functions with respect to the categories of services and benefits offered under a plan. The bill requires a plan issuer, at the time of initial application, to obtain from a small employer seeking to purchase a plan a written certification that the employer meets the eligibility and participation requirements, and authorizes the issuer to require supporting documentation. The bill requires a plan issuer to accept applications for coverage at all times, but authorizes the commissioner to set limitations as necessary, and sets out requirements for an initial enrollment period, the establishment of a waiting period, and conditions for denying

coverage. The bill establishes requirements for qualifying a health benefit plan, rating qualified plans, and developing and calculating premium rates, and requires a plan issuer to file its rates with TDI for review and approval by the commissioner.

Senate Bill 78 requires the commissioner, contingent on the availability of funds appropriated to TDI, to establish the healthy Texas small employer premium stabilization fund from which health benefit plan issuers may be reimbursed for claims paid for individuals covered under qualifying group health plans, and requires the commissioner to adopt rules necessary to implement and administer the fund. The bill sets out provisions for operating and obtaining reimbursement from the fund, for the commissioner's annual computation of the total claims reimbursement amount, and for the distribution of the funds. The bill requires each participating health benefit plan issuer to provide TDI with monthly reports of total enrollment under qualifying plans and other data on request of the commissioner, and with claims experience data for the commissioner's use in estimating certain reimbursement costs. The bill specifies the formula for the commissioner's determination of total eligible enrollment under qualifying health benefit plans, and requires the commissioner to submit an annual report to the governor and the legislature regarding enrollment and limitations on future enrollment. The bill establishes the conditions under which the commissioner is required to suspend and reactivate new enrollments, and requires the commissioner to notify participating health benefit plan issuers of such a suspension or reactivation. The bill authorizes the commissioner to obtain an independent organization to administer the fund, establishes the organization's responsibilities, requires the commissioner to determine the compensation to be allocated to the organization, and provides for the removal and replacement of an approved organization. The bill provides for the purchase of stop-loss insurance or reinsurance by the fund administrator and for the fund's use for developing and implementing public education and outreach to small employers who do not provide health insurance.

Senate Bill 78 requires the commissioner to adopt any rules necessary to implement the Healthy Texas Program not later than January 4, 2010, and to make an initial determination concerning limitation of health benefit plan issuer participation in the program not later than January 18, 2010. If the commissioner determines that limited participation is necessary to achieve the program's purposes, the commissioner is required to issue a request for proposal from health benefit plan issuers to participate in the program not later than May 1, 2010. The bill requires the commissioner to ensure that the program is fully operational in a manner that allows health benefit plan issuers participating in the program to make the first annual request for reimbursement on January 1, 2011.

Senate Bill 78 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**Senate Bill 79**  
**Effective:** 9-1-09

**Senate Author:** Nelson  
**House Sponsor:** Smithee

Senate Bill 79 amends the Insurance Code to require the Texas Department of Insurance (TDI) to establish a voluntary specialty certification program for individuals who market small employer health benefit plans in accordance with the Health Insurance Portability and Availability Act. The bill sets out the qualifications for receiving the certification and specifies the initial training that is required of individuals seeking certification, with certain exceptions. The bill provides for the renewal of the certification every two years by completing certain continuing education requirements and allows each hour of education to obtain or renew a specialty license to be used to satisfy an hour of continuing education otherwise applicable to the agent under life, accident, and health agent licensing requirements. To hold a specialty

certification, the bill requires an individual to agree to market small employer health benefit plans to certain employers without regard to the number of employees to be covered under the plan, and authorizes a certified individual to advertise, in the manner specified by TDI rule, that the individual is specially trained to serve small employers.

Senate Bill 79 requires TDI to maintain on its website a published list of all individuals who hold a specialty certification, together with certain contact and descriptive information. The bill authorizes the commissioner of insurance to adopt rules as necessary to administer the bill's provisions, and authorizes TDI, not later than January 1, 2010, to begin issuing the specialty certifications.

**Senate Bill 80**

**Effective:** 9-1-09

**Senate Author:** Nelson

**House Sponsor:** Truitt

Senate Bill 80 amends the Insurance Code to authorize a small employer health benefit plan issuer to offer a small employer the option of a small employer health benefit plan for which the employer is required to contribute 100 percent of the premium paid for each eligible participating employee in addition to offering a plan that requires the employer to contribute a lower percentage of the premium paid. The bill makes its provisions applicable only to a small employer health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2010.

**Senate Bill 963**

**Effective:** 9-1-09

**Senate Author:** Ellis

**House Sponsor:** Smithee

Senate Bill 963 amends the Insurance Code to prohibit a premium rate for a long-term care benefits plan from being used until the rate has been filed with the Texas Department of Insurance and approved by the commissioner of insurance. The bill authorizes the commissioner to disapprove the rate if it is not actuarially justified or does not comply with standards for long-term care benefits plans by state law or commissioner rule. The bill requires an insurer who obtains the commissioner's approval of an increase to notify policyholders of the scheduled rate increase at least 45 days prior to the date the policyholder is required to make a premium payment at the increased rate and to provide contingent nonforfeiture benefits consistent with nationally recognized models and commissioner rules.

**Senate Bill 1143**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Thompson

Senate Bill 1143 amends the Insurance Code to require each health maintenance organization (HMO) that enters into a contract for a group health benefit plan to notify the group contract holder of the holder's liability for premiums on an enrollee in the plan who is no longer part of the group eligible for coverage until the HMO receives notification of the enrollee's termination of coverage eligibility. The bill specifies the manner in which the notice must be provided, which is based on the frequency with which the HMO charges the covered premiums, and requires the notice to include a description of the HMO's preferred methods of receiving the termination notification. The bill requires each insurer that enters into a contract with a group policyholder under a preferred provider benefit plan to notify the group contract holder in the same manner as described above and requires the notice to include a description of methods preferred by the insurer for notification by a policyholder of an individual's termination from coverage eligibility. These changes apply only to a contract between an HMO or insurer and a holder of a group contract or policy that is entered into or renewed on or after January 1, 2010.

Senate Bill 1143 requires the Texas Department of Insurance (TDI) to study the disparity in patient copayments between orally and intravenously administered chemotherapies, the reasons for the disparity, and the patient benefits in establishing copayment parity between oral and infused chemotherapy agents. The bill requires TDI, not later than August 1, 2010, to submit a report to certain state government officials and legislative committees regarding the study's results and any recommendation for legislation.

**Senate Bill 1291****Effective:** 9-1-09**Senate Author:** Van de Putte**House Sponsor:** Martinez Fischer

Senate Bill 1291 amends the Insurance Code to remove provisions authorizing a health insurance policy to require that services of a licensed professional counselor or a marriage and family therapist be recommended by a physician. The bill makes its provisions applicable to an insurance policy or contract or evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 2010.

**Senate Bill 1403****Effective:** 9-1-09**Senate Author:** Averitt**House Sponsor:** Smithee

Senate Bill 1403 amends the Insurance Code to redesignate the Texas Health Insurance Risk Pool as the Texas Health Insurance Pool. The bill prohibits a dependent or individual who is not a federally defined eligible individual and who has not had a significant break in health benefit plan coverage from obtaining pool coverage before the first date on which the dependent or individual has been a legally domiciled resident of Texas for at least 30 days before applying for the coverage, and a U.S. citizen or permanent resident for at least three continuous years. The bill establishes that provisions making an individual ineligible for pool coverage because the individual is eligible for an employer-sponsored health benefit plan, even though that coverage is denied, are inapplicable to a part-time employee's dependent who is eligible to participate in an employer plan that provides certain coverages. The bill establishes that an individual eligible for benefits from a federal or state employee coverage continuation program comparable to the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) who did not elect continuation of that coverage during the election period is eligible for pool coverage, and changes the date before which pool coverage for an eligible individual is excluded from certain incurred charges or expenses from 180 days after the effective date of coverage to the first anniversary of that date. The bill requires the pool to make a specified reduction to that exclusion period if an individual eligible under COBRA or a comparable program was covered by creditable coverage at any time during the 12-month period immediately before the effective date of the individual's pool coverage.

**Senate Bill 1479****Effective:** 5-27-09**Senate Author:** Carona**House Sponsor:** Taylor

Senate Bill 1479 amends Insurance Code provisions relating to the benefits that are payable under certain health coverages to exempt from those provisions a plan that provides coverage only for a specified disease or diseases or under an individual limited benefit policy, for accidental death or dismemberment, as a supplement to a liability insurance policy, or for dental or vision care. The bill also exempts from those provisions disability income insurance coverage or a combination of accident-only and disability income insurance coverage; credit insurance coverage; a hospital confinement indemnity policy; a Medicare supplemental policy; a workers' compensation insurance policy; medical payment insurance coverage provided under a motor vehicle insurance policy; a long-term care insurance policy, including a nursing home

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fixed indemnity policy, with certain exceptions; or an occupational accident policy. The bill establishes that a long-term care insurance policy, including a nursing home fixed indemnity policy, is subject to those provisions if the commissioner of insurance determines that the policy provides benefits so comprehensive that it is a health benefit plan and should not be subject to the exemption.

**Senate Bill 1771**  
**Effective:** 6-19-09

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

Senate Bill 1771 amends the Insurance Code to extend from six months to nine months the maximum period of continuation of group health insurance coverage for any employee, member, or dependent who is not eligible for coverage under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), which applies only to businesses with 20 or more full-time employees. For individuals who are eligible for COBRA coverage, the bill provides for six additional months of continuation coverage following any period of coverage provided under COBRA. The bill extends the deadline for an employee, member, or dependent to request the state continuation coverage from the 31st to the 60th day after the later of the date the coverage would otherwise terminate or the date the individual is notified of the right to continue the coverage. The bill amends the schedule for submitting payments of contributions for such coverage.

Senate Bill 1771 establishes temporary provisions, set to expire September 1, 2013, that allow certain individuals who became eligible for the state continuation coverage between September 1, 2008, and February 16, 2009, to elect such coverage beginning on the bill's effective date and ending on the 60th day after the date on which the individual receives a notice about this election period. The bill requires the notice also to include certain information and forms relating to the federal American Recovery and Reinvestment Act of 2009, which creates a premium assistance program for COBRA and state continuation coverage programs that allows eligible former employees to receive a 65 percent premium subsidy for up to nine months from the first month the premium reduction applies to the individual. The period of continuation coverage under these provisions begins with the first period of coverage beginning on or after the bill's effective date and does not extend beyond the date the coverage would have ended if it had been elected during the election period required under previous law. The bill specifies that this 60-day election period is to be disregarded for purposes of determining a 63-day period referred to in federal and state law as creditable coverage for preexisting conditions.

Senate Bill 1771 provides that an individual eligible for benefits from the continuation of coverage under a group or blanket insurance policy or a health maintenance organization plan, who did not elect continuation coverage during the election period or whose elected continuation coverage lapsed or was canceled without reinstatement, is eligible for coverage under the Texas Health Insurance Risk Pool. The bill specifies that such eligibility is subject to a 180-day exclusion of coverage under statutory provisions relating to preexisting conditions, with certain exceptions, and establishes that pool coverage for an individual eligible under these provisions excludes certain charges or expenses relating to preexisting conditions.

**Senate Bill 1812**  
**Effective:** 6-19-09

**Senate Author:** Duncan  
**House Sponsor:** Hancock

Senate Bill 1812 amends the Insurance Code to require a life insurer that receives notice of an adverse, bona fide claim to all or part of the proceeds of a life insurance policy before the applicable payment deadline to pay the claim or properly file an interpleader action and tender the benefits into the registry of the court not later than the 90th day after the date the insurer



receives all appropriate items, statements, and forms. The bill requires a life insurer that delays payment of the claim or the filing of an interpleader and tender of policy proceeds for more than 90 days to pay damages and other items as provided by state law until the claim is paid or an interpleader is properly filed.

## Property and Casualty

### House Bill 652

**Effective:** 9-1-09

**House Author:** Darby

**Senate Sponsor:** Eltife

House Bill 652 amends the Insurance Code to expand the requirements for an individual applying to be an escrow officer to include a bona fide resident of a state adjacent to Texas and to add the requirement that the applicant be a bona fide employee of a title insurance agent or direct operation with an office in Texas. The bill establishes that the bond or deposit for an out-of-state applicant is \$10,000, prohibits the Texas Department of Insurance from denying a license application or disciplining an escrow officer under state insurance laws solely because the individual resides in an adjacent state and acts as an escrow officer in Texas in compliance with these requirements, and authorizes a person qualified as an escrow officer to hold a license and operate as a notary public.

### House Bill 1476

**Effective:** 9-1-09

**House Author:** Sheffield

**Senate Sponsor:** Fraser

House Bill 1476 amends the Insurance Code to increase from \$1 million to \$25 million the minimum amount of capital stock and the minimum amount of surplus a property casualty insurance company in Texas is required to have and sets forth deadlines by which certain insurance companies are required to achieve prescribed increases in their capital.

### House Bill 2353

**Effective:** 9-1-09

**House Author:** Hughes

**Senate Sponsor:** Estes

House Bill 2353 amends the Insurance Code to apply to a title insurance company, to the extent applicable, provisions relating to the limitations period for the Texas Department of Insurance (TDI) or the commissioner of insurance to impose a sanction, penalty, or fine, including an administrative penalty, against an insurer, agent, or other license holder who is subject to the jurisdiction of TDI for conduct that violates state insurance laws.

### House Bill 2569

**Effective:** 9-1-09

**House Author:** Hancock

**Senate Sponsor:** Eltife

Previous law authorized the commissioner of insurance to issue a telecommunications equipment vendor license, which authorized a retail vendor of telecommunications equipment to act as an agent for an authorized insurer in connection with the sale and use of such equipment and with respect to insurance coverage provided to customers for the loss or malfunction of or damage to the equipment. House Bill 2569 amends the Insurance Code to change that specialty license to a portable electronic vendor license and to make the previous provisions applicable to a vendor of personal, self-contained, battery-operated electronic communication, viewing, listening, recording, gaming, computing, or global positioning devices that are easily carried by an individual, as well as to the vendor's employee and authorized representative. The bill authorizes those parties to offer insurance coverage on such a device at each location at which the vendor engages in business, and provides specifications for that coverage. The bill requires the commissioner to impose an annual fee of not more than \$5,000 for the license.

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House Bill 2569 authorizes an agent who holds a license to engage in the business of property and casualty insurance or a substantially equivalent insurance license and who is appointed by the insurer that insures a vendor to provide the commissioner-approved materials and to conduct the training for the program that is required for an individual to act on behalf of a specialty license holder. The bill requires the commissioner by rule to establish a procedure under which a person holding a license as a telecommunications equipment vendor specialty agent may convert that license to a portable electronic device vendor specialty agent license without further qualification, and authorizes the commissioner to adopt rules to establish a reasonable period for the agent to comply with the new requirements.

**House Bill 3073**  
**Effective:** 1-1-10

**House Author:** Geren  
**Senate Sponsor:** Fraser

House Bill 3073 amends the Insurance Code to authorize a title insurance company, title insurance agent, or direct operation to charge, separate from the title insurance premium, actual costs or a reasonable estimate of costs incurred in connection with a closing and settlement on real property, including a charge by a third party for an electronic filing fee or a fee of a third party for providing a property tax report.

**House Bill 3768**  
**Effective:** 9-1-09

**House Author:** Paxton  
**Senate Sponsor:** Wentworth

House Bill 3768 amends the Insurance Code to require the commissioner of insurance, for an owner's title insurance policy on residential real property that is issued to an individual, to adopt terms that provide for continuation of coverage subject to rights and defenses against the original named insured for certain recipients of the title to the property of the original named insured. The bill applies only to an insurance policy or contract that is delivered, issued for delivery, or renewed on or after January 1, 2010.

**House Bill 4338**  
**Effective:** 9-1-09

**House Author:** Smithee  
**Senate Sponsor:** Fraser

House Bill 4338 amends the Insurance Code to include in the Texas Department of Insurance (TDI) requirements for an abstract plant under the Texas Title Insurance Act that an abstract plant cover a period beginning not later than January 1, 1979. The bill provides that an abstract plant that exists on September 1, 2009, but does not on that date cover a period beginning January 1, 1979, or earlier is not required to comply with the TDI requirements before January 1, 2014. The bill amends the definitions for "impaired title insurance company" and "impaired agent" to modify the conditions under which a title insurance company or title agent is designated by the commissioner of insurance as impaired, and to include a direct operation that meets certain criteria as an impaired agent. The bill requires the Texas Title Insurance Guaranty Association to pay from the guaranty fee account fees and reasonable and necessary expenses TDI incurs in an examination or audit of a title agent or direct operation under Texas insurance laws, and expands the types of insolvency proceedings of an impaired title insurance company or impaired agent for which the association is authorized to advance money necessary to pay the administration expenses. The bill removes the limitation on the amount of the quarterly policy guaranty fee and modifies the types of claims that must be paid only from such fees and not from assessments and the types of expenses for which only guaranty fees may be used.

House Bill 4338 establishes additional duties of the association, requires certain persons with authority over or in charge of any segment of an impaired agent's affairs to cooperate with the association, and establishes that a person who fails to cooperate is subject to certain sanctions.

The bill includes in the information that must be provided on a title insurance agent's license application a statement that the proposed agent has the required unencumbered assets in excess of liabilities; requires an agent applying for an initial license to provide evidence that the agent and its management personnel have completed a professional training program within one year preceding the application date, with certain exceptions; requires the commissioner by rule to adopt such a program, which must meet specified criteria; and specifies the types of entities that are required to offer a training program.

House Bill 4338 amends the types of information a title insurance agent makes or discloses to the department that are considered privileged communication; authorizes a title insurance company to provide information to the commissioner, through designated company officers, about a financial matter that would reasonably call into question the solvency of an agent the company appointed; and establishes that such information is not subject to the state's public information law, with certain exceptions. The bill requires each title insurance agent, on a quarterly basis, to provide TDI with a copy of the agent's quarterly federal withholding tax report, along with proof of the payment, and requires an agent that does not have employees to certify to TDI on a quarterly basis that there has not been a material change in the agent's financial condition. The bill includes such information as privileged communication, not subject to disclosure under state public information or insurance laws, and authorizes the commissioner by rule to prescribe the types of information that are privileged.

House Bill 4338 requires an agent to maintain certain unencumbered assets, with certain exceptions, which are reserves for contingencies; limits the purposes for which the reserves may be spent or released; and authorizes an agent to elect to maintain unencumbered assets or to place a deposit with TDI as allowed by provisions authorizing certain deposits in lieu of a bond by a title insurance agent or direct operation. The bill establishes alternate criteria for the amount of unencumbered assets an agent must maintain if the agent holds a license on September 1, 2009, has held the license for at least three years on that date, and meets certain other requirements, or if the agent has been licensed less than three years as of that date. The bill establishes that the funds held by a title insurance agent that are owed to a title insurance company, another title insurance agent, or a direct operation arising from a division of premium are considered to be held in trust for that entity, and prohibits the commissioner from requiring by rule that such funds be held in a separate account subject to an external audit.

House Bill 4338 requires the annual audit of escrow accounts, unless the title insurance agent has elected to make a deposit with TDI, to be accompanied by a certification by a certified public accountant that the agent has the appropriate unencumbered assets in excess of liabilities. The bill requires the commissioner by rule to establish a procedure for determining the value of categories of assets and the method by which the required certification must be made, excluding an audit of operating accounts, and makes this requirement applicable beginning with annual audits for the 2011 calendar year. The bill establishes requirements for the possession of an agent's records by a landlord or storage facility and the association's rights to access and copy such records if the agent has been designated impaired. The bill requires an audit, review, or examination conducted in relation to the association or agent to be conducted in accordance with commission rules, and requires the commissioner to furnish the agent or direct operation with a draft of the report and a copy of any evidence within a specified period. The bill requires the commissioner to hold a hearing not later than the 120th day after the bill's effective date and, not later than the 90th day after the hearing, to issue an order prescribing the rules to be used in connection with examination reports.

House Bill 4338 requires a public hearing relating to change in a premium rate previously fixed by the commissioner to be conducted by the commissioner as a rulemaking hearing

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under the Administrative Procedure Act or, at the request of a title insurance company or the public insurance counsel, as a contested case hearing under the act, and prohibits information received or requested by the commissioner as part of an individual audit or examination from being used for rate setting, specifying that this provision does not prohibit a party from certain other actions.

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

House Bill 451 - Public Retirement Systems

House Bill 586 - Transportation

House Bill 1364 - Public Retirement Systems

House Bill 3480 - Public Retirement Systems

House Bill 3945 - Property Interests and Housing

Senate Bill 2577 - Public Retirement Systems

## Labor and Employment

This chapter covers legislation on issues relating to labor and employment, including wages, unemployment benefits, workers' compensation, workforce development, and the functions and duties of the Texas Workforce Commission. Bills on job creation are in the **Economic Development** chapter, and bills on public employees are in the **Public Officials and Employees** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### **House Bill 673**

**Effective:** 9-1-09

**House Author:** Solomons

**Senate Sponsor:** Watson

House Bill 673 amends the Labor Code to authorize the injured employee public counsel to terminate or refuse to provide the services of the office of injured employee counsel to a claimant who is abusive or violent to or threatens any employee of the office, requests assistance in claiming benefits not provided by law, or commits or threatens to commit a criminal act in pursuit of a workers' compensation claim. The bill requires the office to meet specified notice requirements relating to such a termination or refusal of services.

House Bill 673 includes the State Office of Administrative Hearings in the entities the office of injured employee counsel, through its ombudsman program, is authorized to appear before to provide assistance to an injured employee, specifies that the office may provide this assistance during an administrative dispute resolution process relating to a workers' compensation claim, and authorizes the office to provide such assistance during an enforcement action by the Texas Department of Insurance or division of workers' compensation against an employee for a violation of the Texas Workers' Compensation Act. The bill amends the requirements for adopting and distributing the notice of injured employee rights and responsibilities, requires a right or responsibility of an injured employee included in the notice to be consistent with the requirements of the act and division rules, and prohibits provisions relating to the adoption of the notice from being construed as establishing an entitlement to benefits to which a claimant is not otherwise entitled under the act.

House Bill 673 provides that an employee of the office of injured employee counsel may not be compelled to disclose information communicated to the employee by a claimant on any matter relating to the claimant's claim, with certain exceptions. The bill amends provisions relating to the sources from which the office is authorized to access confidential information and removes certain types of information from the information collected and used by the office that is subject to confidentiality provisions and criminal penalties.

### **House Bill 762**

**Effective:** 9-1-09

**House Author:** Creighton

**Senate Sponsor:** Eltife

House Bill 762 amends the Labor Code to add faxing a wage claim to a fax number designated by the Texas Workforce Commission or any other means adopted by the commission, by rule, to the methods an employee may use to file a wage claim.

### **House Bill 978**

**Effective:** 9-1-09

**House Author:** Burnam et al.

**Senate Sponsor:** Watson

House Bill 978 amends the Labor Code to require the term "disability" to be construed in favor of broad coverage of individuals under provisions that prohibit employment discrimination against certain classes of individuals to the maximum extent allowed under those provisions and to include an impairment that is episodic or in remission that substantially limits a major life

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activity when active. The bill requires the determination of whether an impairment substantially limits a major life activity to be made without regard to the ameliorative effects of mitigating measures.

House Bill 978 specifies that its provisions do not affect the standards for determining eligibility for benefits under the Texas workers' compensation program or under a state or federal disability benefit program, and cannot be construed as the basis for a claim by an individual without a disability that the individual was subject to discrimination due to the individual's lack of a disability. The bill prohibits an employer from using a qualification standard, employment test, or other selection criterion based on an individual's uncorrected vision unless that criterion is consistent with business necessity and is job-related for the position to which the criterion applies. The bill establishes that a respondent in an employment discrimination complaint is not obligated to make a reasonable workplace accommodation to a known physical or mental limitation of an otherwise qualified individual with a disability who is an employee or applicant for employment if the individual's disability is based solely on being regarded as having an impairment that substantially limits at least one major life activity.

### **House Bill 1043**

**Effective:** 9-1-09

**House Author:** Orr et al.

**Senate Sponsor:** Nelson

House Bill 1043 amends the Government Code to entitle an individual 25 years of age or younger who was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday to a preference in employment with a state agency over other applicants for the same position who do not have a greater qualification. The bill makes its provisions inapplicable to the position of private secretary or deputy of an official or department or to an individual holding a strictly confidential relation to the employing officer. An individual entitled to an employment preference who is aggrieved by a decision of a state agency relating to hiring the individual, or relating to retaining the individual if the state agency reduces its workforce, may appeal the decision by filing a written complaint with the governing body of the state agency. The governing body must respond not later than the 15th business day after the date it receives the complaint. The governing body may render a different hiring decision if the governing body determines that the employment preference was not applied. The bill adds an individual who was under the permanent managing conservatorship of the department on the day preceding the individual's 18th birthday to the individuals who are considered to be economically disadvantaged for purposes of local incentives under the Texas Enterprise Zone Act.

### **House Bill 1058**

**Effective:** 9-1-09

**House Author:** Solomons

**Senate Sponsor:** Lucio

House Bill 1058 amends Labor Code provisions relating to the receipt of death benefits for a workers' compensation claim by an injured employee's eligible parent to remove language that limits the term "eligible parent" to a parent who receives workers' compensation burial benefits. The bill specifies that the total payments of death benefits, rather than any payment of such benefits, are prohibited from exceeding 104 weeks and that the prohibition applies regardless of the number of surviving eligible parents. The bill bars a claim for death benefits from an injured employee's eligible parent if the parent fails to file the claim before the first anniversary of the date of the injured employee's death from a compensable injury, unless good cause exists for not filing the claim. The bill removes a provision authorizing the commissioner of workers' compensation to extend the time for filing a claim only if the eligible parent submits satisfactory proof to the commissioner of a compelling reason for the delay.

**House Bill 1637****Effective:** 5-19-09**House Author:** Turner, Chris et al.**Senate Sponsor:** Ellis

House Bill 1637 amends the Labor Code to redefine “normal weekly hours of work” for purposes of the shared work unemployment compensation program as the lesser of the number of hours in a week that an employee ordinarily works for a participating employer or an average of 40 hours per week over a two-week pay period.

**House Bill 1935****Effective:** See below**House Author:** Villarreal et al.**Senate Sponsor:** Duncan et al.

House Bill 1935 amends the Government Code to establish the Jobs and Education for Texans (JET) fund and grant program and the Texas green job skills development fund and grant program. The JET fund and grant program is administered by the comptroller of public accounts with the assistance of a seven-member advisory board appointed by the governor, lieutenant governor, speaker of the house of representatives, and certain other entities. The green job skills development fund and grant program is administered by the comptroller in cooperation with the Texas Workforce Commission and the State Energy Conservation Office. The JET grant program awards grants to public junior colleges, public technical institutes, and eligible nonprofit organizations that prepare low-income students for careers in high-demand occupations, and provides scholarships for students in career and technical education programs who demonstrate financial need. The green job skills grant program awards grants to regional partnerships that present a plan to implement a training program for jobs in the field of renewable energy or energy efficiency to target workers in declining industries, unemployed workers, veterans, and other eligible individuals. The bill establishes certain reporting requirements for the comptroller under both grant programs. Both funds are accounts in the general revenue fund consisting of gifts, grants, and donations and legislative appropriations.

House Bill 1935 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**House Bill 2169****Effective:** 6-19-09**House Author:** Chavez et al.**Senate Sponsor:** Hinojosa

House Bill 2169 amends the Labor Code to authorize the Texas Workforce Commission by rule to establish and develop additional job incentive programs that use the skills development fund to create incentives for public community and technical colleges in partnership with one or more employers, including prospective employers who commit to establishing a place of business in Texas, to provide workforce training. The bill authorizes the commission to commit money to a prospective employer contingent on the employer’s establishment of a place of business in Texas under such a program.

**House Bill 2360****Effective:** 9-1-09**House Author:** Farias et al.**Senate Sponsor:** West

House Bill 2360 amends the Labor Code to require an employer annually to provide its employees with information regarding eligibility requirements for the federal earned income tax credit and to set forth the authorized methods of providing this information. In addition, the bill authorizes an employer to provide employees with Internal Revenue Service publications and information prepared by the comptroller of public accounts relating to the tax credit and with federal income tax forms necessary to claim the tax credit. The bill requires the Texas Workforce Commission (TWC) periodically to notify employers regarding these requirements as part of any other periodic notice sent to employers and to post the notice on the TWC Internet

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website. The bill authorizes the TWC to adopt rules as necessary to implement these provisions and, if such rules are adopted, requires each employer to comply with those rules. The bill requires the comptroller to produce a form that includes information regarding the tax credit and local volunteer income tax assistance programs and to make the form available to employers by written notice and on the comptroller's website.

**House Bill 2547**  
**Effective:** 9-1-09

**House Author:** Giddings  
**Senate Sponsor:** Deuell

House Bill 2547 amends the Labor Code to authorize a treating doctor, in facilitating the return of an employee back to employment as soon as the doctor considers it safe and appropriate, to request that the injured employee's employer provide the doctor with certain information concerning the employee's job on a standardized form adopted by the commissioner of workers' compensation. The bill specifies the information to be contained on the form and establishes that such information does not constitute a request or an offer of employment by the employer for the injured employee to return to work, or an admission of the compensability of the employee's injury. The bill authorizes the commissioner to adopt rules as necessary to implement these provisions and to facilitate communication between the employer and the treating doctor regarding return-to-work opportunities, and makes its provisions applicable only to an employee of an employer with 10 or more employees.

**House Bill 3519**  
**Effective:** 5-27-09

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

House Bill 3519 amends the Labor Code to require the Texas Workforce Commission and the Texas Higher Education Coordinating Board to enter into a memorandum of understanding for the coordination and administration of the Texas Career Opportunity Grant Program. The bill authorizes program functions assigned to the commission to be assigned to the coordinating board under the memorandum of understanding. The bill provides that the transfer to the coordinating board of any functions relating to the administration of the grant program applies beginning with grants awarded for the 2010 fall semester.

**House Bill 4328**  
**Effective:** 6-19-09

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

House Bill 4328 amends the Labor Code to require the Texas Workforce Commission to create the Interagency Literacy Council to study, promote, and enhance literacy in Texas as prescribed by the bill. The bill includes provisions relating to the composition, appointment, staffing, terms, meetings, and compensation of the council and establishes that the council expires September 1, 2019, unless continued by the legislature under the Texas Sunset Act. The bill requires the council to develop a statewide literacy plan and to report to the legislature, the governor, and the Texas Workforce Investment Council on or before November 1 of each even-numbered year on developing and implementing the plan and on the programs and services that address literacy needs in Texas. The council must submit the initial report not later than November 1, 2012.

**House Bill 4545**  
**Effective:** 9-1-09

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

House Bill 4545 amends the Labor Code to change the deadline by which a party must file a suit to seek judicial review of an appeal in an adjudication proceeding under the Texas Workers' Compensation Act to not later than the 45th day after the date on which the division of workers' compensation of the Texas Department of Insurance mailed the party the decision of the appeals



panel, rather than not later than the 40th day after the date on which the decision of the appeals panel was filed with the division. The bill specifies that the mailing date is considered to be the fifth day after the date the decision of the appeals panel was filed with the division.

**Senate Bill 707**  
**Effective:** 9-1-09

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

Senate Bill 707 amends the Labor Code to prohibit a sexually oriented business from employing an individual younger than 18 years of age. The bill requires such a business to maintain at the business a record that contains a copy of a valid proof of identification of each employee or independent contractor working at the business premises, specifies the acceptable types of identification, and requires the business to maintain the record for at least two years after the date the employee or contractor ends the employment or contractual obligation, with certain exceptions. The bill authorizes the Texas Workforce Commission, the attorney general, or a local law enforcement agency to inspect such a record if there is good reason to believe that an individual younger than 18 years of age is employed or has been employed by the business within the two years preceding the inspection. The bill makes it an offense to fail to maintain a record as required or to knowingly or intentionally hinder an authorized inspection.

**Senate Bill 741**  
**Effective:** 9-1-09

**Senate Author:** Nichols  
**House Sponsor:** Darby

Senate Bill 741 amends the Labor Code to clarify that the 180-day deadline for an employee to file a wage claim with the Texas Workforce Commission is a matter of jurisdiction. The bill requires a commission examiner to dismiss a wage claim for lack of jurisdiction if the wage claim is filed later than the 180th day after the date the wages claimed became due for payment.

**Senate Bill 1080**  
**Effective:** 9-1-09

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

Senate Bill 1080 amends the Water Code to establish that an act or event that would otherwise be a violation of a statute, rule, or permit within the jurisdiction of the Texas Commission on Environmental Quality is not a violation if a person can establish that the act or event was caused solely by compliance with the general duty clause of the federal Occupational Safety and Health Act of 1970.

**Senate Bill 1814**  
**Effective:** 6-19-09

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

Senate Bill 1814 amends the Labor Code to replace the return-to-work pilot program for small employers participating in the workers' compensation system with the return-to-work reimbursement program for employers participating in the system, and authorizes the commissioner of workers' compensation by rule to expand eligibility to participate in the program to other types of employers. The bill increases from \$2,500 to \$5,000 the maximum amount of reimbursement for which an employer is eligible and authorizes the division of workers' compensation of the Texas Department of Insurance, under certain conditions, to provide an employer participating in an optional preauthorization plan for workplace modifications with an advance of up to \$5,000. The bill requires the commissioner to adopt rules as necessary to implement provisions relating to the expanded program.

Senate Bill 1814 specifies that the return-to-work coordination services an insurance carrier must provide to an employer to facilitate an injured employee's return to employment must be provided on an ongoing basis and requires that such services be provided on receipt of notice

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that an injured employee is eligible to receive temporary income benefits. The bill requires the insurance carrier to notify the employer of the availability of the return-to-work reimbursement program, rather than of return-to-work coordination services, and removes a requirement that insurance carriers and the division, in offering such services, target certain employers and workers. The bill specifies that case managers who perform evaluations of a compensable injury that could potentially result in lost time from employment are appropriately certified, rather than licensed to practice in Texas.

**The summary for the following bill is in the listed chapter:**

House Bill 2249 - Occupational Regulation

## Law Enforcement

This chapter covers legislation relating to the qualifications, training, and duties of peace officers, rights of retired peace officers, law enforcement agencies, and concealed handguns and firearms possession, as well as the duties and functions of the Texas Department of Public Safety. Bills related to peace officer compensation, benefits, and employment issues are in the **Public Officials and Employees** chapter, and bills relating to peace officer retirement systems are in the **Public Retirement Systems** chapter. Bills on crime victims and criminal offenses, penalties, and procedures are in the **Criminal Justice** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

**House Bill 358****Effective:** 9-1-09**House Author:** Flynn**Senate Sponsor:** Gallegos

House Bill 358 amends the Code of Criminal Procedure to authorize a peace officer directed under a search warrant to search for and seize a gambling device or gambling equipment, altered gambling equipment, or gambling paraphernalia to seize only the programmable main circuit board of such devices, equipment, or paraphernalia if the circuit board meets certain requirements, to carry the circuit board before the magistrate, and to retain custody of the circuit board as the property seized pursuant to the warrant.

**House Bill 548****Effective:** 9-1-09**House Author:** Pickett**Senate Sponsor:** Carona

House Bill 548 amends the Transportation Code to require a peace officer to require a motor vehicle used in the commission of an offense of racing on a highway that results in an accident with property damage or personal injury to be taken to the nearest licensed vehicle storage facility unless the vehicle is seized as evidence, in which case the vehicle may be taken to a storage facility as designated by the peace officer involved. The bill makes the owner of the vehicle liable for all removal and storage fees incurred, and it specifies that the owner is not entitled to take possession of the vehicle until those fees are paid.

**House Bill 1492****Effective:** 5-27-09**House Author:** Driver et al.**Senate Sponsor:** Hegar

House Bill 1492 amends the Occupations Code to authorize the Commission on Law Enforcement Officer Standards and Education to present to law enforcement officers achievement awards relating to not more than a total of 20 incidents and accomplishments each year rather than limiting the number of awards presented to not more than 20 awards each year.

**House Bill 2062****Effective:** 5-27-09**House Author:** Gallego**Senate Sponsor:** Hinojosa

House Bill 2062 amends the Code of Criminal Procedure to authorize an attorney representing the state in a forfeiture proceeding and special rangers of the Texas and Southwestern Cattle Raisers Association to enter into a local agreement that allows the attorney to transfer proceeds from the sale of forfeited property in a criminal case, after the deduction of certain court costs to which a district court clerk is entitled, to a special fund established for the special rangers. The bill sets forth requirements for the use of the proceeds and provides for the audit of any expenditures of the proceeds.

## Law Enforcement

### **House Bill 2068**

**Effective:** 6-19-09

**House Author:** Elkins

**Senate Sponsor:** Hegar

House Bill 2068 amends the Occupations Code to require, rather than authorize, the head of a state or local law enforcement agency, on request of an honorably retired peace officer who meets certain requirements, rather than any retired peace officer who meets those requirements, to issue to the retired officer identification that indicates that the officer honorably retired from the agency.

### **House Bill 2130**

**Effective:** 6-19-09

**House Author:** Rios Ybarra

**Senate Sponsor:** Van de Putte

House Bill 2130 amends the Code of Criminal Procedure to authorize an attorney representing the state to ask the Texas Rangers division of the Department of Public Safety to assist a local law enforcement agency investigating an offense that is alleged to have been committed by an elected officer of the political subdivision served by the local law enforcement agency and, on conviction or adjudication, would subject the elected officer to registration as a sex offender under the sex offender registration program.

### **House Bill 2799**

**Effective:** 9-1-09

**House Author:** Driver

**Senate Sponsor:** Hegar

House Bill 2799 amends the Occupations Code to specify that a person who meets the law enforcement officer license requirements under state law has the same reporting responsibilities toward the Commission on Law Enforcement Officer Standards and Education under rules adopted by the commission as a license holder who has already been appointed as a peace officer. The bill authorizes the commission to determine that a person who meets the law enforcement officer license requirements is ineligible for appointment as a peace officer based on events that occur after the person meets those license requirements but before the person is appointed.

### **House Bill 2932**

**Effective:** 9-1-09

**House Author:** Vaught et al.

**Senate Sponsor:** Carona

House Bill 2932 amends the Government Code to require the bureau of identification and records to establish and maintain a central index in the law enforcement information system maintained by the Department of Public Safety (DPS) to collect and disseminate certain information regarding additional offenses that forensic DNA test results indicate may have been committed by a defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only. The bill provides for the confidentiality of the information maintained by DPS in the central index, sets forth the criteria the information must meet to qualify for entry in the index, and prohibits DPS from disseminating the information except to a criminal justice agency on proper inquiry.

House Bill 2932 authorizes an applicable defendant to submit a request to determine whether the bureau has entered information relating to the defendant in the central index, requires the head of the bureau or that person's designee and the head of DPS's crime laboratory in Austin to review the information for accuracy if a defendant alleges the bureau may have entered inaccurate information, and sets forth procedures and requirements for the bureau to follow in acting on requests and the findings of the review.

**House Bill 3140****Effective:** 9-1-09**House Author:** Gonzalez Toureilles**Senate Sponsor:** Hegar

House Bill 3140 amends the Code of Criminal Procedure and the Transportation Code to add a groundwater conservation district to the entities to which a law enforcement agency is authorized to transfer or loan forfeited or abandoned property, including a vehicle.

**House Bill 3201****Effective:** 6-19-09**House Author:** King, Phil**Senate Sponsor:** Wentworth

House Bill 3201 amends the Code of Criminal Procedure to add the fire marshal and any related officers, inspectors, or investigators commissioned by a county for purposes of county fire protection to the list of persons who are designated as peace officers.

**House Bill 3352****Effective:** 9-1-09**House Author:** Naishtat et al.**Senate Sponsor:** Ellis

House Bill 3352 amends the Government Code and Health and Safety Code to establish provisions relating to the collection, dissemination, and correction of certain judicial determinations for a federal firearm background check. The bill requires the Department of Public Safety (DPS) by rule to establish a procedure to provide federal prohibited person information to the Federal Bureau of Investigation (FBI) for use with the National Instant Criminal Background Check System. The bill authorizes DPS to disseminate this information only to the extent necessary to allow the FBI to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm. The bill requires DPS to grant access to this information to the person who is the subject of the information.

The bill requires a court clerk to prepare and forward to DPS certain information regarding such a person not later than the 30th day after the date of a judicial determination that qualifies the person as such a federal prohibited person. The bill also requires a court clerk to prepare and forward information for previous orders issued on or after September 1, 1989, not later than September 1, 2010.

The bill authorizes a person who is furloughed or discharged from court-ordered mental health services to petition the court that entered the commitment order for an order stating that the person qualifies for relief from a firearms disability and imposes requirements on the court relating to granting such relief.

**House Bill 3385****Effective:** 6-19-09**House Author:** Coleman et al.**Senate Sponsor:** Hegar

House Bill 3385 amends the Government Code to expand the conditions under which the Department of Public Safety is required to activate the statewide alert system for abducted children at the request of a local law enforcement agency to include if the agency believes that there has been an abduction of a child who is younger than 14 years of age and regardless of whether the child departed willingly with the other person, who has been taken from the care and custody and without the permission of the child's parent or legal guardian by another person who is more than three years older than the child and not related to the child by any degree of consanguinity or affinity. The bill further expands these conditions to include if the agency believes the abducted child is in immediate danger of becoming the victim of a sexual assault.

**House Bill 3389**

**Effective:** 9-1-09

**House Author:** Harper-Brown et al.

**Senate Sponsor:** Deuell

House Bill 3389 amends the Occupations Code to continue the Texas Commission on Law Enforcement Officer Standards and Education until September 1, 2021, and to amend provisions relating to the commission's functions. The bill modifies the commission's membership and employee restrictions, modifies training requirements for members, and adds to the reporting requirements for local law enforcement agencies for purposes of receiving an annual allocation of money from the comptroller of public accounts. The bill requires the commission to implement policies relating to the use of appropriate technological solutions to improve the commission's ability to perform its functions and to alternative dispute resolution procedures, to develop and establish a system for the electronic submission of required forms, data, and documents to the commission, and to establish guidelines relating to consequences of criminal convictions or deferred adjudications.

House Bill 3389 entitles the commission to access certain records of an agency regarding law enforcement officers, requires the commission to audit the records, and sets forth auditing procedures. The bill sets forth provisions relating to the submission of certain information by an entity that begins to commission, appoint, or employ law enforcement officers on or after September 1, 2009, and amends provisions relating to commission complaint procedures, recording, and analysis.

House Bill 3389 amends provisions relating to the required components of law enforcement officer training programs and qualifications for enrollment in such programs and requires an officer to complete a program on investigative topics, civil rights, racial sensitivity, and cultural diversity to obtain an intermediate proficiency certificate. The bill establishes administrative penalties to be assessed against a law enforcement agency or governmental entity that violates provisions relating to law enforcement officers or a rule adopted under those provisions and establishes venue for the prosecution of an offense that arises from such a violation.

House Bill 3389 amends the Code of Criminal Procedure to update law enforcement agency policy and reporting requirements regarding racial profiling and motor vehicle stops and provide for related disciplinary procedures and to establish a civil penalty for a law enforcement agency that fails to submit certain incident-based data to the commission. The bill establishes a 10-cent court cost to be paid by a defendant on conviction in a justice court, county court, county court at law, or municipal court of a motor vehicle moving violation and deposited to the credit of the Civil Justice Data Repository fund for use by the commission to implement its auditing duties. The bill makes conforming changes to the Government Code.

**House Bill 3594**

**Effective:** See below

**House Author:** McReynolds

**Senate Sponsor:** Watson

House Bill 3594 amends the Code of Criminal Procedure to require, in a county with a population of less than 100,000, the attorney representing the state, the clerk, or other officer in possession of any evidence containing biological material used to prosecute and convict a defendant of criminal homicide or a sexual or assaultive offense, if on the conviction of the offense the defendant was sentenced to a term of imprisonment of 10 years or more, to ensure the preservation of the evidence by promptly delivering the evidence to the Department of Public Safety (DPS) for storage. The bill amends the Government Code to require DPS to maintain a storage space for preservation of such evidence and to authorize DPS to maintain a storage space for the preservation of evidence of a sexual assault or other sex offense. The bill requires DPS to begin accepting evidence on January 1, 2010, and not later than November 1, 2009, to adopt rules relating to the delivery, cataloging, and preservation of the evidence stored.

House Bill 3594 takes effect September 1, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**Senate Bill 379**

**Effective:** 6-19-09

**Senate Author:** Carona

**House Sponsor:** Guillen

Senate Bill 379 amends the Government Code to require the gang section of the Texas Fusion Center to annually submit a report assessing the threat posed statewide by criminal street gangs that identifies strategies effective in deterring gang-related crime and gang involvement in human trafficking. The bill requires the attorney general, the Department of Public Safety, the Texas Department of Criminal Justice, other law enforcement agencies, and juvenile justice agencies to provide, on request, certain information to the gang section. The bill makes federal rules governing criminal intelligence systems applicable to certain information received by the Texas Fusion Center. The first annual report regarding criminal street gangs must be submitted to the governor and the legislature not later than September 1, 2010.

**Senate Bill 417**

**Effective:** 6-19-09

**Senate Author:** Carona

**House Sponsor:** Isett et al.

Senate Bill 417 amends the Parks and Wildlife Code to authorize an employee commissioned as a Texas Parks and Wildlife Department peace officer to purchase, for an amount set by the department not to exceed fair market value, a firearm issued to the person by the department if the firearm is not listed as a prohibited weapon under state law and the firearm is retired by the department for replacement purposes.

**Senate Bill 418**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Moody et al.

Senate Bill 418 amends provisions of the Code of Criminal Procedure to require, rather than authorize, a criminal justice agency and certain local law enforcement agencies to compile criminal information into an intelligence database for the purpose of investigating and prosecuting the criminal activities of criminal street gangs. The bill requires the Department of Public Safety, not later than December 1, 2009, to enter into a memorandum of understanding with the United States Department of Justice or other appropriate federal departments or agencies to provide any person who enters or retrieves information from a criminal street gang intelligence database with training regarding certain federal operating principles and requires any person who enters or retrieves information from such a database to complete continuing education training on this material at certain intervals.

**Senate Bill 650**

**Effective:** 6-19-09

**Senate Author:** Van de Putte

**House Sponsor:** Hopson

Senate Bill 650 amends the Occupations Code to permit an employee commissioned as a peace officer by the State Board of Pharmacy under the Texas Pharmacy Act to carry a firearm or to make an arrest.

**Senate Bill 1188**

**Effective:** 5-30-09

**Senate Author:** Estes

**House Sponsor:** Bonnen

Senate Bill 1188 amends the Penal Code to authorize a Texas resident, if not otherwise precluded by law, to purchase firearms, ammunition, reloading components, or firearm accessories in any other state, rather than in contiguous states, to reflect updated federal statutes.

**Senate Bill 1237**  
**Effective:** 6-19-09

**Senate Author:** Estes  
**House Sponsor:** Heflin

Senate Bill 1237 amends the Human Resources Code to authorize a juvenile probation officer to carry a firearm in the course of the officer's duties if the officer possesses a firearms proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education, is authorized to do so by the chief juvenile probation officer of the juvenile probation department that employs the officer, has been employed for at least one year by the department, and has not been designated a perpetrator in a Texas Juvenile Probation Commission abuse, neglect, or exploitation investigation.

The bill amends the Penal Code to exempt a juvenile probation officer who is authorized to carry a firearm from application of the offenses of the unlawful carrying of a weapon or of possessing a weapon in a prohibited place.

The bill amends the Occupations Code to require the Commission on Law Enforcement Officer Standards and Education and the Texas Juvenile Probation Commission to adopt by rule a memorandum of understanding that establishes a program that provides instruction in the responsible use of firearms by juvenile probation officers. The bill provides for the administration of the training program, the issuance of firearms proficiency certificates to juvenile probation officers, and the establishment of reasonable and necessary fees for the administration of the training program.

**Senate Bill 2438**  
**Effective:** 6-19-09

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

Senate Bill 2438 amends the Code of Criminal Procedure to require a sheriff, within 30 days of the day a court clerk issues a warrant, to report to the national crime information center each warrant or capias issued for a defendant charged with an offense other than a Class C misdemeanor who fails to appear in court when summoned.

## **Law Enforcement Officer Training and Certification**

**House Bill 780**  
**Effective:** 9-1-09

**House Author:** Turner, Sylvester  
**Senate Sponsor:** Ellis

Current law requires an applicant for a beginning position with a police department in a municipality with a population of 1.5 million or more and in certain other municipalities to have earned at least 60 hours' credit in any area of study at an accredited college or university in addition to meeting other eligibility requirements. House Bill 780 amends the Local Government Code to allow up to 12 of those college credit hours to be earned for training at the police officer training academy operated or sponsored by the municipality.

**House Bill 2093**  
**Effective:** 9-1-09

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

House Bill 2093 amends the Occupations Code to include a county jailer among the persons who, on meeting certain requirements, the Commission on Law Enforcement Officer Standards and Education is authorized to certify as a special officer for offenders with mental impairments. The bill adds a county jailer and a justice of the peace to the persons to whom the commission is authorized to issue a professional achievement or proficiency certificate.



**House Bill 2991**  
**Effective:** 6-19-09

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

House Bill 2991 amends the Occupations Code to establish the Hal Wyatt Act, which prohibits an honorably retired commissioned Department of Public Safety officer who is a special ranger or who is a special Texas Ranger from being required to undergo an education and training program on de-escalation and crisis intervention techniques designed to facilitate interaction with persons with mental impairments.

**Senate Bill 1303**  
**Effective:** 9-1-09

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

Current law requires a state or local law enforcement agency that employs at least two peace officers to designate a firearms proficiency officer and to require each peace officer the agency employs to demonstrate weapons proficiency to the firearms proficiency officer at least annually. Senate Bill 1303 amends the Occupations Code to make that requirement applicable to an agency that employs one or more peace officers and to require such an agency to designate a firearms proficiency officer not later than March 1, 2010.

## Procedures

**Senate Bill 537**  
**Effective:** 9-1-09

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

Senate Bill 537 amends the Code of Criminal Procedure to include a judge of competent jurisdiction among the judges from whom a peace officer may obtain oral or written consent required under current law before beginning interception of wire, oral, or electronic communications.

**Senate Bill 743**  
**Effective:** 9-1-09

**Senate Author:** Wentworth  
**House Sponsor:** Gutierrez

Senate Bill 743 amends the Code of Criminal Procedure to specify that the time allowed for the execution of a search warrant is 15 whole days if the warrant is issued solely to search for and seize specimens from a specific person for DNA analysis and comparison, including blood and saliva samples, or three whole days if the warrant is issued for another purpose.

**Senate Bill 1236**  
**Effective:** 9-1-09

**Senate Author:** Seliger  
**House Sponsor:** Dukes

Senate Bill 1236 amends the Code of Criminal Procedure to include in the citation issued by a peace officer to a person charged with a Class C misdemeanor offense, other than public intoxication, an admonishment providing that it may be unlawful for the person to possess or purchase certain handguns and ammunition if the person is convicted of a misdemeanor offense involving violence where the person was or is the spouse, intimate partner, parent, or guardian of or is in another similar relationship with the victim. The bill requires a court to give such an admonishment to a defendant charged with a misdemeanor involving family violence before accepting a plea of guilty or nolo contendere, authorizes the admonishment to be provided orally or in writing, and provides that the citation admonishment may serve as the court admonishment if the defendant is charged with a misdemeanor punishable by fine only.

**Senate Bill 2047**

**Effective:** 9-1-09

**Senate Author:** Williams

**House Sponsor:** Fletcher et al.

Senate Bill 2047 amends provisions of the Code of Criminal Procedure relating to the use of certain surveillance devices for law enforcement purposes. The bill updates the definitions of “wire communication” and “mobile tracking device.” The bill authorizes a district judge to issue an order for the installation and use of a mobile tracking device in the same judicial district as the site of the investigation or the site of the person, vehicle, container, item, or object the movement of which will be tracked by the mobile tracking device, while previous law authorized an order for the installation and use of the device only within the judge’s judicial district.

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

House Bill 590 - State Government

House Bill 1659 - Criminal Justice

House Bill 2347 - Higher Education

Senate Bill 52 - Transportation

Senate Bill 390 - Open Government and Privacy

## Local Government

This chapter covers legislation on the governments of municipalities, counties, and other local political subdivisions, as well as legislation on international border issues and colonias. Bills relating to the duties of local government personnel, other than peace officers, are in this chapter, while bills on local government personnel benefits, compensation, and employment issues are in the **Public Officials and Employees** chapter. Bills on the duties of peace officers are in the **Law Enforcement** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 328**

**Effective:** 5-19-09

**House Author:** Heflin

**Senate Sponsor:** Seliger

House Bill 328 amends the Agriculture Code, Election Code, and Local Government Code to abolish the office of inspector of hides and animals. The bill transfers any records in the custody of an inspector of hides and animals to the county clerk of the county previously served by the inspector. The bill repeals the requirement that a slaughterer in certain counties have the hide and ears of any slaughtered cattle inspected by the inspector of hides and animals or a magistrate of the county.

#### **House Bill 960**

**Effective:** 6-19-09

**House Author:** Anchia et al.

**Senate Sponsor:** Carona

House Bill 960 amends the Government Code to entitle a municipality or county that requires a sexually oriented business to obtain a license or other permit to obtain criminal history record information maintained by the Department of Public Safety that relates to a person who is applying for, is the holder of, or requests a determination of eligibility for such a license or permit issued by the municipality or county.

#### **House Bill 1730**

**Effective:** 6-19-09

**House Author:** Pitts

**Senate Sponsor:** Averitt

House Bill 1730 amends the Local Government Code to authorize a municipality or county to issue general obligation bonds or revenue bonds to reimburse a developer for the cost of a public improvement located in a public improvement district created on or after January 1, 2005, in a county that meets certain geographic and population requirements if certain criteria are met. The bonds must comply with the provisions relating to general obligation bonds or revenue bonds issued under the Public Improvement District Assessment Act.

#### **House Bill 3485**

**Effective:** Vetoed

**House Author:** Coleman

**Senate Sponsor:** West

House Bill 3485 amends a number of statutes relating to local governmental functions. The bill amends the Code of Criminal Procedure to:

- authorize the transmission of a warrant, complaint, or notice of arrest and commitment by secure fax or other electronic means
- allow a peace officer testifying before a grand jury and a Texas Department of Criminal Justice inmate witness in a criminal proceeding to testify through the use of a video teleconferencing system
- revise provisions relating to autopsies, death inquests, the regulation of medical examiners, and organ donation and retention by examiners performing inquests and autopsies

## Local Government

House Bill 3485 amends the Election Code to authorize the employment of the county elections administrator to be suspended, with or without pay, as an alternative to termination. The bill amends the Government Code and the Local Government Code to authorize additional methods of disbursing payments to jurors for jury service and to allow a juror to donate such payment.

House Bill 3485 amends the Health and Safety Code to:

- add provisions relating to the authority of the Dallas County Hospital District to employ health care providers and physicians and the authority of an eligible hospital that is operated by a governmental entity and located in a county with a population of 50,000 or less to employ physicians and relating to the liability cap for certain physicians
- require a county to place in a trust account money discovered in the possession of a deceased pauper
- authorize a crematory establishment to accept unidentified human remains from a county on the order of the commissioners court or a court located in the county

House Bill 3485 amends the Local Government Code to:

- provide that a county employee's request for a payroll deduction is not required to be submitted to the county auditor if the deduction is processed through an automated payroll system maintained by the county
- authorize a commissioners court of a self-insuring county or an intergovernmental pool operating under a county government liability insurance pool to require reimbursement for the provision of punitive damage coverage
- revise provisions relating to personal liability of nonowners of property cited for a violation of a county or municipal rule or ordinance and to providing notice of the citation to the owner
- increase from \$25,000 to \$50,000 the maximum amount of a county purchase or contract that is exempt from compliance with competitive bidding procedures
- allow a county to profit from the sale or licensure of county-developed computer software
- modify provisions relating to the creation, administration, powers, duties, and taxation of a county assistance district

House Bill 3485 amends the Education Code and Local Government Code to revise provisions of the Public Improvement District Assessment Act regarding a public improvement district's powers, the authority of a governing body of a municipality or a county to create districts and undertake improvement projects, the lease of a project to an institution of higher education, procedures for establishing, dissolving, and assessing a public improvement district, separate public improvement district funds, terms and conditions of bonds used for improvements, the authority of a district to annex or exclude land from the district, and the applicability of provisions about public improvement districts and improvement projects to certain municipalities.

House Bill 3485 amends the Occupations Code to exclude an information technology professional who is an employee of a county and who is in the scope of county employment from those persons considered to be acting as an investigations company for purposes of the Private Security Act. The bill amends the Property Code to require the Texas Department of Housing and Community Affairs to collect and report certain foreclosure data to the legislature.

Reason Given for Veto: "As the husband of a former nurse at a rural hospital, the son-in-law of a rural county physician, and a native of a rural county, I understand the needs of rural hospitals and their patients. I support rural hospitals' intention of attracting more doctors, and would have been glad to sign a bill allowing them to do so by directly hiring physicians.

“However, an amendment added to House Bill No. 3485 late in the session would undermine some of the gains in medical liability reform that have come from caps on physicians’ liability. These reforms were passed in 2003 and approved in a constitutional amendment election. The objectionable provision would increase the liability cap for doctors employed directly by hospital districts, as compared to the bill without the amendment. With respect to doctors employed by hospital districts, this amendment creates uncertainty as to the applicability of the liability cap available in a single action when multiple doctors or multiple claims are involved.

“The bill’s provision regarding physician liability was neither debated nor discussed, but rather amended onto this bill late in the session. It risks unraveling the progress we made in curtailing excessive liability and ensuring that patients who need physicians will be able to find them. The 2003 medical liability reform has led to thousands of new doctors coming to Texas. The changes proposed by House Bill No. 3485 threaten the progress that reform has made.”

**House Bill 4360**

**Effective:** 6-19-09

**House Author:** Geren

**Senate Sponsor:** Nelson

House Bill 4360 amends the Local Government Code to authorize a municipality or county to deposit into its venue project fund, if the revenue is not otherwise dedicated, all or a portion of any revenue received from certain payments the municipality or county receives as the owner of oil, gas, and other mineral interests and from the fees, payments, or charges imposed by a joint operating board to which a municipality or county is a party or by a nonprofit corporation created by and acting on behalf of a county or municipality. The bill also authorizes a municipality or county to deposit into such a fund any other revenue the municipality by ordinance or the county by order determines is appropriate for financing a venue project and related infrastructure.

House Bill 4360 authorizes a municipality or county to impose an event parking tax on each motor vehicle that parks in a parking facility of an approved venue project during any hours if the project consists of three or more separate but adjacent venue facilities. The bill authorizes a municipality with a population of more than 700,000 within a county with a population of more than one million adjacent to a county with a population of more than two million to impose the tax at a maximum rate of \$5 per motor vehicle and authorizes such a municipality that has adopted a lower rate to increase the rate to the maximum rate by ordinance if the increase is approved by a majority of the registered voters of the municipality voting at an election called and held for that purpose.

**House Joint Resolution 132**

**For Election:** 11-3-09

**House Author:** Corte et al.

**Senate Sponsor:** Wentworth

House Joint Resolution 132 proposes an amendment to the state constitution to allow the legislature to authorize a municipality or county to issue bonds or notes to finance the acquisition of buffer zones or open spaces adjacent to a military installation to prevent encroachment or for the construction of roadways, utilities, or other infrastructure to protect or promote the mission of the military installation. The bill authorizes the municipality or county to pledge increases in property tax revenues imposed in the zone by the municipality, county, or another political subdivision for repayment of the bonds or notes.

**Senate Bill 376**

**Effective:** 6-19-09

**Senate Author:** Carona

**House Sponsor:** Phillips

Senate Bill 376 amends the Transportation Code to remove a provision authorizing a Texas Department of Transportation (TxDOT) district engineer to initiate disciplinary proceedings against a county traffic officer who fails to perform the officer’s duty to enforce the law by submitting a written complaint to the commissioners court. The bill also repeals a provision requiring a TxDOT district engineer to advise a county traffic officer on enforcement of the state highway traffic laws.

## Local Government

### **Senate Bill 1035**

**Effective:** 5-27-09

**Senate Author:** Hinojosa

**House Sponsor:** Ortiz, Jr.

Senate Bill 1035 amends the Cultural Education Facilities Finance Corporation Act to decrease from 400,000 to 300,000 the minimum population a county must have for a cultural education facilities finance corporation located in the county to be allowed to exercise its authority inside or outside the limits of the city or the county that created the corporation.

### **Senate Bill 1554**

**Effective:** 5-27-09

**Senate Author:** Gallegos

**House Sponsor:** Coleman

Senate Bill 1554 amends the Local Government Code to authorize a district, county, or precinct officer in a county with a population of more than 190,000 to designate a person to receive money as fees, commissions, or costs on behalf of the officer, and extends related recording and reporting requirements applicable to the officer to such a designee.

### **Senate Bill 1685**

**Effective:** 6-19-09

**Senate Author:** Hinojosa

**House Sponsor:** Gonzales

Senate Bill 1685 amends the Government Code to authorize the commissioners court of a county to adopt a district court records archive fee of not more than \$5 for the filing of a suit, except for a filing by a state agency, in a district court in the county. The bill requires the county treasurer or other appropriate official to establish a district court records technology fund, provides for the collection and deposit of the fee into the fund, and requires the fee to be set and itemized in the county budget and to be approved in a public meeting. The bill limits the use of money generated from the fee to the preservation and restoration of a district court records archive. The bill requires the district clerk to designate the court documents that are part of the records archive and provides for the use of the money remaining after completion of a records preservation and restoration project and for the termination of the records archive fee after the project is complete.

### **Senate Bill 1945**

**Effective:** 1-1-10

**Senate Author:** West

**House Sponsor:** Deshotel

Senate Bill 1945 amends the Local Government Code to specify the date by which an employee of the owner of real property for which a violation of a county or municipal rule or ordinance is issued, or of a company managing property on behalf of the owner, must provide the owner's contact information in order for the employee not to be held personally liable for criminal or civil penalties resulting from the violation. The bill also specifies that the owner's street address included in the contact information is the current address and requires the county or municipality issuing the citation to mail notice of the citation to the property owner at the address most recently provided to the county or municipality by the property owner or the employee. The bill removes language specifying that the employee to whom the citation is issued is considered the property owner's agent for accepting service of the citation only if the owner's street address is not in Texas.

### **Senate Bill 1992**

**Effective:** 9-1-09

**Senate Author:** Gallegos

**House Sponsor:** Smith, Wayne

Senate Bill 1992 amends the Transportation Code to provide a civil penalty for a violation of the law regulating automobile wrecking and salvage yards in a county with a population of 3.3 million or more. The bill authorizes a separate penalty to be imposed for each day a continuing violation occurs and authorizes a district, county, or municipal attorney to bring suit to collect the penalty. The bill entitles a county or municipality, in addition to a person, to an injunction to prohibit a violation or threatened violation of that law.

## Border Issues and Colonias

### House Bill 1579

**Effective:** 6-19-09

**House Author:** Gonzales et al.

**Senate Sponsor:** Lucio

House Bill 1579 amends the Local Government Code to authorize a county to provide assistance for the removal from private property, including a road, of flood water resulting from a natural disaster in a colonia if the removal of the water is necessary to protect the health and safety of the colonia.

### House Bill 2275

**Effective:** 6-19-09

**House Author:** Raymond et al.

**Senate Sponsor:** Zaffirini

House Bill 2275 creates the Task Force on Uniform County Subdivision Regulation. The bill provides for the task force's composition and duties, including proposed legislation to create uniform standards for the regulation of the development of subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties. The bill requires the Texas Water Development Board to provide administrative support to the task force, allows the board to specify task force meeting locations, and permits the task force to accept gifts and grants through the board. Not later than December 1, 2010, the task force must submit its findings, recommendations, and proposal for legislation to the appropriate standing committees of the legislature. The task force is abolished September 2, 2011.

### House Bill 2833

**Effective:** 9-1-09

**House Author:** Marquez et al.

**Senate Sponsor:** Shapleigh

House Bill 2833 amends the Local Government Code to authorize certain counties in the Texas-Mexico border region to apply building code standards specified in the bill to new residential construction. The bill establishes inspection and notice requirements, authorizes the county to take certain actions to enforce the standards, and establishes a penalty for failure to meet notice requirements.

### Senate Bill 1371

**Effective:** 9-1-09

**Senate Author:** Lucio

**House Sponsor:** Lucio III

Previous law allowed only nonprofit organizations that met certain statutory criteria to be eligible for funding under the colonia self-help program. Senate Bill 1371 amends the Water Code to revise the eligibility criteria to include a larger pool of nonprofit organizations and to include political subdivisions. The bill authorizes the Texas Water Development Board to make an advance of grant funds not exceeding 10 percent of the total amount of the grant to a retail public utility that has made certain commitments to the self-help project, subject to board terms.

Current law establishes that a "colonia" for purposes of this program consists of 11 or more dwellings. Senate Bill 1371 authorizes the board to determine that a colonia consists of fewer dwellings under certain circumstances.

### Senate Bill 1676

**Effective:** 9-1-09

**Senate Author:** Hinojosa

**House Sponsor:** Gonzales

Senate Bill 1676 amends the Local Government Code to authorize the commissioners court of a county within 50 miles of the international border to impose a fee for a certificate issued for the connection of utilities for a subdivision that is located in its unincorporated area. A person who obtains the certificate for the connection of utilities in such a county is not required to obtain a certificate of compliance with municipal platting requirements.

## Local Government

**Senate Bill 2253**  
**Effective:** 6-19-09

**Senate Author:** Zaffirini  
**House Sponsor:** Guillen

Senate Bill 2253 amends the Local Government Code to allow a utility or entity to connect utility services, including water and sewer services, to certain existing residences in a colonia without a certificate of compliance with plat requirements and to specify the criteria that must be met to qualify for utility service without the certificate of compliance. The bill specifies that a person requesting service must be the owner or purchaser of the subdivided land and must provide certain documentation to the municipal authority responsible for approving plats. The bill establishes that it does not prohibit a water or sewer utility from providing, in a county any part of which is within 50 miles of the Texas-Mexico border, utility connection or service to a residential dwelling that receives funding under a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in such border counties; is an existing dwelling identified as eligible for the funding; will comply with certain model subdivision rules when connected; and has been approved for improvements by the applicable local governmental body. However, the bill prohibits a utility from providing water services to homes that do not have adequate sewer services. The bill modifies a provision relating to plat approval by a county for land in a floodplain to ensure compliance with the National Flood Insurance Program and local regulations. The bill defines “lot of record” and redefines “subdivider.”

## Municipal Government

**House Bill 205**  
**Effective:** 5-23-09

**House Author:** Aycock  
**Senate Sponsor:** Estes

House Bill 205 amends the Agriculture Code to provide an exemption to a municipal leash law for a dog used to protect livestock on property controlled by the property owner while the dog is being used for that purpose.

**House Bill 1255**  
**Effective:** 6-19-09

**House Author:** Lewis  
**Senate Sponsor:** Seliger

House Bill 1255 amends the Government Code to authorize the governing body of a municipality located in a county in which is located a facility licensed to dispose of low-level radioactive waste under the Texas Radiation Control Act to enter into an interlocal contract with the county for the construction and maintenance of a relief highway route around and outside the boundaries of the municipality that the governing body determines will serve a public purpose of the municipality. The bill authorizes the municipality to expend municipal funds and issue certificates of obligation or bonds to pay for expenses associated with the relief highway route.

**House Bill 1473**  
**Effective:** 6-19-09

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

House Bill 1473 amends the Local Government Code to establish that provisions relating to additional requirements for certain replats affecting a subdivision golf course apply to land located wholly or partly in the corporate boundaries of a municipality if the municipality is located wholly or partly in a county with a population of more than 1.4 million in which two or more municipalities with a population of 300,000 or more are located and that is adjacent to a county with a population of more than two million.



**House Bill 1937****Effective:** 9-1-09**House Author:** Villarreal et al.**Senate Sponsor:** Seliger

House Bill 1937 amends the Local Government Code to authorize the governing body of a municipality to designate all or part of the municipality as an area within which authorized municipal officials and property owners may enter into contracts to assess properties to finance certain energy efficiency public improvements to developed lots and the installation of distributed generation renewable energy sources or energy efficiency improvements permanently fixed to real property. The bill prohibits an assessment from being used to finance facilities for undeveloped lots or lots undergoing development or to finance the purchase or installation of appliances not permanently fixed to real property, and authorizes a municipality to impose an assessment only with the consent of the owner of the assessed property at the time of the assessment. The bill requires the governing body of a municipality to adopt a resolution indicating the body's intention to designate an area for assessment, describes the required content of the resolution, and requires an appropriate municipal official to prepare a report containing specified information relating to the assessment proposal. The bill authorizes a property owner, on the written consent of an authorized municipal official, to purchase directly the related equipment and materials and to contract directly for the installation of the distributed generation renewable energy sources or energy efficiency improvements. The bill specifies that such an assessment and any interest or penalties on the assessment constitutes a lien against the lot on which the assessment is imposed until the assessment, interest, or penalty is paid.

**House Bill 2333****Effective:** 6-19-09**House Author:** Geren**Senate Sponsor:** Davis, Wendy

Previous law prohibited a municipality from leasing a street, alley, or public square under provisions authorizing the leasing of municipal oil, gas, or mineral land. House Bill 2333 amends the Local Government Code to permit a municipality to lease a street, alley, or public square, not including a dedicated public park, under such provisions if the lease prohibits the lessee from using the surface of the land for drilling, production, or other operations.

**House Bill 2346****Effective:** 9-1-09**House Author:** Thibaut**Senate Sponsor:** Ellis

House Bill 2346 amends the Occupations Code to authorize a municipality with a population of 1.9 million or more to authorize a designated employee to request the removal of a vehicle parked illegally in a tow-away zone in a residential area where on-street parking is regulated by ordinance. The bill makes these provisions and provisions relating to the authority of a municipality to remove an immobilized vehicle inapplicable to a vehicle owned by an electric, gas, water, or telecommunications utility while the vehicle is parked for the purpose of work conducted on a facility of the utility that is located below, above, or adjacent to the street.

**House Bill 2647****Effective:** 9-1-09**House Author:** Kent et al.**Senate Sponsor:** Deuell

House Bill 2647 amends the Local Government Code to establish that an order relating to a substandard or dangerous building that is issued by a panel of the building and standards commission of a municipality under statutory provisions relating to enforcement of health and safety ordinances is enforceable in the same manner as provided in statutory provisions relating to a municipality's authority to regulate housing and other structures.

**House Bill 2726**

**Effective:** 9-1-09

**House Author:** Eissler

**Senate Sponsor:** Williams

House Bill 2726 amends the Local Government Code to authorize a municipality whose corporate boundaries are contiguous with an eligible district to enter into a regional participation agreement with that district. The bill permits an agreement to provide or allow for the release of the territory from the extraterritorial jurisdiction of an eligible municipality that is a party to the agreement at a specified time or upon the occurrence of specified events. The bill does not require an agreement to describe the land contained within the boundaries of a party to the agreement, but does require any territory to be released from the extraterritorial jurisdiction of an eligible municipality that is a party under an agreement to be included in the agreement and described in sufficient detail to convey title to land. The bill provides that an agreement binds its legal successor including a municipality, or other form of local government, to the agreement for the term specified in the agreement. The bill provides that an agreement may not require a party to make payments from any funds that are restricted, encumbered, or pledged for the payment of its contractual obligations or indebtedness.

**House Bill 3065**

**Effective:** 1-1-10

**House Author:** Bohac

**Senate Sponsor:** Ellis

House Bill 3065 amends the Local Government Code to authorize a municipality located in a county with a population of 1.5 million or more to adopt an ordinance requiring owners of vacant buildings to register their buildings by filing a registration form with a designated municipal official. Such an ordinance may exempt certain classifications of buildings as the municipality's governing body determines reasonable and appropriate and may require the disclosure of information reasonably necessary for the municipality to minimize the threat to public health, safety, and welfare presented by a vacant building. The bill establishes a presumption that a building is vacant for registration purposes if all lawful residential, commercial, recreational, charitable, or construction activity at the building has or reasonably appears to have ceased for more than 150 days or if the building contains more than three units, 75 percent or more of which have not been or reasonably appear not to have been used lawfully for more than 150 days.

**House Bill 3072**

**Effective:** 6-19-09

**House Author:** Geren

**Senate Sponsor:** Nelson

House Bill 3072 amends the Local Government Code to authorize a municipality with a population of 20,000 or less to transfer to certain economic development corporations real property or an interest in real property without complying with notice and bidding requirements, unless the municipality acquired the property through eminent domain. The bill requires the economic development corporation to use the property in a manner that primarily promotes a public purpose of the municipality and provides for the automatic reversion of the property to the municipality if the corporation fails to use the property in that manner.

**House Bill 3082**

**Effective:** 6-19-09

**House Author:** Thibaut

**Senate Sponsor:** Patrick, Dan

House Bill 3082 amends the Transportation Code to require the governing body of a municipality with a population of 1.9 million or more, before the municipality may install a traffic calming measure, to publish sufficient notice to receive and consider public comments from residents within one-half mile of the proposed measure, to hold a public meeting before implementation of the measure on request of affected residents, and, if the measure involves the closure of a street to motor vehicular traffic, to hold a public hearing on the issue of the closure and approve the closure by a majority vote.

**House Bill 4004**  
**Effective:** 5-23-09

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

House Bill 4004 amends the Government Code to increase from five to seven the maximum number of members on the board of trustees charged with management and control of a municipal utility system in a county with a population of at least 600,000 and located on the international border. The bill retains current law requiring one member to be the mayor of the municipality.

**Senate Bill 316**  
**Effective:** 5-27-09

**Senate Author:** Wentworth  
**House Sponsor:** Corte

Senate Bill 316 amends the Transportation Code to authorize the governing body of a general-law municipality to enter into an interlocal contract with the surrounding municipality for the establishment of a railroad quiet zone located outside the boundaries of the general-law municipality that the governing body determines will benefit the general-law municipality. The bill authorizes a general-law municipality to expend municipal funds and issue certificates of obligation or bonds to pay for expenses associated with such a railroad quiet zone, including expenses related to feasibility, engineering, and traffic studies and improvements related to the railroad quiet zone. The bill makes its provisions applicable only to a Type A general-law municipality that is an enclave surrounded entirely by a municipality with a population of 1.1 million or more.

**Senate Bill 446**  
**Effective:** 5-26-09

**Senate Author:** Wentworth  
**House Sponsor:** Corte

Current law requires a municipality with a population of less than 850,000 to use money collected from certain municipal court cases for a school crossing guard program if the municipality operates one and authorizes a municipality that does not operate a school crossing guard program or that receives money in excess of the amount necessary to fund the program either to deposit the additional money in an interest-bearing account or to expend it for child safety, health, or nutrition programs. Senate Bill 446 amends the Code of Criminal Procedure to authorize a municipality to expend the additional money described above for programs designed to enhance public safety and security.

**Senate Bill 820**  
**Effective:** 5-23-09

**Senate Author:** Duncan  
**House Sponsor:** Menendez

Senate Bill 820 amends the Local Government Code to require the governing body of a municipality with a population of more than 100,000, on or before the 21st day before the date the body takes action to consider, review, and recommend the adoption of or amendment to a national model code governing the construction, renovation, use, or maintenance of buildings and building systems in the municipality, to publish notice of the proposed action conspicuously on the municipality's Internet website. The bill requires the governing body to encourage public comment from persons affected by the proposed action and, on written request from five or more persons, to hold a public hearing on the proposed action on or before the 14th day before the date of adoption or amendment. The above requirements do not apply if the governing body has established an entity for the purpose of obtaining public comment on the proposed action.

Senate Bill 820 requires the implementation and enforcement of an ordinance or national model code provision that is intended to govern the construction, renovation, use, or maintenance of buildings and building systems to be delayed until at least 30 days after final adoption to permit persons affected to comply with the ordinance or provision unless a delay would cause imminent harm to the health or safety of the public.

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### **Senate Bill 894**

**Effective:** 9-1-09

**Senate Author:** Nelson et al.

**House Sponsor:** Truitt

Senate Bill 894 amends the Government Code to authorize a municipality to invest funds received by the municipality from a lease or contract for the management and development of land owned by the municipality and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under the Texas Trust Code. The bill requires the excess funds invested by a municipality to be segregated and accounted for separately from other municipal funds.

### **Senate Bill 1047**

**Effective:** 5-23-09

**Senate Author:** Lucio

**House Sponsor:** Oliveira

Senate Bill 1047 amends the Local Government Code to make design-build procedures for certain civil works projects applicable to a municipally owned combined electric, water, and wastewater utility situated in an economically distressed area and located within 30 miles of the Lower Texas Gulf Coast.

### **Senate Bill 1103**

**Effective:** 5-23-09

**Senate Author:** Duncan

**House Sponsor:** Jones

Current law authorizes the governing body of a municipality in a county with a population within a specified population bracket to abolish the municipality's perpetual trust fund for a cemetery and use the fund for permanent improvements to the cemetery. Senate Bill 1103 amends the Health and Safety Code to increase the maximum county population threshold for that provision from not more than 133,000 to not more than 300,000.

### **Senate Bill 1522**

**Effective:** 6-19-09

**Senate Author:** Shapleigh

**House Sponsor:** Quintanilla et al.

Senate Bill 1522 amends the Local Government Code to exempt property owned by a school district located wholly or partly in a municipality within 50 miles of an international border with a population of more than 500,000 from municipal drainage charges and all ordinances, resolutions, and rules relating to municipal drainage utility systems.

### **Senate Bill 1742**

**Effective:** 6-19-09

**Senate Author:** Shapiro et al.

**House Sponsor:** Paxton

Senate Bill 1742 amends the Local Government Code to provide for the regulation of the discharge of a weapon by a municipality located wholly or partly in a county with a population of 450,000 or more, in which all or part of a municipality with a population of one million or more is located, and that is located adjacent to a county with a population of two million or more. The bill prohibits such a municipality from applying a regulation relating to the discharge of firearms or other weapons in the extraterritorial jurisdiction of the municipality or in an area annexed by the municipality after September 1, 1981, if the firearm or other weapon is a shotgun, air rifle or pistol, BB gun, or bow and arrow discharged on certain tracts of land of 10 acres or more; a center fire or rim fire rifle or pistol of any caliber discharged on certain tracts of land of 50 acres or more; or discharged at a sport shooting range. The discharge of an applicable weapon must be in a manner not reasonably expected to cause a projectile to cross the boundary of the applicable tract of land.

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### House Bill 383

**Effective:** 6-19-09

**House Author:** Heflin

**Senate Sponsor:** Seliger

House Bill 383 amends the Occupations Code to require a bail bond board in a county with a population of less than 50,000 to meet at least four times annually during specified months at the call of the presiding officer, rather than at least once a month and at other times at the call of the presiding officer.

### House Bill 807

**Effective:** 9-1-09

**House Author:** Gallego

**Senate Sponsor:** Uresti

Previous law allowed only certain counties that are near an international border and contain no incorporated territory of a municipality to participate in any federal or state program that provides grants, loans, or other assistance to municipalities. House Bill 807 amends the Local Government Code to make any county that contains no incorporated territory of a municipality eligible to apply on behalf of locations in the county that are census designated places as if the places were municipalities for the purpose of participating in such programs.

### House Bill 1013

**Effective:** 6-19-09

**House Author:** Corte et al.

**Senate Sponsor:** Wentworth et al.

Current law authorizes a county, any part of which is located immediately adjacent to a United States military installation, base, or camp, on request of the military, to regulate the installation and use of outdoor lighting within five miles of the military installation, base, or camp in any unincorporated territory of the county.

House Bill 1013 amends the Local Government Code to limit the authority of a county to regulate such installation and use of outdoor lighting to a county with a population of more than one million that has at least five United States military bases and to any county adjacent to that county that is within five miles of a United States Army installation, base, or camp.

### House Bill 1063

**Effective:** 9-1-09

**House Author:** Farias

**Senate Sponsor:** Wentworth

House Bill 1063 amends the Local Government Code to authorize the commissioners court of a county to require that electric gates to a gated community or multiunit housing project be equipped with an approved siren-activated gate-operating device for emergency vehicle access.

### House Bill 1843

**Effective:** 6-19-09

**House Author:** Davis, John et al.

**Senate Sponsor:** Patrick, Dan

House Bill 1843 amends the Health and Safety Code to authorize a county that discovers cash in the possession of a deceased pauper to use the cash to pay the actual costs incurred in disposing of the pauper's body and to require the county to place any remaining cash in a trust for a year to allow a person with claim to the money to exercise the right to collect it. The bill authorizes the county to create a fund to be used to pay certain costs incurred in body disposition activities and to transfer unclaimed money in such a trust to that fund.

### House Bill 2186

**Effective:** 9-1-09

**House Author:** Guillen

**Senate Sponsor:** Huffman

House Bill 2186 amends the Transportation Code to specify that a county tax assessor-collector is required to certify to the sheriff or a constable or highway patrol officer the fact that the

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assessor-collector has received from a person a check or draft drawn against insufficient funds as payment of a vehicle registration fee after attempts to contact the person fail to result in the collection of payment and before the 30th day after the date the check or draft is returned unpaid, rather than immediately after the fact. The bill adds to the certification requirements that the certification be accompanied by documentation of any attempt to contact the person and collect payment.

**House Bill 2462**

**Effective:** 6-19-09

**House Author:** Keffer

**Senate Sponsor:** Deuell

House Bill 2462 amends the Transportation Code to specify that provisions authorizing a county to clarify the existence of a public interest in a road by the adoption of a county road map apply only to a county that initiates or completes compliance with the provisions before September 1, 2011.

**House Bill 2665**

**Effective:** 6-19-09

**House Author:** Ritter

**Senate Sponsor:** Williams

House Bill 2665 amends the Transportation Code to authorize the commissioners court of a county to adopt and impose standards and specifications for the design and installation of address number signs to identify properties located in its unincorporated areas. The bill also makes it a Class C misdemeanor to fail or refuse to comply with the adopted county order.

**House Bill 2859**

**Effective:** 6-19-09

**House Author:** Miller, Doug

**Senate Sponsor:** Wentworth

House Bill 2859 amends the Local Government Code to require a county that contracts with a licensed auctioneer who uses an Internet auction site to sell surplus or salvage property having an estimated value of not more than \$500 to satisfy the notice requirement for disposition of such property by posting the property on the site for at least 10 days unless the property is sold before the 10th day.

**House Bill 3003**

**Effective:** 6-19-09

**House Author:** Homer

**Senate Sponsor:** Eltife

House Bill 3003 amends the Occupations Code to add the approval of the commissioners court to the existing criteria for the creation of a bail bond board in a county with a population of less than 110,000.

**House Bill 3089**

**Effective:** 9-1-09

**House Author:** Veasey et al.

**Senate Sponsor:** Davis, Wendy

House Bill 3089 amends the Local Government Code to authorize the commissioners court of a county to order any vehicle that is retired under a program designed to encourage the use of low-emission vehicles to be crushed and recycled, if practicable, without a competitive bid or auction.

**House Bill 3094**

**Effective:** 6-19-09

**House Author:** Harless et al.

**Senate Sponsor:** Patrick, Dan

House Bill 3094 amends the Local Government Code to authorize the commissioners court of a county to prohibit or regulate a massage parlor located in the unincorporated area of the county. The bill permits a district or county attorney to pursue an injunction against a massage parlor in violation or threatened violation of a prohibition or regulation, makes it a Class A misdemeanor for a person to intentionally or knowingly operate a massage parlor in violation of a prohibition or order, and establishes a civil penalty of not more than \$1,000 for each violation.

**House Bill 3479**  
**Effective:** 9-1-09

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

House Bill 3479 amends the Property Code to allow the county clerk of certain counties with a population of less than 15,000 that are located on the international border, before accepting an instrument conveying real property for filing, to send the instrument to the county attorney to determine whether the instrument meets platting requirements. The county clerk is required to notify the party that presented the instrument for recording of the review of the instrument.

The bill extends certain rights of redemption after foreclosure granted to a property owner under the Texas Residential Property Owners Protection Act to a lienholder of record, but prohibits a lienholder from redeeming property before a certain date or if the owner has previously redeemed.

**House Bill 3601**  
**Effective:** 6-19-09

**House Author:** Paxton  
**Senate Sponsor:** Hegar

House Bill 3601 amends the Local Government Code to authorize a county clerk to post an official and legal notice by electronic display instead of posting a physical document and to establish that the electronic display of information must meet certain requirements.

**House Bill 4607**  
**Effective:** 9-1-09

**House Author:** Guillen  
**Senate Sponsor:** Zaffirini

House Bill 4607 amends the Local Government Code to make provisions relating to county zoning authority around Falcon Lake applicable to the tributaries and arroyos leading to Falcon Lake or to the Rio Grande River.

**Senate Bill 530**  
**Effective:** 6-19-09

**Senate Author:** Patrick, Dan  
**House Sponsor:** Davis, John

Senate Bill 530 amends the Health and Safety Code to authorize a county that discovers cash in the possession of a deceased pauper to use the cash to pay the actual costs incurred in disposing of the pauper's body and to require the county to place any remaining cash in a trust for a specified time period to allow a person with claim to the money to exercise the right to collect the money. The bill authorizes the county to create a fund into which it may transfer unclaimed money to be used to pay costs incurred in body disposition activities.

**Senate Bill 874**  
**Effective:** 5-30-09

**Senate Author:** Shapleigh  
**House Sponsor:** Quintanilla et al.

Senate Bill 874 amends the Local Government Code to exempt property owned by a county in which a municipality with a population over 500,000, within 50 miles of an international border, is located from drainage charges and all ordinances, resolutions, and rules adopted under provisions relating to municipal drainage utility systems.

**Senate Bill 1059**  
**Effective:** 9-1-09

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

Senate Bill 1059 amends the Transportation Code to authorize the commissioners court of a county to remove a cattle guard from any county road after the commissioners court notifies owners of adjacent land in a prescribed manner. The bill requires the commissioners court to hold a public hearing if a county resident submits a request for a hearing in a prescribed manner.

**Senate Bill 1368**

**Effective:** 9-1-09

**Senate Author:** Shapleigh

**House Sponsor:** Marquez

Senate Bill 1368 amends the Local Government Code to authorize the commissioners court of a county that has a population of 650,000, is located on the international border, and had a county ethics board appointed by the commissioners court before September 1, 2009, to create a county ethics commission by order or to hold an election on the creation of such a commission whose duty it is to adopt, publish, and enforce an ethics code governing county public servants. The bill sets forth the composition, manner of appointment and appointing authorities, eligibility criteria for membership, terms, grounds for removal from office, and other procedural matters regarding the commission's operation as well as its general powers and duties. The bill authorizes the commission, on request of any person covered by the ethics code, to issue an ethics advisory opinion regarding the application of the ethics code to a specified existing or hypothetical factual situation. The bill requires the commission to provide training for persons covered by the ethics code on at least a quarterly basis, adopt complaint procedures and hearings, and keep an information file about complaints filed with the commission. The bill also requires a lobbyist intending to meet with a person covered by the ethics code to complete training on the code.

The bill authorizes an individual to file with the commission a sworn complaint alleging an ethics code violation and prohibits the commission from investigating a matter outside the commission's jurisdiction or any matter except in response to a sworn complaint. The bill provides for a preliminary review and, if necessary, a formal hearing of each sworn complaint filed with the commission and authorizes the commission to issue a subpoena in connection with such a review or hearing. If a complaint filed with the commission is within the commission's jurisdiction but may also be brought under the provisions of a collective bargaining agreement, a civil service rule, or a rule of the sheriff's department, the bill requires the commission to defer jurisdiction over the complaint to the sheriff, who, under certain circumstances, may return the complaint to the commission for further proceeding. As soon as practicable after the commission determines that a person has committed an ethics code violation, the commission must make available on the Internet a copy or summary of the commission's order stating the determination. The bill prohibits retaliation against a county employee for reporting a violation of the ethics code. The bill exempts certain information and actions of the committee from open meetings and public information provisions of law.

The bill makes it a misdemeanor offense punishable by a fine of not less than \$25 or more than \$4,000, confinement in the county jail for not less than three days or more than three months, or both fine and confinement for a person to intentionally destroy, mutilate, or alter or remove without permission information relating to an ethics code violation. The bill makes certain misuses of confidential information a misdemeanor offense punishable by a fine of not more than \$1,000, confinement in the county jail for not more than six months, or both fine and confinement. Additionally, the bill establishes that a violation of such confidentiality of information constitutes official misconduct and makes a county employee who discloses confidential information subject to discipline, including termination of employment.

The bill authorizes the commission to issue and enforce a cease and desist order to stop a violation, issue an affirmative order to require compliance with the laws administered and enforced by the commission, and issue an order of public censure. The bill authorizes the commission to impose a civil penalty of not more than \$500 for each delay in complying with a commission order and to impose a civil penalty of not more than \$4,000 for a violation of the ethics code adopted by the commission or for the filing of a frivolous or bad faith complaint.



The bill allows a respondent to appeal a commission decision by filing a petition in a county district court within 30 days after the date of the decision and authorizes the court to order appropriate relief if it renders judgment for the petitioner.

**Senate Bill 1574**  
**Effective:** 6-19-09

**Senate Author:** Hinojosa  
**House Sponsor:** Marquez

Senate Bill 1574 amends the Local Government Code to remove a provision that required the county clerk in a county along the Texas-Mexico border to prepare an annual funding plan for the office's automation projects and records management and preservation services, required the commissioners court, after a public hearing, to consider the plan for approval, and restricted expenditures from the records management and preservation account to those expenditures provided by the plan.

**Senate Bill 1614**  
**Effective:** 9-1-09

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

Current law requires that a copy of an order conveying title to a public road or portion of a public road that is closed, abandoned, and vacated to the owner of the abutting property be filed in the deed records of a county and specifies that the copy serves as the official instrument of conveyance from the county to the owner. Senate Bill 1614 amends the Transportation Code to require such an order to include the name of each property owner who receives a conveyance and the dimensions of the property conveyed to each recipient and to be indexed in the deed records of the county in a manner that describes the county conveying the property as grantor and the property owner receiving the conveyance as grantee.

**Senate Bill 2058**  
**Effective:** 6-19-09

**Senate Author:** Williams  
**House Sponsor:** Smith, Wayne

Senate Bill 2058 amends the law to clarify that the rules and regulations adopted under the Harris County Road Law shall control as to Harris County when in conflict with the general laws of the state.

**Senate Bill 2072**  
**Effective:** 6-19-09

**Senate Author:** Duncan  
**House Sponsor:** Berman

Senate Bill 2072 amends the Local Government Code to remove the authorization for a commissioners court in a county with a population of 125,000 or more to contract with the secretary of state for the filing of financial disclosure reports that the commissioners court requires of county and precinct officers, county judicial officers, candidates for office, and county employees.

**Senate Bill 2197**  
**Effective:** 9-1-09

**Senate Author:** Williams  
**House Sponsor:** Harless

Senate Bill 2197 amends the Local Government Code to establish a presumption that all civil process served by a constable at any time or place is served in the constable's official capacity if the constable is authorized by law to do so. The bill prohibits a constable from retaining a fee paid for serving civil process in the constable's official capacity other than the constable's regular salary or compensation and requires any such fee to be deposited with the county treasurer of the constable's county.

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### **Senate Bill 2553**

**Effective:** 6-19-09

**Senate Author:** Hegar

**House Sponsor:** Morrison

Senate Bill 2553 amends the Local Government Code to authorize the commissioners court of a county with a population of 50,000 or less that borders the Gulf of Mexico and in which is located at least one state park and one national wildlife refuge to prohibit or restrict the clear-cutting of live oak trees in the unincorporated areas of the county. The bill makes it a Class C misdemeanor offense punishable by a fine not to exceed \$500 to violate a county order if the order defines the violation as an offense and allows the county attorney or an attorney representing the county to file an action in district court to enjoin a violation or threatened violation of an order. The bill exempts the facilities or operations of certain electric or gas utilities from such county regulation.

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

House Bill 400 - Transportation  
House Bill 752 - Public Education  
House Bill 768 - Transportation  
House Bill 1174 - Water  
House Bill 1205 - Taxes and Tax Administration  
House Bill 1819 - Property Interests and Housing  
House Bill 2004 - Open Government and Privacy  
House Bill 2032 - Taxes and Tax Administration  
House Bill 2073 - Environment  
House Bill 2276 - Taxes and Tax Administration  
House Bill 2433 - Special Districts  
House Bill 2530 - Transportation  
House Bill 2549 - Public Education  
House Bill 2692 - Property Interests and Housing  
House Bill 2927 - Health and Safety  
House Bill 3004 - Health and Safety  
House Bill 3464 - Courts  
House Bill 4311 - State Government  
Senate Bill 926 - Transportation  
Senate Bill 1112 - Emergency Response  
Senate Bill 1299 - Water  
Senate Bill 1356 - Transportation  
Senate Bill 1449 - Property Interests and Housing  
Senate Bill 1670 - State Government  
Senate Bill 1774 - Courts  
Senate Bill 1876 - Special Districts  
Senate Bill 1952 - Higher Education  
Senate Bill 2240 - Higher Education  
Senate Bill 2340 - Corrections

## Military Forces and Veterans

This chapter covers legislation on issues relating to current and former state and national military personnel, including benefits, services, parental rights, and special recognitions, as well as legislation relating to the Veterans' Land Board and the Texas Veterans Commission. Bills on economic development in military base communities are in the **Economic Development** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 409**

**Effective:** 9-1-09

**House Author:** Isett et al.

**Senate Sponsor:** Nelson

House Bill 409 amends the Family Code to authorize a conservator who has returned from active military deployment to petition a court to award additional periods of possession of or access to a child. The bill sets forth requirements and guidelines for this process.

#### **House Bill 2217**

**Effective:** 6-19-09

**House Author:** Flores et al.

**Senate Sponsor:** Hinojosa

House Bill 2217 amends the Government Code to require the Texas Veterans Commission and the Department of State Health Services to work with the United States Department of Veterans Affairs and any other appropriate federal agency to propose that the federal government establish a veterans hospital in the Rio Grande Valley region of Texas. The bill authorizes the state to contribute money, property, and other resources to the establishment, maintenance, and operation of such a veterans hospital.

#### **House Bill 3872**

**Effective:** 6-19-09

**House Author:** Gattis

**Senate Sponsor:** Estes

House Bill 3872 amends the Government Code to expand the list of persons eligible for appointment as a veterans county service officer without the service experience otherwise required by including a spouse of a disabled veteran who has a total disability rating based either on a service-connected disability with a disability rating of 100 percent or on individual unemployability.

#### **House Joint Resolution 7**

**For Election:** 11-3-09

**House Author:** Flores et al.

**Senate Sponsor:** Hinojosa et al.

House Joint Resolution 7 proposes an amendment to the state constitution to authorize the state to contribute money, property, and other resources for the establishment, maintenance, and operation of veterans hospitals in Texas.

#### **House Joint Resolution 116**

**For Election:** 11-3-09

**House Author:** Corte

**Senate Sponsor:** Van de Putte

House Joint Resolution 116 amends the state constitution to authorize the Veterans' Land Board to provide for, issue, and sell state general obligation bonds for the purpose of selling land to veterans of the state or providing home or land mortgage loans to veterans of the state, in a principal amount of outstanding bonds that must at all times be equal to or less than the aggregate principal amount of state general obligation bonds previously authorized for those purposes by prior constitutional amendments. The resolution prohibits bonds and other obligations issued or executed under the constitutional provision relating to the board's bonding authority from

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being included in the required computation of state debt payable from the general revenue fund. The resolution removes the \$500 million cap on the principal amount of outstanding bonds and includes the veterans' land fund and the veterans' housing assistance fund as funds in which the bond proceeds are required to be deposited and as funds that can benefit from and be augmented by the proceeds.

### **House Joint Resolution 127**

**For Election:** 11-3-09

**House Author:** King, Phil et al.

**Senate Sponsor:** Carona

House Joint Resolution 127 proposes an amendment to the state constitution to add officers and enlisted members of the Texas State Guard and any other active militia or military force organized under Texas law to the list of civil offices of emolument exempt from the prohibition against dual office holding.

### **Senate Bill 279**

**Effective:** 9-1-09

**Senate Author:** Nelson et al.

**House Sponsor:** Aycock

Senate Bill 279 amends the Family Code to authorize a court to render a temporary order regarding possession of or access to a child or child support if the conservator of the child is ordered to military deployment, military mobilization, or temporary military duty that involves moving a substantial distance so as to materially affect the conservator's ability to exercise the conservator's rights and duties in relation to the child. The bill establishes procedures for the appointment of a person to designate the primary residence of a child and a person to exercise visitation in certain circumstances and includes provisions relating to expedited hearings, enforcement of a temporary order, and petitioning for additional periods of possession of or access to a child by a conservator without the exclusive right to designate the primary residence of the child when the conservator's military duty is concluded.

### **Senate Bill 1655**

**Effective:** 6-19-09

**Senate Author:** Van de Putte

**House Sponsor:** Farias

Senate Bill 1655 amends the Government Code to require the Texas Lottery Commission to create and operate an instant-ticket lottery game to benefit the fund for veterans' assistance. The bill sets forth the commission's duties in operating the lottery game. It requires the commission to market and advertise the game in a manner intended to inform the public that game tickets are available and that proceeds are used to benefit Texas veterans and to begin selling tickets by March 2, 2010. The bill provides for the deposit of unclaimed prize money into the fund for veterans' assistance after certain other appropriations and for the distribution of a portion of the money in the state lottery account to that fund. The bill authorizes the Texas Veterans Commission (TVC) to use appropriated funds to purchase, for use at outreach and training functions, food, beverages, and promotional items that include the agency's name and contact information to be distributed to veterans. The bill provides for the confidentiality of information received by the TVC regardless of the format in which it is maintained.

Senate Bill 1655 authorizes the TVC to solicit, accept, or refuse a gift or grant of money, services, or property for any purpose related to the fund for veterans' assistance. The bill excludes space leased by the TVC to administer the veterans employment services program from provisions governing the lease of space for state agencies.

**Senate Bill 1940**

**Effective:** 6-19-09

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

**House Sponsor:** Ortiz, Jr.

Senate Bill 1940 amends the Government Code and Transportation Code to expand the sources of revenue for the veterans' assistance fund to include voluntary contributions made by a person registering a motor vehicle and by a state employee through the state employee charitable campaign.

Senate Bill 1940 amends the Health and Safety Code to establish a pretrial veterans court program for a defendant in certain criminal cases who is a veteran or current member of the United States armed forces suffering from an injury or illness that resulted from the defendant's military service in a combat zone or hazardous area that materially affected the defendant's criminal conduct at issue in the case. The bill sets forth provisions outlining the essential characteristics of the program and the procedure by which proof of a defendant's eligibility in the program may be submitted to the court. The bill also sets forth provisions regarding the duties of the program, the establishment of a regional program in two or more counties, legislative oversight of the program, and the collection and payment of fees. The bill amends the Code of Criminal Procedure to make a conforming change.

**Senate Bill 2163**

**Effective:** 5-19-09

**Senate Author:** Ellis

**House Sponsor:** Rios Ybarra

Senate Bill 2163 amends the Government Code to entitle the Texas Veterans Commission to obtain from the Department of Public Safety, the Federal Bureau of Investigation Criminal Justice Information Services Division, or another law enforcement agency criminal history record information about an employee or an applicant for employment with the commission; a consultant, intern, or volunteer for the commission or an applicant to serve as a consultant, intern, or volunteer; a person contracting or proposing a contract to perform services for or supply goods to the commission; or an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the commission. The failure or refusal to provide on request a complete set of fingerprints, a true and complete name, or other information necessary for a law enforcement entity to provide a criminal history record constitutes good cause for dismissal or refusal to hire. The bill sets forth provisions on the authorized release and disclosure of the information and the required destruction of the information after its use.

**Benefits and Services**

**House Bill 1452**

**Effective:** 6-19-09

**House Author:** Eissler et al.

**Senate Sponsor:** Van de Putte

House Bill 1452 amends the Labor Code to align the definitions of "active military, naval, or air service," "covered person," and "veteran" with federal law for purposes of establishing a person's entitlement to priority of service in certain job training and employment assistance programs. The term "covered person" includes, among others, the spouse of a member of the armed forces who died while serving on active military, naval, or air service. The bill entitles a covered person to priority in obtaining services or resources regarding job training and employment assistance programs and authorizes a covered person to take precedence in obtaining services or resources over persons who are not covered. The bill requires a job training or employment assistance program or service that is funded wholly or partly with state money, in selecting applicants to receive training or assistance, to give priority of service to a covered person who meets the minimum eligibility requirements to participate or enroll in the program or receive the service.

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House Bill 1452 authorizes the Texas Veterans Commission to provide services to enhance the employment and training opportunities of veterans, covered persons, active duty service members, spouses of active duty service members, and members of the Texas National Guard and requires the commission to operate certain federally funded veteran job training and employment programs. These services must be provided by state employees.

### **House Bill 2806**

**Effective:** 9-1-09

**House Author:** Maldonado et al.

**Senate Sponsor:** Van de Putte

Previous law provided that when a police officer or firefighter took a military leave of absence, a person was promoted to fill the vacancy. When the person returned from military leave, that person was entitled to reinstatement at the former rank. If the reinstatement resulted in a surplus in that rank, the person promoted to fill the vacancy was demoted regardless of the person's seniority.

House Bill 2806 amends the Local Government Code to revise the reinstatement policy. If the reinstatement of a firefighter or police officer who received a military leave of absence causes a surplus in the rank to which the firefighter or police officer is reinstated, the firefighter or police officer who has the least seniority in the position is required to be returned to the position immediately below the position to which the returning firefighter or police officer is reinstated. If a firefighter or police officer is returned to a lower position in grade or compensation without charges being filed against the person for violation of civil service rules, the firefighter or police officer is required to be placed on a position reinstatement list in order of seniority. Appointments from the reinstatement list must be made in order of seniority and a person who is not on the reinstatement list may not be appointed to a position to which the list applies until the list is exhausted.

### **House Bill 3358**

**Effective:** 9-1-09

**House Author:** Turner, Sylvester et al.

**Senate Sponsor:** Shapleigh

House Bill 3358 amends the Local Government Code to authorize a county or municipal housing authority in a county with a population of more than 500,000 to borrow money, accept grants, and exercise its powers to provide safe and sanitary housing communities for veterans. The bill authorizes such an authority to enter into a lease or purchase agreement or accept a conveyance regarding real property as part of a housing project that will benefit veterans; permits an agreement or conveyance to include any restrictive covenants that the authority considers appropriate regarding the property; and specifies that, as the authority considers necessary and on the stipulation of the parties, the covenants run with the property. The bill establishes that, with respect to a housing project that benefits veterans, such an authority is not subject to the statutory limitations on its area of operation.

### **House Bill 3857**

**Effective:** 6-19-09

**House Author:** Herrero et al.

**Senate Sponsor:** Hinojosa

House Bill 3857 amends the Property Code to authorize a court to temporarily stay a foreclosure proceeding or adjust the obligations of the contract secured by the lien if the action is filed during a servicemember's period of active duty military service or during the nine months after the conclusion of active duty and requires the court to do this on the application by a servicemember whose ability to comply with the obligations is materially affected by the member's service. The bill prohibits a sale, foreclosure, or seizure of property under a mortgage, deed of trust, or other contract lien from being conducted during the servicemember's period of active duty or during the nine months after that service concludes unless the sale, foreclosure,

or seizure is conducted under a previous court order, or under an agreement in which the servicemember waives such rights. The bill creates a Class A misdemeanor offense for a person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property during a military servicemember's period of active duty military service or during the nine months after the date on which that service period concludes. The bill entitles a dependent of a military servicemember to these protections if certain conditions are met.

House Bill 3857 authorizes a court issuing a stay or taking any other action regarding the enforcement of an obligation to grant a similar stay or take similar action with respect to any person who is or may be primarily or secondarily subject to the obligation. The bill authorizes the court, if a judgment or decree is vacated or set aside, to also set aside or vacate the judgment or decree with respect to any person who is or may be primarily or secondarily subject to the obligation that is subject to the judgment or decree. The bill does not prevent a waiver of these protections in writing by such a person, whether primarily or secondarily liable on an obligation. The bill provides that if the waiver is executed by an individual who after the execution of the waiver enters active duty military service, or by a dependent of an individual who after the execution of the waiver enters active duty military service, the waiver is not valid after the beginning of the period of the active duty military service, unless the waiver was executed by the individual or dependent during the applicable period described by the federal Servicemembers Civil Relief Act.

House Bill 3857 applies its provisions only to an obligation that is secured by a mortgage, deed of trust, or other contract lien on real property or personal property that is a dwelling owned by a military servicemember that originates before the date on which the servicemember's active duty military service commences and for which the servicemember is still obligated.

**Senate Bill 93**

**Effective:** 6-19-09

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

**House Sponsor:** Castro

Previous law entitled certain military personnel to tuition and fee exemptions at institutions of higher education in the state if the person seeking the exemption was a Texas citizen at the time the person entered military service and had been a Texas resident for at least 12 months before the date of registration. The children of certain deceased or disabled members of the armed forces also were entitled to such tuition and fee exemptions under the same conditions of Texas citizenship and 12-month state residency before registration. Senate Bill 93 amends the Education Code to revise the residency requirements for such an exemption by requiring the person seeking the exemption to have entered the service at a location in Texas, to have declared Texas as the person's home of record in the manner provided by the applicable military or other service, or to have been determined to be a resident of Texas for purposes of determining the person's eligibility to pay in-state tuition rates at the time the person entered the service.

Senate Bill 93 establishes that a person who received such an exemption before the 2009-2010 academic year continues to be eligible for the exemption under that law as it existed on January 1, 2009, subject to the other provisions of the law and the bill, other than the revised residency requirement. The bill also extends this exemption, including the same applicable Texas citizenship and residency requirement, to the spouse of a deceased or disabled member of the United States armed forces or of the Texas National Guard or the Texas Air National Guard whose death or disability is a result of the member's military service.

Senate Bill 93 requires the Texas Higher Education Coordinating Board to prescribe by rule procedures to allow a person eligible for an exemption to waive the person's right to any unused portion of the maximum number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to a child

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of the person, and sets forth eligibility requirements for such a child. The bill establishes that, for the purposes of this provision, a person is the child of another person if the person is the stepchild or the biological or adopted child of the other person or if the other person claimed the person as a dependent on a federal income tax return filed for the preceding year or will claim the person as a dependent on a federal income tax return for the current year.

Senate Bill 93 clarifies the exclusion of certain individuals from this exemption on the basis of such an individual's entitlement to educational benefits under federal legislation that may be used only for the payment of tuition and fees. The bill makes its provisions applicable beginning with tuition and fees for the 2009 fall semester and requires an institution of higher education to refund to a student who becomes eligible for an exemption in that semester and who has paid the tuition and other fees for that semester the amount of the tuition and fees paid by the student in the amount of the exemption.

### **Senate Bill 833**

**Effective:** See below

**Senate Author:** Carona

**House Sponsor:** Turner, Chris et al.

Senate Bill 833 amends the Government Code to allow an employee on an unpaid leave of absence due to military duty to continue to accrue vacation leave and sick leave. This provision of the bill takes effect June 19, 2009.

Senate Bill 833 allows an officer or member of the state military forces to hold another compensated civil office. This provision of the bill takes effect January 1, 2010, contingent on voter approval of the constitutional amendment proposed by House Joint Resolution 127.

### **Senate Bill 1325**

**Effective:** 6-19-09

**Senate Author:** Nelson et al.

**House Sponsor:** Corte

Senate Bill 1325 amends the Health and Safety Code to require the Department of State Health Services to develop, not later than January 1, 2010, a mental health intervention program for veterans that includes peer-to-peer counseling.

## **Recognitions**

### **House Bill 618**

**Effective:** 6-19-09

**House Author:** Corte

**Senate Sponsor:** Wentworth

House Bill 618 amends the Transportation Code to exempt a vehicle with a specialty license plate for recipients of the Air Force Cross or Distinguished Service Cross, the Army Distinguished Service Cross, the Navy Cross, the Medal of Honor, or the Legion of Merit medal from parking fees collected through a meter charged by a governmental authority other than the federal government, when the vehicle is being driven by or for the transportation of the person who registered the vehicle.

### **House Bill 965**

**Effective:** 6-19-09

**House Author:** Pickett et al.

**Senate Sponsor:** Van de Putte

Previous law entitled a disabled veteran of the United States armed forces to specialty license plates and disabled placards for two registered vehicles. House Bill 965 amends the Transportation Code to entitle a veteran to register, for the person's own use, any number of motor vehicles for which the registrant may be issued specialty license plates for disabled veterans and disabled parking placards.



**House Bill 2020**

**Effective:** 9-1-09

**House Author:** Weber et al.

**Senate Sponsor:** Jackson, Mike

House Bill 2020 amends the Transportation Code to authorize a vehicle to be parked for an unlimited period in a parking space or area designated for the disabled if the vehicle displays license plates issued by another state of the United States indicating that the owner or operator of the vehicle is a disabled veteran of the United States armed forces.

**House Bill 3593**

**Effective:** 9-1-09

**House Author:** McReynolds et al.

**Senate Sponsor:** Van de Putte

House Bill 3593 amends the Transportation Code to authorize a person entitled to license plates for disabled veterans to elect to receive standard license plates at the same cost as the disabled veteran license plates.

**Senate Bill 1903**

**Effective:** 6-19-09

**Senate Author:** Hinojosa et al.

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

Senate Bill 1903 amends the Government Code to establish March 29 as Vietnam Veterans Day and to require the day to be regularly observed by appropriate ceremonies.

**Senate Bill 2135**

**Effective:** 6-19-09

**Senate Author:** Lucio et al.

**House Sponsor:** Pena

Senate Bill 2135 amends the Government Code to require the State Cemetery Committee to erect a flagpole and an appropriate monument in honor of the military personnel from Texas who are killed while serving in a combat zone. The Texas Veterans Commission must notify the committee as soon as practicable when a member of the United States armed forces from Texas is killed, and the committee is required to fly the flag at half-staff for an appropriate period of time. The bill requires the State Cemetery Committee to consult with the standing committees of each house of the legislature with jurisdiction over military and veterans matters in planning the monument.

**The summary for the following bill is in the listed chapter:**

House Bill 3613 - Taxes and Tax Administration



# Occupational Regulation

This chapter covers legislation on issues relating to the regulation of certain occupations and professions, including license and permit requirements and fees, performance standards and restrictions, and penalties for violations. Bills relating to occupations in the financial sector are in the **Business and Commerce** chapter. Bills relating to medical and health care workers, massage therapists, and chemical dependency counselors are in the **Health and Medical Occupations** chapter, and those relating to wages, unemployment compensation, workers' compensation, and workforce development are in the **Labor and Employment** chapter. Bills relating to the regulation of cemeteries and funeral services establishments are in the **Health and Safety** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 405

**Effective:** 6-19-09

**House Author:** Harless

**Senate Sponsor:** Huffman

House Bill 405 amends the Penal Code to exempt a certificated animal control officer who possesses or carries an instrument used specifically for deterring the bite of an animal while in the performance of official duties or traveling to or from a place of duty from provisions that prohibit a person from possessing or carrying a club under certain circumstances to. The bill amends the Health and Safety Code to include among the required topics for basic and continuing education animal control courses, on or after January 1, 2010, principles and procedures to be followed with respect to an instrument used specifically for deterring the bite of an animal.

### House Bill 693

**Effective:** 6-19-09

**House Author:** Truitt

**Senate Sponsor:** Hegar

House Bill 693 amends the Occupations Code to exempt from structural pest control licensing requirements a person engaged in falconry who holds a falconer's permit and uses a raptor to control or relocate other birds and to specify that such a person is not considered to be engaged in the business of structural pest control.

### House Bill 963

**Effective:** 6-19-09

**House Author:** Guillen

**Senate Sponsor:** Whitmire

House Bill 963 amends the Occupations Code to authorize a person to request a criminal history evaluation letter from a licensing authority regarding the person's eligibility for a license issued by that authority if the person is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license and has reason to believe that the person is ineligible for the license because of a conviction or deferred adjudication for a felony or misdemeanor offense. The bill sets forth requirements regarding the request and provisions relating to an authority's power to investigate a request. The bill sets forth requirements concerning notification of the requestor of the authority's determination of eligibility and authorizes the authority to charge requestors a fee to cover administrative costs.

House Bill 963 expands the grounds for license suspension or revocation, disqualification for a license, or denial of an opportunity to take a licensing examination to include a conviction of any of the following offenses: an offense that does not directly relate to the duties of the licensed occupation and that was committed less than five years before the date of the person's

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license application; an offense for which a person is not eligible for judge-ordered community supervision; or a sexually violent offense. The bill sets forth provisions regarding the licensing of certain applicants with prior criminal convictions, including provisions relating to the issuance of a provisional license.

**House Bill 1468**  
**Effective:** 9-1-09

**House Author:** Chisum  
**Senate Sponsor:** Deuell

House Bill 1468 amends the Finance Code to prohibit the purchaser of a trust-funded prepaid funeral benefits contract from being considered in default if the purchaser was unable to pay because of extenuating financial circumstances but has already paid at least 85 percent of the contract price. The bill also excepts a funeral provider from the requirement to provide merchandise or services under such a contract unless any remaining contract balance is paid or arranged for before the service.

House Bill 1468 amends the Health and Safety Code to require the Texas Funeral Service Commission to ensure that a casket or container of cremated remains contains identification of the deceased person. The bill exempts certain mausoleums from limitations on where a cemetery may be located, prohibits a cemetery organization from reselling the exclusive right of sepulture in a plot without the reacquisition of such right, and prohibits more than one interment in a plot without owner consent. The bill includes provisions relating to identification requirements for cremated remains, a person's reasonable right of access to a cemetery, exception to cremation authorization form requirements, and requirements regarding crematories and the disposal and scattering of human remains.

House Bill 1468 amends the Occupations Code to make several clarifying and technical changes to funeral licensing law and to clarify the commission's authority as it relates to the documentation necessary for a provisional funeral license. The bill includes provisions relating to license renewal, the reinstatement of a suspended license, reissuance of a revoked license, and perpetual care cemetery registration.

**House Bill 1474**  
**Effective:** 10-1-09

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

House Bill 1474 amends provisions of the Occupations Code relating to the operation and regulation of charitable bingo. The bill modifies provisions authorizing a request for an advisory opinion from the Texas Lottery Commission regarding compliance with state laws and commission rules relating to charitable bingo and requires the commission to meet certain reporting requirements relating to the adjusted gross receipts and net proceeds from bingo operations as reported by authorized organizations that are licensed to conduct bingo. The bill amends the requirements for an authorized organization to obtain such a license and the instructions for filing a license application, increases from 12 to 24 the maximum number of temporary licenses an authorized organization with an annual license may receive, and sets the same annual limit for the holder of a two-year license.

For a bingo license and a commercial lessor's license, House Bill 1474 requires the commission by rule to establish procedures to determine if the appropriate license fee was paid, removes a requirement relating to the computation of the recorded gross receipts to make that determination, provides additional options for the payment of license application or renewal fees, and removes the additional fee assessed for obtaining a two-year license by paying twice the amount of the annual license fee. The bill applies to a member of the board of directors of an authorized organization the prohibition against the commission issuing a license to such an organization if any of its officers have been convicted of certain offenses and meet other criteria.

The bill amends the information that must be included on a license to conduct bingo, modifies the training requirements for personnel of a licensed authorized organization, and extends the deadlines for the commission to act on certain joint applications filed to change the premises or time for conducting bingo. The bill makes provisions relating to the issuance of a commercial lessor's license applicable to its renewal and removes language specifying the maximum rent that may be charged to the lessor for each bingo occasion conducted on the lessor's premises. The bill amends the requirements for submitting an application for a manufacturer's or distributor's license, extends the deadline for the holder of such a license to notify the commission of a change relating to a fact stated in the application, and includes as a sanction for failing to give the required notice the imposition of an administrative penalty or other administrative action.

House Bill 1474 entitles the commission to conduct an investigation of an applicant for or holder of a license to conduct bingo and other specified persons and to obtain criminal history record information maintained by the Department of Public Safety and certain other law enforcement agencies to assist in the investigation and makes a conforming change to the Government Code. The bill amends the actions the holder of a license to conduct bingo must take before changing the location at which it conducts bingo, clarifies that the requirement for receiving an amended license refers to an amended license for the new location, and amends various provisions relating to the commission's registry of approved bingo workers and the requirements for providing an identification card to such a worker. The bill specifies the actions a person may take to renew a license after its expiration date and the fees for a late license renewal, authorizes a person who files an application for such a renewal to continue to perform authorized bingo activities until the license is renewed or its renewal is denied, and establishes the renewal deadline and other requirements. The bill requires the commission, if notice under these provisions is required to be given to an authorized organization, to send the notice to the organization's bingo chairperson and to the appropriate commercial lessor, and changes the deadlines for notifying a license holder of a hearing for temporary license suspension and for the license holder to show cause why the license should not be temporarily suspended. The bill expands the criteria for determining the principal location for which a licensed authorized organization may conduct bingo, authorizes such an organization or unit to pay certain facility costs as a separate expense, removes an exemption relating to a system service provider's purchase of goods or services from a licensed manufacturer, provides for an organization's designation of certain individuals as bona fide members of the organization, and amends provisions relating to the conduct of a bingo occasion.

House Bill 1474 exempts a bingo unit from the franchise tax, changes the deadline for depositing bingo proceeds into the bingo account of a licensed authorized organization or unit, and requires such an account that bears interest to be maintained as a separate account. The bill revises provisions on the authorized transfer and commingling of money among and in the organization's accounts, and establishes requirements relating to an organization's net proceeds from bingo operations, the amount of operating capital a licensed authorized organization or unit is authorized to maintain in its bingo account, and the calculation of the operating capital. The bill requires the commission to adopt rules that allow a licensed authorized organization to retain a maximum amount of operating capital in the bingo account in excess of the prescribed amount under certain conditions, authorizes an organization to apply for a waiver of that requirement and of requirements relating to the disbursement of the organization's proceeds to charity, and authorizes the commission to grant the waiver under specified circumstances. The bill adds the option of an electronic funds transfer for the withdrawal of funds from the bingo account and requires that certain information relating to such a transfer be recorded in accordance with rules adopted by the commission. The bill amends provisions relating to the authorized uses

## Occupational Regulation

of a bingo account, required disbursements to charity, expenses authorized to be incurred or paid in connection with the conduct of bingo, the prize fee a licensed authorized organization is required to collect from a winner of a bingo prize, and the reporting of expenses by such an organization.

House Bill 1474 extends the deadline by which the director of bingo operations is required to notify a person alleged to have committed a violation of provisions regulating the conduct of bingo and, after an election to legalize bingo in a political subdivision, extends the beginning date for which bingo is legalized or prohibited throughout the political subdivision and the date by which the political subdivision's governing body is required to notify the commission of the election results. The bill repeals provisions relating to the licensing of a system service provider, the transfer of a commercial lessor's license, and the requirement that an authorized organization holding such a license for a premises on which bingo is conducted to hold a license to conduct bingo at the same premises. The bill also repeals provisions relating to a manufacturer's license bond, the access to and confidentiality of certain information the commission is authorized to obtain from the Internal Revenue Service relating to a person's qualification for a license under these provisions, the notice to local authorities by an applicant for an authorized organization license or a commercial lessor license, a prohibition against the commission licensing more than two affiliated organizations to conduct bingo on the same premises, the rent charged by a licensed commercial lessor to a licensed authorized organization to conduct bingo, the use of a pull-tab dispenser in the operation of bingo, and the display on certain devices of a toll-free hotline for problem gamblers.

House Bill 1474 requires the commission to adopt the rules required by its provisions not later than April 1, 2010. The bill creates a temporary provision, set to expire January 1, 2013, that requires a licensed authorized organization with a balance in its bingo account of more than the maximum amount of operating capital allowed by these provisions to distribute the excess funds within a specified period, depending on the amount held, and authorizes the commission to waive these requirements on application and a showing of good cause by the organization.

**House Bill 1484**  
**Effective:** 5-12-09

**House Author:** Pitts  
**Senate Sponsor:** Fraser

House Bill 1484 amends the Occupations Code to include among the persons exempt from state laws regulating interior designers a person who does not use a business or professional title that uses the phrase "registered interior designer." The bill prohibits a person other than a registered interior designer from representing the person as having those credentials by using the title "registered interior designer" or using words that imply that the person is a registered interior designer, and removes language that prohibits a person other than an interior designer from using the term "interior design" to describe a service the person offers or performs.

**House Bill 1615**  
**Effective:** 5-19-09

**House Author:** Kuempel  
**Senate Sponsor:** Averitt

Under previous law, restrictions relating to a patient's entrance to a veterinary practice located in space leased from a mercantile establishment were inapplicable to the practice of a veterinarian or the legal successor of the practice if the practice was operating in space that was open and operating before January 1, 1993. House Bill 1615 amends the Occupations Code to make those restrictions inapplicable to the practice of a veterinarian or the legal successor of the practice if the practice is operating in space that was opened, designed, or engineered in accordance with plans for a specific facility submitted to the State Board of Veterinary Medical Examiners before December 31, 2009.

**House Bill 2249****Effective:** See below**House Author:** Hunter et al.**Senate Sponsor:** Williams

House Bill 2249 amends the Labor Code to require an applicant for an original or renewal staff leasing services license to demonstrate positive working capital, rather than net worth, in certain amounts, and to require the applicant to provide the Texas Department of Licensing and Regulation with the applicant's financial statement, removing the provision authorizing the applicant to submit a copy of the applicant's most recent federal tax return. The bill requires the financial statement to be prepared in accordance with generally accepted accounting principles, be audited by an independent certified public accountant, and be without qualification as to the going concern status of the applicant. An applicant that does not have audited financial statements based on at least 12 months of operations must meet the financial capacity requirements and provide the department with financial statements that have been reviewed by a certified public accountant. The bill makes these provisions applicable to a staff leasing services license issued or renewed on or after December 31, 2010.

House Bill 2249 authorizes the Texas Commission of Licensing and Regulation to adopt rules to permit the acceptance of electronic filings, including electronic filing and other assurance by an assurance organization qualified and approved by the commission to act on behalf of a staff leasing services company. The bill establishes that for the purpose of determining tax credits, grants, and other economic incentives provided by the State of Texas or other governmental entities that are based on employment, assigned employees are considered employees of the client, and the client is solely entitled to the benefit of any tax credit, economic incentive, or other benefit arising from the employment of assigned employees of the client. The bill requires each staff leasing services company to provide, on request of a client or an agency of Texas, employment information reasonably required by the state agency to support a request, claim, application, or other action by a client seeking a tax credit or economic incentive. The bill takes effect September 1, 2009, except for provisions relating to working capital requirements, which take effect December 31, 2011.

**House Bill 2310****Effective:** See below**House Author:** Kuempel**Senate Sponsor:** Williams

House Bill 2310 amends Occupations Code provisions relating to the powers and duties of the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation. The bill sets out requirements relating to the appointment and functions of advisory boards and specifies the authorized methods of paying regulatory fees, fines, penalties, and charges. The bill requires the executive director of the department by rule to prescribe notice procedures for proceedings relating to an administrative penalty that provide for notice by certified mail with electronic return receipt and authorizes the executive director to issue emergency orders using prescribed procedures and a cease and desist order under certain conditions. The department is authorized to issue and enforce subpoenas in connection with the investigation of an alleged violation of a statute or rule.

House Bill 2310 prohibits a civil penalty assessed to a person that appears to be in violation of or threatening to violate a law establishing a regulatory program administered by the department or a rule or order of the commission or executive director related to the regulatory program from exceeding \$5,000 per day for each violation. The bill authorizes, rather than requires, the commission to revoke, suspend, or refuse to renew a license or to reprimand a license holder for such a violation, and also authorizes the commission to deny a license application on those grounds. The bill provides that a person whose license has been revoked by order of the commission or executive director is not eligible for a new license until the first anniversary of

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the date of the revocation, and authorizes the commission to deny, suspend, revoke, or refuse to renew a license or other authorization issued by a program regulated by the department if the commission determines that a deferred adjudication makes the person holding or seeking the license unfit for the license. The bill requires the commission, in making such a determination, to consider prescribed factors to determine whether the conviction relates to the person's occupation, and to consider department guidelines. The bill authorizes the commission to adopt rules to allow a license holder to place a license issued by the department on inactive status and sets out requirements and exemptions for the holder of an inactive license.

House Bill 2310 authorizes the commission to determine that a person is not eligible for a license based on the person's criminal history or certain other information; authorizes a person, before applying for a license from the department, to request that the department issue a letter determining whether the person would be eligible for the license; sets out requirements for the submission of the request and issuance of the determination letter; and establishes the department's powers to investigate a determination request and the binding authority of a determination letter. The bill authorizes the department to require a testing service to collect a fee for administering a license examination from a person taking the examination. The bill authorizes the commission by rule to provide for the issuance of a temporary license, authorizes the executive director to issue an emergency license, and establishes the requirements for and the scope and terms of such licenses.

House Bill 2310 takes effect September 1, 2009, except provisions relating to a license placed on inactive status, license eligibility requirements regarding an applicant's background, and determination letters, which take effect May 1, 2010.

### **House Bill 2571**

**Effective:** See below

**House Author:** Gonzales et al.

**Senate Sponsor:** Hinojosa

House Bill 2571 amends the Occupations Code to require Texas Commission of Licensing and Regulation rules for permitting tow trucks and licensing towing operators and towing companies to include rules for denial of applications and permits if the applicant, a partner, principal, officer, or general manager of the applicant, or other license or permit holder, has a criminal conviction or has pleaded guilty or nolo contendere to a felony or a misdemeanor punishable by confinement in jail or by a fine that exceeds \$500, or has committed certain enumerated acts. The bill also requires the commission by rule to establish the fees that may be charged in connection with a private property tow, the maximum amount that may be charged for other fees in connection with a private property tow, and the maximum amount that may be charged for private property tows of vehicles with specific gross weight ratings. The bill requires the commission, in adopting the rules, to contract for a study that examines towing fee studies conducted by Texas municipalities and analyzes the cost of towing services by company, the consumer price index, geographic area, and individual cost components. The bill requires the commission to maintain the confidentiality of information contained in the study that is claimed to be confidential for competitive purposes.

The bill specifies that the authority of the governing body of a political subdivision to regulate fees for nonconsent tows applies if the private property tow fees are authorized by commission rule and do not exceed the maximum amount authorized by commission rule. In areas in which no political subdivision regulates the fees in connection with a private property tow, the bill authorizes a towing company to charge and collect fees in an amount not to exceed the maximum amount authorized by commission rule, rather than an amount based on the amount the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer. The bill prohibits a license or permit holder from charging a



fee related to a nonconsent tow that is not listed in the fee schedule most recently submitted to the Texas Department of Licensing and Regulation (TDLR), and it requires TDLR to require the license or permit holder to reimburse the vehicle owner or operator for the charges if the charges are not listed in the schedule or are greater than the fee listed in the schedule.

House Bill 2571 authorizes the commissioners court of a county, in addition to the governing body of a municipality, to adopt an ordinance that is identical to the Texas Towing Act or that imposes additional requirements that exceed the minimum standards of the act but does not conflict with the act. The bill amends provisions of the act relating to the authority of a parking facility owner or towing company to remove and store an unauthorized vehicle and the duty of a vehicle storage facility to report after accepting an unauthorized vehicle. The bill also addresses the payment of the cost of removing and storing a vehicle, the notice to a vehicle owner or operator, and procedures for requesting a hearing under the act. The bill requires a hearing to be held before the 21st calendar day, rather than the 14th working day, after the date the court receives the request for the hearing. The bill requires TDLR to suspend a license holder's license if the license holder fails to pay a final judgment awarded to an owner or operator of a vehicle before the 60th day after the date of the final judgment and to reinstate the license on submission of satisfactory evidence of payment of the final judgment.

House Bill 2571 increases from \$300 to \$1,000 the amount for which, in addition to three times the amount of fees assessed in the vehicle's removal, towing, or storage, a towing company or parking facility owner who intentionally, knowingly, or recklessly violates the Texas Towing Act is liable to the owner or operator of the vehicle that is the subject of the violation. The bill increases the penalty for a violation of the act from a misdemeanor punishable by a fine of not less than \$500 or more than \$1,500 to a Class B misdemeanor if it is shown at trial that the person knowingly or intentionally violated the act. The bill amends the Vehicle Storage Facility Act to prohibit the operator of a vehicle storage facility from refusing to release a vehicle based on the inability of the facility to accept payment by electronic check, debit card, or credit card of a fee or charge associated with delivery or storage of the vehicle. The bill sets forth the required language for a sign related to the prohibition and requires the facility to conspicuously post the sign.

House Bill 2571 requires the commission to adopt the rules necessary to implement the bill's provisions not later than September 1, 2010. The bill takes effect September 1, 2009, except for provisions relating to rules on private property tow fees, regulation by political subdivisions of fees for nonconsent tows, and fees for private property tows in other areas, which take effect September 1, 2010.

### **House Bill 2591**

**Effective:** See below

**House Author:** Thompson

**Senate Sponsor:** Hegar

House Bill 2591 amends the Occupations Code to increase from 15 to 40 the classroom hours of approved courses an applicant for registration as a property tax consultant is required to complete and to include as a registration requirement that the applicant pass a competency examination. These changes apply to applications submitted to the Texas Department of Licensing and Regulation (TDLR) on or after March 1, 2010. The bill requires TDLR's executive director to adopt the competency examination not later than December 31, 2009, and requires TDLR to accept, develop, or contract for any examinations relating to the registration of property tax consultants.

House Bill 2591 prohibits a registered property tax consultant from serving as a registered senior property tax consultant for more than 10 registered property tax consultants unless certain conditions are met, from falsifying specified appraisal and tax documents, and from soliciting

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a property tax consulting assignment by assuring a specific outcome. The bill also prohibits a registered property tax consultant from filing a protest before a local appraisal review board without the written approval of the property owner and from filing a motion or protest concerning residential property on behalf of a person whom the consultant does not represent unless the consultant meets certain authorization requirements. In addition, such a consultant is prohibited from maintaining an Internet website associated with providing tax consulting services that implies it is a government website, from using or maintaining a website to solicit clients unless the website identifies the company prominently on its home page, and from engaging the services of an attorney to file an appeal in court pertaining to property taxes or related actions without prior consent of the consultant's client.

House Bill 2591 takes effect September 1, 2009, except that the provisions relating to prohibited acts take effect January 1, 2010.

### **House Bill 2640**

**Effective:** 9-1-09

**House Author:** Smith, Todd

**Senate Sponsor:** Watson

House Bill 2640 amends the Occupations Code to provide that the act of filing an application for a motor vehicle dealer's license or a prescribed form relating to such a license does not establish the applicant as a franchised dealer. The bill requires the Motor Vehicle Board of the Texas Department of Transportation, in a protest of a rejection by a manufacturer or distributor of an application for approval of a dealer's transfer of ownership of a franchise, to determine whether the rejection was reasonable under specific criteria rather than whether the prospective transferee is qualified. The bill amends requirements relating to the relocation or termination of a franchised dealer, amends the conditions the board must consider when determining good cause for establishing a dealership, and increases from one mile to two miles the maximum distance from the current site of a dealership for which a franchised dealer is prohibited from protesting an application to relocate the dealership.

House Bill 2640 prohibits a manufacturer, distributor, or representative from unreasonably requiring a current or prospective franchisee to relocate, replace, or substantially change the dealer's facilities and establishes criteria for making such a determination. The bill amends the circumstances the department's Motor Vehicle Division must consider in reviewing a manufacturer's or distributor's denial or withholding of approval of a franchise dealer's application to add a line-make and authorizes money paid by a manufacturer or distributor under an incentive program to only be paid to a dealer, with certain exceptions. The bill prohibits a manufacturer, distributor, or representative from taking an adverse action against a franchised dealer because the dealer sells or leases a vehicle that is later exported to a location outside the United States, provides that a franchise provision allowing such adverse action is enforceable only under specified conditions, and provides that a franchised dealer is presumed to have no actual knowledge that a vehicle will be exported if the vehicle is titled and registered and applicable state and local taxes paid, unless rebutted by certain evidence.

### **House Bill 2808**

**Effective:** 6-19-09

**House Author:** Thompson

**Senate Sponsor:** West

House Bill 2808 amends provisions of the Occupations Code relating to the power of a licensing authority to revoke, suspend, or deny a license on the basis of certain criminal proceedings. The bill prohibits a licensing authority from considering a person to have been convicted of an offense for such purposes if a judge dismissed certain proceedings and discharged the person at the end of a period of supervision unless the licensing authority determines that the person may pose a continued threat to public safety or that employment of the person in

the licensed occupation would create the opportunity to repeat the prohibited conduct or if the person is an applicant for or the holder of a license that authorizes the person to provide law enforcement or public health, education, or safety services or certain financial services.

**House Bill 2918****Effective:** 9-1-09**House Author:** McReynolds**Senate Sponsor:** Nichols

House Bill 2918 amends the Occupations Code to require a dealer that sells or exchanges a motor home or a towable recreational vehicle subject to compulsory inspection requirements to notify the buyer in writing at the time of the sale or exchange that the motor vehicle is subject to the requirements.

**House Bill 3113****Effective:** 6-19-09**House Author:** Kuempel**Senate Sponsor:** Lucio et al.

House Bill 3113 amends the Occupations Code to provide that a nonprofit wildlife conservation association and its local chapters, affiliates, wildlife cooperatives, or units are qualified nonprofit organizations under the Charitable Raffle Enabling Act if the parent association meets certain eligibility criteria. The bill prohibits an eligible association or local entity from using any proceeds from a charitable raffle to attempt to influence legislation or to participate or intervene in a political campaign on behalf of a candidate for public office in any manner and authorizes such an association and local entity to each conduct two charitable raffles each year under the act. The bill specifies that, for purposes of these provisions, a nonprofit wildlife conservation association includes an association that supports wildlife, fish, or fowl.

**House Bill 4445****Effective:** 9-1-11**House Author:** Alvarado**Senate Sponsor:** Gallegos

House Bill 4445 amends the Government Code to require a court interpreter's license to include either a basic or master designation that permits the interpreter to interpret proceedings in certain courts, to require the Texas Commission of Licensing and Regulation to prescribe the minimum score an individual must achieve on an examination to receive the basic or master designation, and to require that the same examinations be used for issuing a license with a basic or master designation. The bill requires a licensed court interpreter appointed by a court to hold a license that includes the appropriate designation and adds a time frame within which an applicant for such a license must pass the appropriate examination. The bill sets forth provisions for the transition to the new license requirements.

**Senate Bill 702****Effective:** See below**Senate Author:** Carona**House Sponsor:** Jackson, Jim

Senate Bill 702 amends the Occupations Code to require the Texas Commission of Licensing and Regulation to adopt rules by April 1, 2010, for the issuance of a dual license to authorize a person to work at a vehicle storage facility and perform towing operations. The bill requires the Texas Department of Licensing and Regulation (TDLR) to issue such a license to an applicant who meets certain requirements established under the Vehicle Storage Facility Act and the Texas Towing Act and any applicable rules adopted under the acts. The bill amends the Vehicle Storage Facility Act to require a vehicle storage facility that accepts a vehicle that is towed under the act to report to the local law enforcement agency with jurisdiction over the area from which the vehicle was towed within two hours after receiving the vehicle, and it specifies the information that must be reported. The bill also requires a vehicle storage facility to post all storage fees and to post a sign indicating that nonconsent tow fees schedules are available on request.

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Senate Bill 702 amends the Texas Towing Act to require an applicant for an incident management towing operator's license, a private property towing operator's license, or a consent towing operator's license to hold a valid driver's license issued by a state in the United States, rather than be a licensed Texas driver, and to be certified by a program approved by TDLR, rather than by a certain national program, as applicable. The bill authorizes TDLR to issue a 90-day training license to an applicant for a towing operator's license who is engaged in the process of learning and assisting in the operation of a tow truck under the supervision of a licensed tow truck operator, and it requires the commission to adopt rules by April 1, 2010, to set the fee, establish the qualifications, and provide for the issuance of the license. The bill expands provisions relating to drug testing of towing operators to include alcohol testing. The bill requires the commission by rule to adopt not later than April 1, 2010, a model alcohol and drug testing policy for use by a towing company, and it specifies that a towing company is not required to comply with the alcohol and drug testing policy until January 1, 2010. The bill also includes a vehicle that is leaking a fluid that presents a hazard or threat to persons or property among the circumstances under which the owner or operator of a vehicle is prohibited from leaving the vehicle unattended on a parking facility. In addition, Senate Bill 702 requires a law enforcement agency directing a towing company or tow operator to remove an abandoned vehicle that has damaged a fence on private property in a rural area and that is located on the property to provide the towing company or tow operator with the name and telephone number of the property owner or the owner's agent if such information has been provided to the agency. The bill requires a towing company or tow operator provided with such information to contact the property owner or the owner's agent before entering the property to tow the vehicle.

Senate Bill 702 takes effect September 1, 2009, except for provisions relating to dual and training licenses, which take effect June 1, 2010.

**Senate Bill 755**  
**Effective:** 6-19-09

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

Senate Bill 755 amends the Occupations Code to exempt a funeral establishment located on the real property of a public junior college and operated in connection with an accredited educational program in funeral services offered by the junior college from the licensing requirement that a funeral establishment be located at a fixed place that is neither a tax-exempt property nor a cemetery.

**Senate Bill 768**  
**Effective:** 6-19-09

**Senate Author:** Hegar  
**House Sponsor:** Homer

Senate Bill 768 amends the Occupations Code to exempt specified activities, when performed without the use of a pesticide, from the applicability of the Texas Structural Pest Control Act. Such activities include the use of a raptor to control or relocate other birds, the physical removal of pests or their habitat while cleaning a chimney, and the use of a live trap to remove an animal from the premises of a residence, agricultural operation, or business structure. Exempted activities include also the removal by mechanical means of weeds or other obstructing vegetation from a sewer, drainage system, body of water, or similar area, or the installation, maintenance, or use of a nonpesticidal barrier to remove or prevent infestation by nuisance animals.

The bill gives the Texas Department of Agriculture (TDA) regulatory discretion to exempt other activities from all or part of the requirements of the act, other than a requirement relating to an integrated pest management program for a school district, if the TDA determines that an activity presents only a minimal risk of harm to the health, safety, and welfare of the public, the person performing the activity, pets and other domesticated animals, and the environment.

It requires a business that performs an activity exempted by the TDA, if not otherwise required to hold a license under the act, to provide to each customer a written notice that informs the customer of the customer's rights under the Deceptive Trade Practices-Consumer Protection Act, provides contact information for the consumer protection division of the office of the attorney general, and contains other information required by the TDA. The bill authorizes the TDA to impose an administrative penalty or take any other applicable enforcement action against a person who violates such provisions.

**Senate Bill 778**

**Effective:** See below

**Senate Author:** Watson

**House Sponsor:** Geren

Senate Bill 778 amends the Occupations Code to enact the Identity Recovery Service Contract Regulatory Act, which prohibits a person from operating as a provider or administrator of identity recovery service contracts sold in Texas unless the person is registered with the Texas Department of Licensing and Regulation (TDLR), with certain exceptions. The bill establishes requirements for the registration application, renewal, and fees, and requires each provider to meet certain financial security requirements to ensure it can meet its obligations to its contract holders. The bill authorizes a provider to appoint an administrator, sets out the administrator's responsibilities and duties, and specifies that the appointment of an administrator does not affect a provider's responsibility to comply with the act. The bill establishes that marketing, selling, offering for sale, issuing, making, proposing to make, and administering such a contract are exempt from state laws regulating the business of insurance.

Senate Bill 778 prohibits a provider from selling, offering for sale, or issuing an identity recovery service contract in Texas unless the provider gives the contract holder a receipt for, or other written evidence of, the purchase and a copy of the contract within a reasonable period after the date of purchase. The bill sets out requirements for a provider's recordkeeping and for the content of contract forms and disclosures, and establishes the terms by which a contract may be returned, voided, or canceled. The bill prohibits a provider from using certain terms in its name and prohibits a provider or its representative from including certain misleading statements in its contracts or literature. The bill grants TDLR's executive director the authority to conduct investigations to ensure compliance with the act and sets out requirements for the executive director's access to a provider's records to determine such compliance. The bill provides for an administrative penalty, injunction, and civil penalty and makes laws relating to TDLR's general requirements or administrative hearings and procedures and a person's right to a hearing applicable to a disciplinary action taken under these provisions. The bill requires the Texas Commission of Licensing and Regulation, not later than November 1, 2009, to adopt rules to implement the act.

Senate Bill 778 amends the Finance Code to add identity recovery service contracts to the list of items authorized to be included as a separate charge in a retail installment contract, and amends the Occupations Code to include identity recovery as an authorized item to be included in a service contract or vehicle protection product.

Senate Bill 778 takes effect September 1, 2009, except the provisions relating to registration requirements and disciplinary actions take effect January 1, 2010. The changes made by the bill apply to an identity recovery service contract entered into on or after that date.

**Senate Bill 940**

**Effective:** 9-1-09

**Senate Author:** Wentworth

**House Sponsor:** Chisum

Senate Bill 940 amends the Occupations Code to establish procedures for complaints brought before the Texas Board of Professional Geoscientists and investigations of such complaints by the board. The bill authorizes a person who expresses the intent to become a licensed

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geoscientist to register with the board as a geoscientist in training and requires the board by rule to establish criteria for such registration. The bill requires the board to issue advisory opinions and establishes guidelines for responding to a request for an opinion, numbering and classifying each opinion, and publishing an annual summary of the opinions on the Internet. The bill establishes that the board's authority to issue an advisory opinion does not affect the authority of the attorney general to issue an opinion, and makes it a defense to prosecution or to the imposition of an administrative penalty that a person reasonably relied on a written advisory opinion of the board, under certain conditions.

**Senate Bill 1005**  
**Effective:** 5-27-09

**Senate Author:** Hinojosa  
**House Sponsor:** Kolkhorst

Senate Bill 1005 amends the Occupations Code to abolish the Polygraph Examiners Board and to transfer obligations, property, full-time equivalent positions, rights, powers, duties, and unexpended funds relating to the regulation of polygraph examiners to the Texas Department of Licensing and Regulation. All rules of the board are continued as rules of the Texas Commission of Licensing and Regulation until superseded by a rule of the commission, and a reference in another law or administrative rule to the board means the department. The bill establishes the polygraph advisory committee to advise the commission on certain issues relating to a polygraph examiner license and sets forth the composition of the committee, the terms of its members, and the committee's duties. The bill excludes from qualification for a polygraph examiner license a person who has been convicted of an offense established by the commission that directly relates to the duties and responsibilities of a polygraph examiner, whereas previous law excluded a person who had been convicted of a misdemeanor involving moral turpitude or a felony. The bill alters the terms on which a polygraph examiner internship license must be issued and may be renewed, requires a written contract for a polygraph examiner's services and a waiver of liability signed by the subject of a polygraph examination to include information regarding complaint procedures against an examiner with the department and the department's contact information, and modifies the circumstances under which the department may deny a license or take disciplinary action against a license holder. Senate Bill 1005 amends the Government Code to make conforming changes.

Senate Bill 1005 requires the Department of Public Safety (DPS) and the Texas Department of Licensing and Regulation (TDLR) before July 15, 2009, to develop and enter into a memorandum of understanding relating to the transfer of functions relating to polygraph examiners from DPS to TDLR.

**Senate Bill 1095**  
**Effective:** See below

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

Senate Bill 1095 amends the Occupations Code to enact the Texas Used Automotive Parts Recycling Act, which transfers the regulation of automotive parts recycling from the Texas Department of Transportation (TxDOT) to the Texas Department of Licensing and Regulation. The bill creates an automotive parts recycler license, which authorizes a person to own or operate a used automotive parts recycling business or to sell used automotive parts, valid only with respect to the person who applies for the license to operate such a business at the one facility listed on the license. The bill also creates a used automotive parts employee license, which authorizes an employee of a used automotive parts recycler to acquire a vehicle or used automotive parts or to sell such parts in the scope of the person's employment. The bill establishes requirements for the application for and renewal of the licenses, sets out provisions for enforcing the act's provisions through the use of administrative and criminal penalties, and establishes that its provisions apply in addition to any applicable municipal ordinances

relating to the regulation of a person who deals in used automotive parts and do not prohibit the enforcement of such municipal regulations. The bill requires the presiding officer of the Texas Commission of Licensing and Regulation, with the commission's approval, to appoint a five-member automotive parts recycling advisory board and sets forth provisions relating to the board's composition, terms, powers and duties, compensation, and meeting requirements. The bill prohibits the commission from adopting rules that place certain restrictions on advertising or competitive bidding by a license holder and establishes requirements for periodic and risk-based inspections of each used automotive parts recycling facility by the department.

Senate Bill 1095 requires a used automotive parts recycler to perform certain actions upon acquiring, dismantling, or disposing of a motor vehicle; maintain records of its purchases and an inventory of component parts; retain component parts for a specified period; and, before moving a place of business, register the new location with the department. The bill also requires the recycler to surrender certain vehicle documents or license plates to TxDOT, and authorizes a peace officer at any reasonable time to inspect records kept by the recycler in compliance with these provisions. The bill prohibits a used automotive parts recycler from operating heavy machinery in a used automotive parts recycling facility between 7 p.m. of one day and 7 a.m. of the following day if the facility is in a county with a population of at least 2.8 million, unless the conduct is necessary to a sale or purchase by the recycler. The bill specifies that provisions regulating used automotive parts recyclers are not applicable to an insurance company or to a transaction to which a metal recycler or a salvage vehicle dealer is a party, with certain exceptions, and excludes such recyclers from provisions relating to the licensing and regulation of salvage vehicle agents. The bill requires the commission to adopt rules relating to the new licenses and standards of conduct for license holders not later than January 1, 2010.

Senate Bill 1095 amends the Transportation Code to add to the definition of "salvage vehicle dealer" a used automotive parts recycler if the sale of repaired, rebuilt, reconstructed, or nonrepairable motor vehicles or salvage motor vehicles is more than an incidental part of the recycler's business, and to make other changes relating to a person who deals in used parts. The bill excludes from the definition a person who casually repairs, rebuilds, or reconstructs fewer than five, rather than three, salvage motor vehicles in the same calendar year.

Senate Bill 1095 takes effect September 1, 2009, except for provisions relating to the newly created licenses and the enforcement of the act, which take effect September 1, 2010.

**Senate Bill 1599**  
**Effective:** 9-1-09

**Senate Author:** Watson  
**House Sponsor:** Darby

Senate Bill 1599 amends the Government Code to entitle the Court Reporters Certification Board to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to a person who is an applicant for or the holder of a certification issued by the board. The bill sets forth the authorized uses of such information, prohibits the release or disclosure of the information with certain exceptions, and requires the information to be destroyed after its use.

**Senate Bill 2073**  
**Effective:** 9-1-09

**Senate Author:** Duncan  
**House Sponsor:** Chisum

Senate Bill 2073 amends the Government Code to clarify language that prohibits the secretary of state, when determining whether there is good cause for disciplinary action against a notary public, from considering as a conviction a dismissal of proceeding against the defendant and discharge of the defendant before an adjudication of guilt and a finding of guilt that has been set aside. The bill specifies that the prohibition also applies to determining the defendant's eligibility for disciplinary action.

**Senate Bill 2153**

**Effective:** 9-1-09

**Senate Author:** Whitmire

**House Sponsor:** Hernandez

Senate Bill 2153 amends the Occupations Code to add provisions relating to the installation and removal of a vehicle immobilization device, or boot, to the Texas Towing Act, which is renamed the Texas Towing and Booting Act. The bill establishes that the act does not apply to a person who, while exercising a statutory or contractual lien right with regard to a vehicle, installs or removes a boot, or controls, installs, or directs the installation and removal of one or more boots, or to a commercial office building owner or manager who installs or removes a boot in the building's parking facility. The bill requires the Texas Commission of Licensing and Regulation to adopt rules for permitting booting companies and boot operators, and prohibits a person from performing booting operations or operating a booting company unless the person holds an appropriate license. The bill requires an applicant for a booting company license to submit evidence of financial responsibility as prescribed by the bill.

The bill makes provisions that apply to local regulation of towing apply to local regulation of towing and booting. The bill authorizes a municipality to adopt an ordinance that matches or exceeds, but does not conflict with, the booting provisions under the Texas Towing and Booting Act. The bill authorizes a municipality to regulate the fees that may be charged in connection with the booting of a vehicle, including associated parking fees, and to require booting companies to obtain a permit to operate in the municipality.

Senate Bill 2153 authorizes a parking facility owner to cause a boot to be installed on a vehicle in the parking facility if lawful signs prohibiting unauthorized vehicles are located on the parking facility at the time of the booting and for the preceding 24 hours and remain installed at the time of the booting. The bill requires a boot operator that installs a boot on a vehicle to affix a conspicuous notice to the vehicle's front windshield or driver's side window and to provide a receipt to the vehicle owner or operator on removal of the boot. The bill requires the notice and receipt to include certain information, including notice of the right to a hearing, and it requires the booting company to maintain a copy of the receipt at its place of business for a period of three years. The bill requires a booting company to accept payment by an electronic check, debit card, or credit card for any fee or charge associated with the removal of a boot, and it prohibits a booting company from collecting a fee for any charge associated with the removal of a boot from a person who offers to pay the charge with an electronic check, debit card, or credit card form of payment that the booting company is not equipped to accept.

Senate Bill 2153 establishes that for booted vehicles a hearing is held in the justice court having jurisdiction in the precinct in which the parking facility is located. The bill requires the court to notify the person who requested the hearing for a booted vehicle, the parking facility in which the vehicle was booted, and the booting company of the date, time, and place of the hearing in the manner provided by provisions for methods of service under the Texas Rules of Civil Procedure. The bill establishes that the issues in a hearing regarding a booted vehicle are whether probable cause existed for the booting of the vehicle and whether a boot removal charge imposed or collected in connection with the removal of the boot was greater than the amount authorized by a municipal ordinance. The bill authorizes a court to award, in addition to other amounts, an amount equal to the amount that the booting removal charge and associated parking fees exceeded fees regulated by a political subdivision or authorized by law.

Senate Bill 2153 makes regulation of towing companies and parking facility owners also apply to booting companies and adds booting companies to provisions prohibiting a parking facility owner from receiving financial gain from a towing company, prohibiting a towing company from financial involvement with a parking facility owner, and establishing civil liability of a towing company or parking facility owner for a violation of the act. The bill also makes



provisions that apply to the rights of owners and operators of stored vehicles apply to stored or booted vehicles. The bill establishes that if in a hearing held under the act the court finds that a person authorized, with probable cause, the booting of a vehicle in a parking facility, the person who requested the hearing pays the costs of the booting. The bill establishes that if in a hearing the court does not find that a person authorized, with probable cause, the booting of a vehicle, the person that authorized the booting pays the costs of the booting and any related parking fees or reimburses the owner or operator for the cost of the booting and any related parking fees paid by the owner or operator.

The bill also adds a representative of a booting company to the Towing and Storage Advisory Board, which is renamed the Towing, Storage, and Booting Advisory Board, and requires the presiding officer of the Texas Commission of Licensing and Regulation to appoint the representative promptly after the bill takes effect.

## **Engineering, Design, and Construction**

### **House Bill 1758**

**Effective:** 9-1-09

**House Author:** Thompson et al.

**Senate Sponsor:** Carona

House Bill 1758 amends Occupations Code provisions relating to the requirements for a plumber's apprentice to obtain a journeyman plumber license or a tradesman plumber-limited license to require the applicant, before taking the examination for such a license, to complete certain classroom training. The bill authorizes the Texas State Board of Plumbing Examiners, at the applicant's request, to credit the applicant with up to 500 hours of the work experience required before taking an examination if the applicant has completed the classroom portion of certain approved training programs, and authorizes a plumber's apprentice who is enrolled in good standing in a training program approved by the United States Department of Labor, Office of Apprenticeship, to take an examination without completing the required classroom training. The bill authorizes a plumber's apprentice to apply for and take an examination if the apprentice has received an associate of applied science degree from a plumbing technology program that meets specified requirements.

### **House Bill 1973**

**Effective:** See below

**House Author:** Hamilton

**Senate Sponsor:** Patrick, Dan

House Bill 1973 amends the Occupations Code to create an exception to the application of the Texas Electrical Safety and Licensing Act for the maintenance, alteration, or repair of a pool-related electrical device by, or pool-related electrical maintenance performed by, an employee of a municipality on a pool owned or operated by the municipality. The bill adds definitions relating to a pool-related electrical device, includes such a device as a residential appliance, and requires the Texas Department of Licensing and Regulation to accept, develop, or contract for a residential appliance installer examination. These provisions are effective March 1, 2010, except the changes to the definitions take effect September 1, 2009.

### **House Bill 2649**

**Effective:** 6-19-09

**House Author:** Smith, Wayne et al.

**Senate Sponsor:** Deuell

House Bill 2649 amends the Occupations Code to provide that the exemption from licensing requirements for an engineer providing specified services for certain types of private buildings does not apply to a person or entity that is providing engineering design or inspection services necessary to comply with windstorm certification standards for a residential dwelling or engineering design relating to plans or specifications for a residential dwelling slab located

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on expansive soil that meets prescribed requirements. The bill establishes that the Texas Engineering Practice Act does not prohibit the use of the term “fire engineer” by a member of the fire department of certain municipalities with a population of at least one million who is a fire apparatus operator and is not otherwise engaged in the practice of engineering. In addition, the bill establishes that the holder of an engineering license is not required to provide or hold any additional certification to seal an engineering plan, specification, plat, or report.

### **House Bill 2763**

**Effective:** See Below

**House Author:** Kuempel

**Senate Sponsor:** Eltife

House Bill 2763 amends the Occupations Code to require a relocatable educational facility that is purchased or leased on or after January 1, 2010, to comply with all provisions applicable to industrialized buildings and repeals an Education Code provision relating to the inspection of such a facility. The bill removes a qualification regarding the measuring of certain residential or commercial structures for purposes of classifying industrialized housing and buildings and specifies that provisions relating to the effect of building code amendments for industrialized housing and buildings refer to an industrialized building designed to be transported from one commercial site to another. The bill requires the owner of such a building that has been modified or altered and meets specified requirements to ensure that the building complies with certain building code requirements and standards and removes provisions that require the owner to ensure that the entire building or the modified or altered portion of the building complies with the mandatory building code or its amendments under certain conditions. The bill takes effect September 1, 2009, except that the provision relating to the repeal takes effect December 31, 2009.

### **House Bill 3628**

**Effective:** 6-19-09

**House Author:** Jones

**Senate Sponsor:** Duncan

House Bill 3628 amends the Health and Safety Code to extend from September 1, 2010, to September 1, 2012, the period of a delay granted by the executive director of the Texas Department of Licensing and Regulation for compliance with the requirements for firefighter’s service in the American Society of Mechanical Engineers (ASME) Safety Code for Elevators and Escalators, if those requirements were not included in the ASME code that was in effect on the date of installation and the equipment was not subsequently installed. This provision expires October 1, 2012. The bill requires the executive director to grant a delay until September 1, 2010, for compliance with ASME code requirements for door restrictors, with that requirement expiring October 1, 2010.

### **Senate Bill 470**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Hamilton

Senate Bill 470 amends the Occupations Code to establish an annual four-hour continuing education requirement for renewing an electrical apprentice license as an alternative to being enrolled in a recognized apprenticeship training program and to require the continuing education courses to address safety, the National Electrical Code, and state laws and rules regulating electricians. The bill includes safety as a topic that must be addressed in the required continuing education courses for a master electrician, journeyman electrician, master sign electrician, journeyman sign electrician, maintenance electrician, or residential wireman. The bill authorizes the Texas Commission of Licensing and Regulation to adopt rules regarding the registration of apprenticeship training programs and to require registered programs to report the names of persons enrolled in the programs.

**Senate Bill 1354****Effective:** 9-1-09**Senate Author:** Jackson, Mike**House Sponsor:** Hamilton

Senate Bill 1354 amends provisions of the Occupations Code to modify in the definition of “master plumber” the qualifications for that classification, redefine “plumbing” to include certain equipment or systems used to distribute and circulate a liquid or gas and to remove such equipment or systems used in or around a building in which a person lives or works or in which persons assemble, and include in the definition of “plumbing inspector” a person who is employed by or contracts as an independent contractor with a state agency. The bill adds plumbing performed in conjunction with repair or remodeling in the types of work not exempted from plumbing license requirements and amends the exemption for a person who performs plumbing on a property in a municipality with fewer than 5,000 inhabitants to apply specifically in a municipality that is in a county with fewer than 50,000 inhabitants and that by ordinance authorizes a person who is not a licensed plumber to perform plumbing, rather than allowing providing the exemption in the absence of a municipal ordinance requiring the person to be licensed.

Senate Bill 1354 specifies that the exemption from licensing requirements as an appliance dealer does not extend to a person who installs and services water heaters, and requires a field representative employed by the Texas State Board of Plumbing Examiners to hold a license as a plumber. The bill authorizes the examining board, if certain requirements are met, to credit an applicant who has worked as a plumber’s apprentice for a specified period with a number of hours against the hours of work experience required to take an examination. The bill establishes training requirements for a person who wishes to renew a certificate of registration as a drain cleaner, drain cleaner-restricted registrant, or residential utilities installer; allows a person to receive credit for participating in a training program under specified conditions; and provides for an exemption from these requirements.

Senate Bill 1354 establishes the methods by which a municipality or other political subdivision in Texas that requires a plumbing contractor to obtain a permit before performing plumbing work is required to accept permit applications, collect fees, and issue permits; requires the political subdivision to verify that the contractor has a certificate of insurance on file with the examining board and to specify how permit drawings of proposed plumbing work are to be submitted, if such drawings are required; and, if the political subdivision requires registration of plumbing contractors, requires a plumbing contractor to register before performing plumbing regulated by the political subdivision. The bill provides that a person who must obtain a plumbing permit is not required to pay a plumbing registration fee or administrative fee in a municipality or other political subdivision and removes a requirement that a political subdivision requiring a master plumber to have a bond must accept the bond before issuing a master plumber permit. The bill authorizes only an affected municipality to perform a plumbing inspection and collect a permit fee if the boundaries of a municipality and another political subdivision, rather than a municipal utility district, overlap. The bill makes its provisions applicable to an application for the issuance or renewal of a license or certificate of registration submitted on or after January 1, 2010, and requires the examining board to adopt the rules and approve the programs necessary to implement these changes not later than that date.

**Senate Bill 1410****Effective:** See below**Senate Author:** Jackson, Mike**House Sponsor:** Gutierrez

Senate Bill 1410 amends the Occupations Code to define “responsible master plumber” as a person licensed as a master plumber who allows that license to be used by one plumbing company for the purpose of offering and performing plumbing work under the license, obtains permits for plumbing work, assumes responsibility for plumbing work performed under the person’s

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license, and has submitted the required certificate of insurance. The bill prohibits a person from acting as a responsible master plumber unless the person holds the appropriate license and meets the above requirements and requires a person that advertises or otherwise offers to perform or provide plumbing to secure the services of a responsible master plumber. The bill amends the information that must be included in a written contract relating to plumbing services performed by or under the direction of a licensed plumber to include the name and license number of the responsible master plumber and to require that the information also be included in a written proposal or invoice relating to such services. The bill modifies the definitions for “drain cleaner,” “drain cleaner-restricted registrant,” “journeyman plumber,” “plumber’s apprentice,” “residential utilities installer,” and “tradesman plumber-limited license holder” to include in the license qualifications that the person is under the supervision of a responsible master plumber and removes from the definition for “tradesman plumber-limited license holder” a person who has not met or attempted to meet the qualifications for a journeyman plumber license. The bill includes in the definition for “plumbing inspector” a person who is employed by or contracts as an independent contractor with a state agency and authorizes a plumbing inspector who meets the requirements of the board to hold a medical gas endorsement, in addition to being authorized to inspect medical gas piping installations.

Senate Bill 1410 creates an endorsement for a multipurpose residential fire protection sprinkler specialist and prohibits a person from the installation of such a sprinkler system that uses a single piping system for specified purposes unless the person is licensed as a master plumber or journeyman plumber and holds such an endorsement. The bill provides that a person who holds such an endorsement is not required to hold a license or registration issued by another state agency in order to install such a system and authorizes a plumbing inspector who meets requirements of the Texas State Board of Plumbing Examiners to inspect an installation of such a system. The bill prohibits a municipality from enacting an ordinance, bylaw, order, building code, or rule requiring the installation of a multipurpose residential fire protection sprinkler system or any other fire sprinkler protection system in a new or existing one- or two-family dwelling but authorizes a municipality to adopt an ordinance, bylaw, order, or rule allowing a multipurpose residential fire protection sprinkler specialist or other contractor to offer, for a fee, the installation of such a system in a new one- or two-family dwelling, and authorizes a multipurpose residential fire protection sprinkler specialist to install the system.

Senate Bill 1410 adds the violation of an order issued by the board to the acts that require the board to revoke, suspend, or refuse to renew a license, endorsement, or registration; adds the denial of such a credential to the disciplinary actions taken by the board in the event of a violation; and includes as a violation subject to such action the employment of a person who does not hold a license or endorsement or who is not registered to engage in an activity for which a license, endorsement, or registration is required. The bill establishes that the venue for an action brought in the name of the board to enjoin a person from violating these provisions or a board rule is in a district court in Travis County and authorizes the board’s executive director to issue a cease and desist order as necessary to enforce these provisions if the executive director determines that the action is necessary to prevent a violation and to protect public health and safety, rather than authorizing the board, after notice and opportunity for a hearing, to issue such an order. The bill establishes a person’s failure to pay an administrative penalty as grounds for the board to refuse to renew the person’s license or registration and to refuse to issue a new license or registration to the person.

Senate Bill 1410 takes effect September 1, 2009, except the provisions relating to an endorsement for a multipurpose residential fire protection sprinkler specialist, which take effect June 1, 2010.

**Senate Bill 1982****Effective:** See below**Senate Author:** Patrick, Dan**House Sponsor:** Hamilton

Senate Bill 1982 amends the Occupations Code to provide that the Texas Electrical Safety and Licensing Act does not apply to certain pool-related electrical maintenance, alterations, or repairs performed by an employee of a municipality on a pool owned or operated by the municipality. The bill includes a pool-related electrical device in the definition of “residential appliance” and adds definitions. The bill requires the Texas Department of Licensing and Regulation to accept, develop, or contract for a residential appliance installer examination that tests the knowledge of an applicant for an electrician’s license relating to the materials and methods to install residential appliances and pool-related devices under state laws regulating electricians and national standards as adopted by the department’s executive director. The bill takes effect September 1, 2009, except that the provisions relating to definitions take effect March 1, 2010.

**Real Estate****House Bill 1411****Effective:** 5-27-09**House Author:** Jones**Senate Sponsor:** Carona

House Bill 1411 amends the Occupations Code to provide that, for a complaint filed with the Texas Board of Professional Land Surveying that is determined to be frivolous or without merit, the complaint and other related enforcement case information are confidential and not subject to discovery, subpoena, or other disclosure. The bill authorizes such information to be used only by the board or by its employees or agents directly involved in the enforcement process for that complaint.

**House Bill 2238****Effective:** 9-1-09**House Author:** Hamilton**Senate Sponsor:** Eltife

House Bill 2238 amends the Occupations Code to authorize any required action relating to the regulation of manufactured housing to be accomplished by electronic means, if feasible, and to grant the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs (TDHCA) the authority to waive fees relating to manufactured housing in a declared disaster area. The bill amends provisions relating to the courses required for an applicant for a salesperson’s license; specifies that an applicant for an initial installer’s license shall receive a license on a provisional, rather than probationary, basis; requires completion of, rather than attendance at, a continuing education course as a prerequisite to renewing a license issued under provisions relating to manufactured housing; and extends the term of such a license from one year to two years.

House Bill 2238 specifies that the tax assessor-collector required to file a statement indicating that no personal property taxes on certain used manufactured homes accrued during a specified time period is the tax assessor-collector for the taxing unit having power to tax the manufactured home. The bill adds the servicing of a loan on a manufactured home or the change in ownership of a lien on a manufactured home to the exceptions to TDHCA’s authority to issue a subsequent statement of ownership and location for a home if all owners reflected in TDHCA’s records as having ownership interest in the home give their consent or release their interest. The bill makes an exception from the prohibition against TDHCA’s altering a record of ownership or lien status, and amends the requirements for declaring a manufactured home abandoned and for perfecting a tax lien on a manufactured home.

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House Bill 2238 clarifies that a provision prohibiting an installer from installing a manufactured home at a location on a site that has evidence of certain conditions applies to a used manufactured home, and adds a manufacturer, retailer, or installer whose license is suspended or subject to an administrative sanction to the license holders for which a manufacturer, retailer, or installer whose license is in good standing may perform a warranty obligation. The bill specifies that the manufactured homeowner's trust recovery fund is to be paid directly to a consumer or, at the option of the executive director, to a third party on behalf of a consumer. The bill repeals provisions relating to the proof of insurance required for an installer, limiting the attorney's fees and costs paid in connection with a claim from the manufactured homeowner's recovery trust fund, and requiring a statement of election relating to an owner's treatment of a manufactured home as personal property or real property be executed before a notary public.

### **House Bill 3114**

**Effective:** 9-1-09

**House Author:** Flores

**Senate Sponsor:** Watson

House Bill 3114 amends the Occupations Code to increase from not more than 8 hours to not more than 16 hours the hours of continuing professional education courses or programs a registered professional land surveyor is required to complete annually as a condition for renewing the surveyor's certificate of registration under the rules of the Texas Board of Professional Land Surveying. The bill makes its provisions applicable only to a certificate of registration that expires on or after January 1, 2010.

### **Senate Bill 862**

**Effective:** See below

**Senate Author:** Eltife

**House Sponsor:** Geren

Senate Bill 862 amends the Occupations Code to specify that fees charged and collected by the Texas Real Estate Commission are in amounts reasonable and necessary to cover its functions. The bill modifies the distribution of revenue from an increase in the application and renewal fees for an individual broker license to require \$50 from each fee increase collected to be appropriated to support the Texas Real Estate Research Center, and to reduce from \$150 to \$100 the amount from each such increase to be deposited in the general revenue fund. The bill increases from \$17.50 to \$20 the additional fee assessed for issuing or renewing a salesperson license. The bill amends the process for an aggrieved party to make a claim on the real estate recovery trust account in cases in which a judgment is subject to a bankruptcy stay or discharge. The bill specifies that the commission is authorized to suspend or revoke a license if the license holder enters a plea of guilty or nolo contendere to or is convicted of a felony or a criminal offense involving fraud, rather than a felony in which fraud is an essential element, and in cases in which a license holder, while acting as a broker or salesperson, discriminates against an owner, potential buyer, landlord, or potential tenant on the basis of the person's disability or familial status, in addition to other categories of discrimination.

Senate Bill 862 amends the Property Code to require the commission to authorize the State Office of Administrative Hearings (SOAH) to conduct hearings in contested cases for the commission, rather than authorizing the commission to designate its employees to conduct such hearings, and establishes that SOAH, rather than the commission, conducts hearings relating to a temporary suspension of a timeshare plan registration.

Senate Bill 862 takes effect May 12, 2009, except for provisions relating to the distribution of revenue from fee increases relating to an individual broker license, which take effect September 1, 2011.

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

House Bill 1055 - Human Services

House Bill 2447 - State Government

House Bill 2548 - State Government

House Bill 3129 - Business and Commerce

Senate Bill 572 - Human Services

Senate Bill 1016 - Agriculture

Senate Bill 1920 - State Government





## Open Government and Privacy

This chapter covers legislation on issues relating to public access to governmentally held information, including the open records law, the open meetings law, confidentiality, and disclosure. Bills relating to a governmental entity's access to criminal history information can be found in the chapter containing bills on the governmental entity. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

**House Bill 3303****Effective:** 9-1-09**House Author:** Kent et al.**Senate Sponsor:** Zaffirini

House Bill 3303 amends the Health and Safety Code to establish that information, documents, and records that are confidential under provisions relating to an adult fatality review and investigation are not subject to subpoena or discovery and may not be introduced into evidence in any civil or criminal proceeding.

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**House Bill 3544****Effective:** 9-1-09**House Author:** Lucio III**Senate Sponsor:** Fraser

House Bill 3544 amends the Water Code to authorize the Texas Commission on Environmental Quality (TCEQ), in encouraging the use of electronic reporting through the Internet, to use electronic means of transmission of information, including notices, orders, or decisions it issues or sends. The bill makes conforming changes to the Tax Code. Other Tax Code changes, relating to the property tax exemption for pollution control property, specify that the standards and methods for making a determination regarding such an exemption, as established in TCEQ rules, apply uniformly to all applications for such determinations. The bill requires the TCEQ to establish a permanent advisory committee to advise TCEQ regarding the implementation of tax exemption provisions.

House Bill 3544 amends the Government Code to specify that the law making an e-mail address of a member of the public confidential and nondisclosable, if provided to communicate electronically with a governmental body, does not apply to an e-mail address that is provided for the purpose of providing public comment on or receiving notices related to an application for a license or the receipt of orders or decisions from a governmental body. The bill removes the authorization for an open records requestor to request a paper copy of public information that exists in an electronic or magnetic medium and also removes the requirement that a governmental body provide a paper copy of requested information if the governmental body is unable to comply with a request to produce a copy of information in a requested medium.

**Senate Bill 1071****Effective:** 5-19-09**Senate Author:** Wentworth**House Sponsor:** Geren

Senate Bill 1071 amends the Government Code to establish that information concerning the employment of an employee or the service of a trustee of a public employee pension system is public information and is not made confidential, removed from the application of state law governing public information, or otherwise excepted from required public availability under that law by any statute intended to protect the records of persons as members, beneficiaries, or

retirees of a public employee pension system in their capacity as such. The bill requires that information concerning such matters be released only to the extent that it is not excepted from required disclosure under specified provisions of the public information law.

**Senate Bill 1182**

**Effective:** See below

**Senate Author:** Wentworth

**House Sponsor:** Ortiz, Jr.

Senate Bill 1182 amends the Government Code to set a deadline for a governmental body, when withholding information from a requestor and seeking an associated open records decision from the attorney general, to provide the requestor of the information with a copy of the comments, if any, that the governmental body submits to the attorney general in support of nondisclosure. The deadline is not later than the 15th business day after receipt of the open records request. The bill establishes that the only suit a governmental body is authorized to file, toward withholding requested information, is one filed in Travis County district court against the attorney general and seeking declaratory relief from compliance with an open records decision. It revises related filing procedures, makes compliance with the filing deadline a prerequisite for preserving an affirmative defense for the governmental body's public information officer, eliminates the option of filing a petition for a writ of mandamus, and requires a court in exercising discretion to assess costs and fees to consider the conduct of the governmental body generally rather than the public information officer specifically as under previous law.

Senate Bill 1182 authorizes a legislator or legislative committee or agency, when required by a governmental body to sign a confidentiality agreement covering information requested for legislative purposes, to seek a decision by the attorney general whether the information covered by the agreement is indeed confidential under law. It provides that such an agreement is void to the extent that the agreement covers information that is finally determined not to be confidential. The bill establishes related procedural requirements. It allows the legislative requestor, the governmental body, or certain affected parties claiming a proprietary or privacy interest to appeal such an attorney general decision to Travis County district court.

Senate Bill 1182 provides that information held by a hospital district that relates to a district officer or employee is excepted from public availability under the open records law if disclosure reasonably could be expected to compromise the individual's safety. The exception is contingent on an application by the officer or employee to have the information withheld. The bill requires the hospital district, on receiving an open records request for information described in such an application, to request an open records decision from the attorney general. The above hospital district provisions are temporary, expiring September 1, 2013.

Senate Bill 1182 provides an exception from the provision regarding the availability of public information for certain types of information pertaining to a biological agent or toxin identified or listed as a select agent under federal law. The bill provides that the identities of the select agents that are present at a facility are an open record, as is certain contractual information. It clarifies when information relating to individuals associated with such agents is and is not an open record.

Amendments to the open meetings law authorize a quorum of a municipality's governing body to receive from staff, and authorize a member of such body to make, a report on items of community interest during a meeting of the governing body, absent otherwise applicable notice requirements, if no action is taken and if, except for certain inquiries allowed by that law, there is no discussion of possible action regarding the report information. The bill limits items of community interest to certain recognitions and expressions, reminders and event or holiday information, and announcements involving an immediate threat to public health and safety.

Amendments to the Family Code require an investigating agency other than the Department of Family and Protective Services or Texas Youth Commission to provide on request to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that otherwise would be confidential under law. The investigating agency must withhold the information, however, if the requestor is the alleged perpetrator of the abuse or neglect. The custodian of a record or file, before allowing inspection or copying, must redact any personally identifiable information about a victim or witness under 18 years of age unless the victim or witness is the child who is the subject of the report or is another child of the requesting parent, managing conservator, or legal representative. The custodian must also redact the identity of the person who made the report and any information that is excepted from required disclosure under the open records law or other statute.

Provisions of Senate Bill 1182 relating to legislative confidentiality agreements take effect September 1, 2010. The remainder of the bill takes effect September 1, 2009.

**Senate Bill 1629**

**Effective:** 9-1-09

**Senate Author:** Wentworth

**House Sponsor:** Rose

Senate Bill 1629 amends the Government Code to specify that the exemption for certain requestors from the law relating to public information requests that require large amounts of employee or personnel time applies if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for certain news media. The bill adds a newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or information to the general public and a magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public to the news media to which the exemption applies and specifies that the exemption for an individual seeking the information for a radio or television station applies to an individual seeking such information for a radio or television broadcast station that holds a broadcast license for an assigned frequency issued by the Federal Communications Commission.

## Privacy

**House Bill 559**

**Effective:** 9-1-09

**House Author:** Hernandez et al.

**Senate Sponsor:** Gallegos

House Bill 559 amends provisions of the Election Code, Government Code, and Tax Code relating to the nondisclosure of certain personal information in voter registration records to include a justice of the peace in the definition of "state judge." The bill also amends the Tax Code to reconcile provisions relating to the confidentiality of home address information in tax appraisal records.

**House Bill 2004**

**Effective:** 9-1-09

**House Author:** McCall

**Senate Sponsor:** Ellis

House Bill 2004 amends provisions of Texas law relating to the protection of sensitive personal information. The bill amends the Government Code and the Local Government Code to require a state agency or local government that owns, licenses, or maintains computerized data that includes sensitive personal information to comply, in the event of a breach of system

security, with the notification requirements set forth by provisions of the Business & Commerce Code, to the same extent as a person who conducts business in Texas.

The bill amends the Health and Safety Code to establish that, for a governmental unit covered by provisions of Texas law relating to medical records privacy, an individual's protected health information includes any information that reflects that an individual received health care from the covered entity and that the individual's protected health care information is not public information and is not subject to disclosure under Texas public information law.

The bill amends the Business & Commerce Code to expand the definition of "sensitive personal information" to include information that identifies an individual and relates to the physical or mental health or condition of the individual, the provision of health care to the individual, or payment for the provision of health care to the individual. The bill also includes a nonprofit athletic or sports association in the term "business" as it relates to a business duty to protect sensitive personal information.

**House Bill 2941**

**Effective:** 6-19-09

**House Author:** Paxton

**Senate Sponsor:** Williams et al.

The Government Code requires the comptroller of public accounts periodically to conduct a study to determine the taxable value of property in each school district for the purpose of allocating state educational funding. In certain cases, a property owner or a school district may protest the comptroller's findings on a property included in the study. The open records law exempts real property sales prices, descriptions, characteristics, or similar information received from a private entity by the comptroller or a chief appraiser from required public availability under that law, except that a property owner, school district, or appraisal district may obtain from the comptroller any information, including confidential information, obtained by the comptroller that relates to such a protest. The confidential information remains confidential in the possession of the owner or district, however, and may not be disclosed to a person who is not authorized to receive or inspect it. House Bill 2941 amends the Government Code to authorize a school district to obtain information relating to a protest of the comptroller's findings not only from the comptroller but also from the appraisal district, and extends that access to not only a filed protest but also the preparation of a protest that is to be filed. The bill makes all of the above provisions relating to exempted information applicable only if the information relates to real property located in a county having a population of 20,000 or more.

House Bill 2941 amends the Tax Code to allow confidential information provided by an owner to an appraisal office in connection with the appraisal of property to be disclosed to an employee or agent of a taxing unit responsible for auditing, monitoring, or reviewing the operations of an appraisal district or to an employee or agent of a school district that is engaged in the preparation of a protest of the comptroller's school district property value study.

**Senate Bill 281**

**Effective:** 9-1-09

**Senate Author:** Nelson

**House Sponsor:** Truitt

Senate Bill 281 amends the Election Code to exempt the home address of a spouse of a federal or state judge that is provided in certain voter registration records from disclosure as public information.

Senate Bill 281 amends Tax Code provisions relating to information provided in local appraisal records to include the spouse of a federal or state judge in the list of persons whose home address information is confidential.

**Senate Bill 390**  
**Effective:** 9-1-09

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

Senate Bill 390 amends provisions of the Tax Code relating to information that identifies the home addresses of specified individuals, to make such information confidential if it pertains to a federal criminal investigator, or a police officer or inspector of the U.S. Federal Protective Service, and the investigator, officer, or inspector chooses to restrict public access. The bill amends the Government Code to make the home address of such a federal official confidential when held by another governmental body, along with the individual's home telephone number, social security number, and information on the existence of family members, if the investigator, officer, or inspector chooses to restrict access and notifies the governmental body. Other changes in the bill update statutory references to certain federal agents, officers, and personnel to clarify their law enforcement status and authority, including their authority at a border patrol traffic check point or an overland port of entry from Mexico.

**Senate Bill 671**  
**Effective:** 9-1-10

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

Senate Bill 671 amends the Government Code to authorize a member, committee, or agency of the legislature required by a governmental body to sign a confidentiality agreement regarding information requested for legislative purposes to seek a decision from the attorney general about whether the requested information is confidential under law. The bill requires the attorney general to establish by rule procedures and deadlines for receiving information necessary to decide the matter, promptly render a decision not later than the 45th business day after the date the attorney general received the request for a decision, and issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The bill authorizes the requestor, the governmental body, and a person claiming a proprietary or privacy interest in the information to appeal the decision to a Travis County district court. A confidentiality agreement is void to the extent that the agreement covers information that is finally determined to not be confidential under law.

**Senate Bill 1068**  
**Effective:** 6-4-09

**Senate Author:** Wentworth  
**House Sponsor:** Gallego

Current law excludes from required disclosure under the open records law, or provides an affected individual the option to exclude from such disclosure, the home address, the home telephone number, the social security number, and certain information regarding family members of a peace officer, county jailer, commissioned security officer, officer or employee of a community supervision and corrections department, current or former employee of the Texas Department of Criminal Justice or a predecessor entity, current or former employee or official of any other governmental body excluding the judiciary, or employee of a district attorney, criminal district attorney, county attorney, or municipal attorney whose jurisdiction includes any criminal law or child protective services matters. The law similarly excludes from public disclosure the home address or home telephone number of a member of the board of directors or board of trustees of a family violence shelter center or sexual assault program, or the home address, home telephone number, or social security number of an employee or a volunteer worker of such a center or program.

Senate Bill 1068 amends the Government Code to authorize a governmental body to redact such excluded information from any information it discloses under the open records law without requesting an open records decision from the attorney general. The bill requires a governmental

body, when redacting or withholding information without seeking such a decision, to provide the requestor of information with a description of what has been redacted or withheld, a citation to the law on redacting and withholding without an open records decision, and instructions on how the requestor may seek an open records decision. The bill entitles the requestor to seek an open records decision when the governmental body has not.

Senate Bill 1068 excepts information in the custody of a governmental body that relates to an employee or officer of the governmental body from public availability under the open records law if, under specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

**The summary for the following bill is in the listed chapter:**

Senate Bill 1813 - Taxes and Tax Administration

## Parks and Wildlife

This chapter covers legislation on issues relating to parks and wildlife, including animal breeding, hunting and fishing, and public recreation. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 1965**

**Effective:** 5-29-09

**House Author:** Darby et al.

**Senate Sponsor:** Seliger

House Bill 1965 amends provisions of the Parks and Wildlife Code relating to a permit to control protected wildlife. It requires a person who has evidence of damage to commercial agricultural, horticultural, or aquicultural interests or of a threat to public safety to give written notice of the facts directly to the Texas Parks and Wildlife Department, rather than to a county judge or mayor, and removes those local officials from the process. The department is authorized, rather than required, to inspect the affected property before issuing a permit unless the notice alleges damage by mule deer, pronghorn antelope, or desert bighorn sheep, in which case an inspection and other actions are required before the permit may be issued. The bill establishes a \$50 permit application fee, requires the department to approve or deny an application within 10 business days, requires the permit to specify the number of wildlife authorized to be killed, and expands the acceptable methods of delivering the permit. It transfers responsibility for disposing of the carcass from a game warden or other department employee to the permit holder or person designated to kill the wildlife and prohibits the permit holder or designee from keeping or selling any part of the wildlife, including the antlers. The bill also adds provisions relating to canceling or reinstating a permit, creates a Class C Parks and Wildlife Code misdemeanor offense for violation of a reporting requirement, and authorizes the department to adopt rules relating to permits to control protected wildlife.

#### **House Bill 3108**

**Effective:** 9-1-09

**House Author:** Parker

**Senate Sponsor:** Harris

House Bill 3108 creates an advisory panel on recreational boating safety and provides for the appointment, composition, and reimbursement of members of the panel. The bill requires the panel to conduct an interim study and develop recommendations and estimated costs regarding boating safety, boater education, liability insurance requirements, law enforcement effectiveness, and any other relevant issues and requires the panel to report the study results to the Parks and Wildlife Department, the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the committee in each house having primary jurisdiction over recreational boating not later than December 31, 2010.

#### **House Bill 3391**

**Effective:** 9-1-09

**House Author:** Harper-Brown et al.

**Senate Sponsor:** Hegar

House Bill 3391 amends the Parks and Wildlife Code to continue the Parks and Wildlife Department until September 1, 2021. In addition to across-the-board sunset provisions, the bill requires the executive director of the department to establish an internal affairs office with original departmental jurisdiction over all investigations of alleged criminal conduct committed by department employees or on department property and specifies the duties of the office. The bill expands the types of funds authorized to be deposited into the state parks account, Texas recreation and parks account, and large county and municipality recreation and parks

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account to include private contributions, grants, donations, and federal funds and specifies the authorized uses of such funds. The bill sets forth requirements for state agencies to follow in responding to department recommendations or informational comment regarding fish and wildlife resource protection, expands the situations under which the Parks and Wildlife Commission is authorized to adopt emergency rules, and extends this authority to the executive director of the department.

House Bill 3391 expands the list of inedible parts of certain game animals that are exempt from the prohibition against the sale of certain protected game, adds pigeons to the definition of “pen-reared birds” for purposes of private bird hunting areas, and clarifies that the lawful killing of European starlings, English sparrows, and feral rock doves does not constitute an offense of disorderly conduct.

House Bill 3391 requires the department to publish a list of exotic aquatic plants approved for importation or possession without a permit, rather than a list of aquatic plants that require a permit, provides guidelines for adopting rules that relate to exotic aquatic plants, and specifies requirements and procedures for compiling and administering the approved list of exotic aquatic plants and issuing exotic species permits. The bill authorizes the commission to enter into the Interstate Wildlife Violator Compact on behalf of Texas. The bill requires the department and the Texas Youth Commission to jointly seek representation by the attorney general to pursue modification of the Parrie Haynes Trust thereby transferring control of the Parrie Haynes Ranch to the department, designating the department as the responsible agent for the trust, and expanding the purpose of the trust to benefit disadvantaged and other Texas youths.

**House Bill 3864**  
**Effective:** 6-19-09

**House Author:** Smithee  
**Senate Sponsor:** Seliger

House Bill 3864 amends the Parks and Wildlife Code to authorize the Texas Parks and Wildlife Department to accept the donation of a turnkey building project on state land without competitive bidding, provided that the department approves the plans and engineering in advance and has supervision over the project.

**House Bill 4593**  
**Effective:** 9-1-09

**House Author:** Eiland  
**Senate Sponsor:** Lucio

Previous law defined Texas-produced shrimp to mean shrimp harvested from coastal waters and produced within the borders of Texas. House Bill 4593 amends the Agriculture Code to redefine Texas-produced shrimp to mean wild-caught shrimp commercially harvested from coastal waters by a shrimp boat licensed by the Parks and Wildlife Department. The bill reduces the number of members on the shrimp advisory committee from 10 to 9, removing the member of the Texas shrimp aquaculture industry. Other advisory committee changes replace the retail fish dealer with a wild-caught shrimp dealer and replace the wholesale fish dealer with a wholesale wild-caught shrimp dealer. The bill removes a requirement that the Department of Agriculture assess and collect a surcharge on the annual license fee for shrimp aquaculture facilities to fund the Texas shrimp marketing assistance program. It makes a conforming change to the Parks and Wildlife Code to reflect the elimination of that surcharge.

**Senate Bill 1122**  
**Effective:** 9-1-09

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

Senate Bill 1122 amends the Parks and Wildlife Code provision exempting a private, noncommercial, family-owned cold storage or processing facility from the requirement to maintain records of hunted game placed in such a facility to provide that the facility is not exempt



if it is located on a hunting lease and is made available to individuals other than the landowner or the landowner's nonpaying family members or nonpaying guests. The bill specifies that the requirement to maintain records of hunted game placed in a cold storage or processing facility do not require the entry or maintenance of a record for a properly tagged deer or antelope carcass that is placed in a private facility. In addition, the bill clarifies and updates definitions relating to these provisions.

**Senate Bill 1586**  
**Effective:** 6-19-09

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

Senate Bill 1586 amends the Parks and Wildlife Code to require the Texas Parks and Wildlife Department, in conjunction with the Texas Animal Health Commission, to develop and maintain a process for a database to be shared by both agencies to eliminate the need for a deer breeder to submit duplicate reports to the two agencies. The bill requires the database to include the reporting data required to be provided by each deer breeder to the department under provisions regarding a deer breeder's permit and to the commission. The bill requires the department and the commission to provide incentives to deer breeders whose cooperation results in reduced costs and increased efficiency by offering reduced fees for the deer breeder permit and a permit with an extended duration.

## Hunting and Fishing

**House Bill 968**  
**Effective:** 9-1-09

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

House Bill 968 amends the Parks and Wildlife Code to remove the requirement that a person have upper limb disabilities in order to be allowed to hunt deer, turkey, or javelina with a crossbow during an archery-only open season. The bill provides that, in a county that does not permit hunting with a firearm, a hunter may use a crossbow only if the hunter is a person with upper limb disabilities and has an archery hunting stamp.

**House Bill 1805**  
**Effective:** 5-23-09

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

House Bill 1805 amends the Parks and Wildlife Code to add an exception to the prohibition against hunting a legally protected game animal or bird with the aid of an artificial light by authorizing a person with a documented permanent physical disability that renders the person incapable of using a traditional firearm sighting device to use a laser sighting device. The bill specifies requirements applicable to such a hunter and requires the Parks and Wildlife Commission to adopt rules that prescribe what is acceptable as proof of such a physical disability.

**Senate Bill 1121**  
**Effective:** 9-1-09

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

Senate Bill 1121 amends the Parks and Wildlife Code to add a person who possesses a game bird, game animal, or fish to those who commit an offense if they fail to keep the edible portions of such an animal in edible condition. The bill clarifies that a person who, while hunting, kills or wounds a desert bighorn sheep, pronghorn sheep, pronghorn antelope, mule deer, or white-tailed deer and intentionally or knowingly fails to make a reasonable effort to retrieve the animal or fails to keep the edible parts of the animal in edible condition commits an offense if the person acts in violation of provisions relating to the taking of wildlife resources without consent of the

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landowner, hunting from a vehicle, hunting from a public road or right-of-way, hunting at night, or hunting with the aid of an artificial light. The bill defines “edible condition” and “edible parts” for purposes of these provisions.

**Senate Bill 1246**  
**Effective:** 5-30-09

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

Previous law, in temporary provisions set to expire September 1, 2009, allowed the Parks and Wildlife Department to increase certain fish dealer and commercial shrimp boat license fees by no more than 10 percent of the September 1, 2002, fee amount. Senate Bill 1246 amends the Parks and Wildlife Code to allow the fee to be increased by no more than 20 percent of the September 1, 2002, fee amount and to postpone the expiration of these provisions to September 1, 2013.

**Senate Bill 2379**  
**Effective:** 9-1-09

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

Senate Bill 2379 amends the Parks and Wildlife Code to increase the penalty for taking oysters from restricted areas from a Class B Parks and Wildlife Code misdemeanor to a Class A Parks and Wildlife Code misdemeanor and to increase the penalty for a subsequent violation within five years from a Class A Parks and Wildlife Code misdemeanor to a Parks and Wildlife Code state jail felony. The bill also makes each person on a vessel licensed as a commercial oyster boat responsible for such a violation, rather than just the captain.

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

Senate Bill 417 - Law Enforcement

Senate Bill 801 - Taxes and Tax Administration

# Probate and Guardianship

This chapter covers legislation on probate and guardianship proceedings and appointments, transfers of certain property, and the management and administration of a guardianship or trust. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### **House Bill 585**

**Effective:** 6-19-09

**House Author:** Naishtat

**Senate Sponsor:** Watson

House Bill 585 amends the Texas Probate Code to change references to the “minutes” of a court to refer instead to a “judge’s probate docket” or “judge’s guardianship docket” to reflect current practice. The bill repeals provisions of the Texas Probate Code and Government Code relating to definitions of the term “minutes.”

### **House Bill 764**

**Effective:** 9-1-09

**House Author:** Hartnett et al.

**Senate Sponsor:** Wentworth

House Bill 764 amends the Government Code to modify and add eligibility requirements for assignment of a former or retired judge of a statutory probate court as a visiting judge in a statutory probate court, a county court, or any statutory court exercising probate jurisdiction. The bill sets forth the applicability of its provisions to judges assigned before or after specified dates and to judges who meet eligibility requirements for assignment before or on or after September 1, 2009. The bill clarifies that a change in law made by the 78th Legislature, Regular Session, 2003, requiring a retired judge or former judge to have served as an active judge for at least 96 months in certain courts to be eligible to be assigned as a visiting judge does not apply to a person who was serving a term as an active judge on August 31, 2003.

### **House Bill 1460**

**Effective:** 9-1-09

**House Author:** Paxton

**Senate Sponsor:** Wentworth

Under previous law, an application for probate of a will was required to state whether the decedent was ever divorced, and if so, when and from whom. House Bill 1460 amends the Texas Probate Code to require the application to state whether a marriage of the decedent was ever dissolved by divorce, annulment, or a declaration that the marriage was void after the will was made.

### **House Bill 1461**

**Effective:** 9-1-09

**House Author:** Paxton

**Senate Sponsor:** Wentworth

Under previous law, an application for probate of a will as a muniment of title was required to state whether the decedent was ever divorced, and if so, when and from whom. House Bill 1461 amends the Texas Probate Code to require the application to state whether a marriage of the decedent was ever dissolved by divorce, annulment, or a declaration that the marriage was void after the will was made.

### **House Bill 1969**

**Effective:** 6-19-09

**House Author:** Hartnett

**Senate Sponsor:** Watson

House Bill 1969 amends the Probate Code to clarify that a provision in a will that would cause a forfeiture of a devise or void a devise or provision in favor of a person for bringing any court action is unenforceable if probable cause exists for bringing the action and if the action was brought and maintained in good faith.

## Probate and Guardianship

House Bill 1969 amends the Property Code to clarify that a provision in a trust that would cause a forfeiture of or void an interest for bringing any court action is unenforceable if probable cause exists for bringing the action and if the action was brought and maintained in good faith.

**House Bill 2502**  
**Effective:** 1-1-14

**House Author:** Hartnett  
**Senate Sponsor:** Duncan

House Bill 2502, a continuation of the legislature's ongoing statutory revision program, adopts the Estates Code by compiling and transferring and redesignating certain probate laws. The bill includes in the Estates Code a nonsubstantive revision of provisions applicable to a decedent's estate, as well as redesignated, but not revised, provisions relating to the independent administration and jurisdiction and venue of probate courts, the Durable Power of Attorney Act, and guardianship. References and cross-references are updated and laws that are revised in the new code or that have no continuing effect are repealed. The bill provides that it is a recodification only and that no substantive change is intended.

**House Bill 3075**  
**Effective:** 6-19-09

**House Author:** Deshotel  
**Senate Sponsor:** Hinojosa

House Bill 3075 amends the Probate Code to authorize an account established by one or more parties at a financial institution that is not designated as a convenience account, but is instead designated as a single-party account or another type of multiple-party account, to provide that the money on deposit may be paid or delivered to the parties or to one or more convenience signers for the convenience of the parties. The bill updates the single-party or multiple-party account selection form notice by adding lines for the names of the convenience signers. The bill provides that provisions relating to a convenience account and convenience signer apply to an account and signer described above, including provisions relating to the ownership of the account during the lifetimes and on the deaths of the parties, except that the convenience signer of such an account does not have a right of survivorship in the account unless the signer is also designated as a P.O.D. payee or as a beneficiary.

## Guardianship and Trusts

**House Bill 587**  
**Effective:** 9-1-09

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

House Bill 587 amends the Texas Probate Code to clarify that a court may authorize the payment of reasonable and necessary attorney's fees, as determined by the court, to an attorney who represents a person who filed an application to be appointed guardian of a proposed ward or for the appointment of another person as guardian. The bill also clarifies that payment of the attorney's fees may be made from the county treasury only if the court is satisfied that the attorney to whom the fees will be paid has not received, and is not seeking, payment for representing the person who filed the application from any other source.

**House Bill 2368**  
**Effective:** 9-1-09

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

House Bill 2368 amends the Texas Trust Code, in the Property Code, to authorize the independent administrator of a deceased beneficiary, without court approval, to disclaim an interest in a trust created in any manner other than by will and to prohibit a person from disclaiming an interest in a trust if the person in the person's capacity as independent administrator has either

exercised dominion and control over the interest or has accepted any benefits from the trust. The bill sets forth provisions relating to the discretionary power of a trustee and limitations on that power. House Bill 2368 authorizes a court, at any point in a proceeding by or against a trustee or concerning a trust, to appoint an attorney ad litem to represent any interest that the court considers necessary and entitles an attorney ad litem or a guardian ad litem to reasonable compensation. The bill sets out provisions relating to the determination, allocation, and distribution of the internal income of a separate fund, as defined by the bill, and makes these provisions applicable in determining the allocation of a payment made from a separate fund to a trust to which an election to qualify for a marital deduction under federal law has been made or to a trust that qualifies for the marital deduction under federal law. Provisions relating to payments characterized or not characterized as interest or a dividend or made in lieu of interest or a dividend are not applicable in determining the allocation of a payment made from a separate fund to those trusts. House Bill 2368 amends the Insurance Code to clarify that the validity of a trust agreement or declaration of trust that is designated as a beneficiary of a life insurance policy is not affected by whether any corpus of the trust exists in addition to the right of the trustee to receive life insurance proceeds.

**House Bill 3080**

**Effective:** 9-1-09

**House Author:** Hartnett

**Senate Sponsor:** Watson

House Bill 3080 amends provisions of the Texas Probate Code regarding guardianship compensation and trusts for the management of guardianship funds. The bill authorizes, rather than requires, a court to set the compensation for services rendered by a guardian or temporary guardian of a ward's estate in an amount not exceeding five percent of the ward's gross income. It allows a court to authorize payment in an amount the court finds reasonable of estimated quarterly compensation to a guardian before the guardian files an annual or final accounting of the estate if the court finds that delaying compensation until the accounting is filed would create a hardship for the guardian. Once the accounting is filed, the court can reduce or eliminate compensation to the guardian if the court finds that the guardian received excess compensation, has not adequately performed the required duties, or has been removed for cause. The bill also establishes that an attorney who provides guardianship and legal services in connection with a guardianship is not entitled to compensation for the services unless the attorney files with the court a detailed description that identifies the services.

Previous law authorized a court to appoint a person other than a financial institution to serve as trustee of a management trust only if the court made certain findings, depending on the amount of the trust's principal. House Bill 3080 authorizes the court to appoint an individual, a nonprofit corporation, or a guardianship program as a trustee instead of a financial institution unless the principal of the trust is more than \$150,000. At that value, the court must first find that the applicant for the creation of the trust has been unable to find a financial institution in the geographic area willing to serve as a trustee. If the court determines that it is in the ward's or incapacitated person's best interests, the bill authorizes the court to order the transfer of all property in a management trust to a subaccount of a pooled trust and provides for the governance of the subaccount. The bill also authorizes a person to apply to the court for the establishment of a pooled trust subaccount for the benefit of a minor, disabled person, or other incapacitated person. It sets forth forms that may be used to designate a guardian for a person, the person's estate, or the person's children in the event that a guardian is needed.

**House Bill 3112**

**Effective:** 9-1-09

**House Author:** Hartnett

**Senate Sponsor:** Nelson

House Bill 3112 amends provisions of the Human Resources Code relating to the referral of an elderly or disabled person to the Department of Aging and Disability Services for a determination of the need for a guardianship for that person. The bill requires the department, in making such a determination, to determine whether a less restrictive alternative is available for the individual and, if so, to refer the individual to the appropriate person or program. The bill establishes deadlines by which the department is required to make a determination or refer the individual and provides for an extension on approval of the Department of Family and Protective Services.

**House Bill 3635**

**Effective:** 9-1-09

**House Author:** Geren

**Senate Sponsor:** Wentworth

House Bill 3635 amends the Property Code to include suspension under provisions of the Property Code or other law and disqualification under the Property Code as conditions under which a cotrustee is not required to participate in the performance of a trustee's function. The bill includes the necessity of prompt action to achieve the efficient administration of the trust or to avoid injury to a beneficiary as a condition under which a remaining cotrustee or a majority of the remaining cotrustees are authorized to act for the trust if a cotrustee is unavailable to participate in the performance of a trustee's function for certain reasons.

**Senate Bill 666**

**Effective:** 9-1-09

**Senate Author:** Shapleigh

**House Sponsor:** Hartnett

Senate Bill 666 amends the Property Code to prohibit the trustee of a charitable trust from changing the location in which the trust administration takes place from a location in Texas to a location outside Texas, except as specifically authorized by the terms of the trust or as otherwise provided by the bill. The bill requires the trustee to take certain actions if the trustee decides to change the location in which the trust is administered, including submitting the selection or proposal, as applicable, to the attorney general. The bill authorizes the trustee to file an action in the appropriate district or statutory probate court seeking an order authorizing the location change and prohibits the trust administration location from being changed, except as provided above, unless the trust's charitable purposes would not be impaired if the trust administration is moved and a district or statutory probate court authorizes the relocation. The bill authorizes the attorney general to bring an action to enforce the bill's provisions.

**Senate Bill 917**

**Effective:** 5-23-09

**Senate Author:** Harris

**House Sponsor:** Leibowitz

Senate Bill 917 amends the Probate Code, for purposes of court jurisdiction, to assign to "charitable trust" the definition as provided in the Property Code.

**Senate Bill 1053**

**Effective:** 9-1-09

**Senate Author:** Uresti et al.

**House Sponsor:** Naishtat

Senate Bill 1053 amends the Texas Probate Code to add a person who is not certified as an individual serving on behalf of a guardianship program, a private professional guardian, or a public guardian to the list of persons disqualified to serve as guardians. The bill authorizes a court, on complaint of the Guardianship Certification Board, to remove a guardian who is ineligible for appointment because of the guardian's failure to maintain the certification required by law. The bill requires the guardian to be cited to appear and contest the request for removal in the manner provided by law.

**Senate Bill 1055**

**Effective:** 9-1-09

**Senate Author:** Uresti

**House Sponsor:** Naishtat

Senate Bill 1055 amends the Government Code to require the annual disclosure reports submitted to the Guardianship Certification Board by each guardianship program to include certain information relating to the number of wards served by the program, employees and volunteers of the program, counties in which those employees and volunteers are authorized to provide services, and sources and amount of funding received by the program.

Senate Bill 1055 amends the Texas Probate Code to require a private professional guardian to include with the guardian's annual certificate of registration application the certification number or provisional certification number issued by the board to the private professional guardian or to a person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian. The bill also changes from February 1 to January 31 of each year the dates by which each county clerk is required to submit certain registration information to the board and by which each guardianship program is required to submit to the county clerk a copy of the program's annual disclosure report.

**Senate Bill 1057**

**Effective:** 6-19-09

**Senate Author:** Uresti et al.

**House Sponsor:** Naishtat

Senate Bill 1057 amends the Government Code and Texas Probate Code to specify that the clerk of the county having venue over a proceeding for the appointment of a guardian is not required to obtain criminal history record information for a person who holds a certificate or provisional certificate to provide guardianship services in Texas if the Guardianship Certification Board conducted a criminal history check on the person before issuing or renewing the certificate. The bill requires the board to provide to the clerk at the court's request the criminal history record information that was obtained from the Department of Public Safety or the Federal Bureau of Investigation. The bill provides for the confidentiality of information obtained as authorized by its provisions.

**Senate Bill 2344**

**Effective:** 9-1-09

**Senate Author:** Uresti

**House Sponsor:** Naishtat

Senate Bill 2344 amends the Texas Probate Code to prohibit a court from granting an application to create a guardianship for a proposed ward of the state whose alleged incapacity is mental retardation unless the applicant presents to the court a written letter or certificate from a physician licensed in Texas that includes certain specific information and that states that the physician has made a determination of mental retardation in accordance with applicable statutory provisions. The bill authorizes the applicant to provide, as an alternative, both written documentation showing that, not earlier than 24 months before the date of the hearing, the proposed ward has been examined by a physician or psychologist licensed in Texas or certified by the Department of Aging and Disability Services to perform the examination and the physician's or psychologist's written findings and recommendations, including a statement as to whether the physician or psychologist has made a determination of mental retardation. With respect to the physician's letter or certificate on an application for a guardianship for an incapacitated person other than a person whose alleged incapacity is mental retardation, the bill establishes specific content requirements for a description of the nature, degree, and severity of the incapacity; an evaluation of the proposed ward's physical condition and mental function; and a statement of the proposed ward's ability to perform specific tasks.

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

Senate Bill 271 - Human Services

Senate Bill 408 - Courts

Senate Bill 584 - Human Services

Senate Bill 683 - Courts

Senate Bill 918 - Civil Remedies and Procedures

Senate Bill 939 - Family Law and Juvenile Justice

Senate Bill 2435 - Human Services



# Property Interests and Housing

This chapter covers legislation on issues relating to property interests and housing, including affordable housing; land use, zoning, and eminent domain; the landlord-tenant relationship; mortgages, liens, and foreclosures; and property owners' associations. Bills relating to property taxation are in the **Taxes and Tax Administration** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### **House Bill 1513**

**Effective:** 9-1-09

**House Author:** Smith, Wayne

**Senate Sponsor:** Jackson, Mike

House Bill 1513 amends Property Code provisions relating to construction contract trust funds to specify that a fee payable to a contractor is not considered trust funds if, in addition to other criteria, the fee is earned as provided by the contract between the contractor and the property owner and, as an alternative to being paid to the contractor, is disbursed from a construction account. The bill specifies that trust funds paid to a creditor under provisions relating to construction payments, loan receipts, and the misapplication of trust funds are not property or an interest in property of a debtor who is a trustee of the trust funds and specifies that such provisions apply to a public or private contract for the improvement of specific real property in Texas, regardless of whether the contract is covered by a statutory or common law payment bond. The bill establishes that a property owner is a beneficiary of trust funds in connection with a residential construction contract and specifies that a trustee who commingles trust funds with other funds in the trustee's possession does not defeat a trust created under those provisions for construction payments, loan receipts, and the misapplication of trust funds.

### **House Bill 3128**

**Effective:** 9-1-09

**House Author:** Turner, Sylvester

**Senate Sponsor:** Ellis

House Bill 3128 amends the Property Code to authorize a unit owner of a condominium located wholly or partly in a municipality with a population of more than 1.9 million, and for which the declaration creating the condominium was recorded before January 1, 1994, to be served with process by the municipality or the municipality's agent for a judicial or administrative proceeding initiated by the municipality and directly related to the unit owner's property interest in the condominium by serving the unit owner at the unit owner's last known address, according to the records of the appraisal district in which the condominium is located, by any means permitted by the Texas Rules of Civil Procedure. The bill prohibits a unit owner from offering proof in the judicial or administrative proceeding, or in a subsequent related proceeding, that otherwise proper service by mail of the notice was not received not later than three days after the date the notice was deposited in a post office or official U.S. Postal Service depository. The bill includes these requirements in the information that must be included in the information statement of such a condominium and requires notice to the condominium association of a proceeding before a panel of the municipality's building and standards commission relating to such condominium to be served by specified delivery methods to the association's registered agent. The bill expands a municipality's due diligence requirements relating to notifications of such proceedings to include the above procedures for service of process on a unit owner and to add the association's registered agent to the entities affected by those requirements.

**House Bill 3502**

**Effective:** 1-1-10

**House Author:** Pickett et al.

**Senate Sponsor:** Fraser

House Bill 3502 amends Property Code provisions relating to the seller's disclosure notice to a buyer of residential real property to add language to the notice specifying that state law requires one-family or two-family dwellings to have working smoke detectors installed in accordance with the requirements of the building code in effect in the area in which the dwelling is located. The bill also requires the notice to specify the options of a seller who does not know those requirements and to provide the circumstances under which a buyer may require a seller to install smoke detectors for the hearing impaired. The bill removes language from the notice relating to the buyer's acknowledgment of the property's compliance with smoke detector requirements or, if the property is not in compliance, the buyer's waiver of rights to have smoke detectors installed.

**House Bill 3767**

**Effective:** 9-1-09

**House Author:** Paxton

**Senate Sponsor:** Wentworth

House Bill 3767 amends the Property Code to establish that certain property occupied and used by a settlor or beneficiary in which the settlor or beneficiary owns a beneficial interest through a qualifying trust is to be considered the homestead of the settlor or beneficiary for purposes of protection against seizure and forced sale for the payment of debts. The bill requires a married person who transfers property to the trustee of a qualifying trust to comply with requirements of law relating to the joinder of the person's spouse and authorizes a trustee to sell, convey, or encumber property transferred without the joinder of either spouse unless expressly prohibited by the instrument or court order creating the trust. The bill clarifies that the bill's provisions do not affect certain constitutional and statutory rights of a surviving spouse or surviving children relating to partition of a homestead and liability of a homestead for debts.

**Senate Bill 1036**

**Effective:** 9-1-09

**Senate Author:** Harris

**House Sponsor:** Geren

Senate Bill 1036 amends the Property Code to authorize the Texas Real Estate Commission to accept an abbreviated application for registration from a developer for any accommodations in a timeshare plan located outside Texas, rather than limiting the acceptance of such an application to a timeshare plan in which all the accommodations are located outside the state. The bill removes the requirement that the name and address of the person who prepared the operating budget be included in the annual budget portion of timeshare disclosure statements for a single-site or multisite timeshare plan that includes a specific timeshare interest, and for a multisite plan that offers a nonspecific timeshare interest. The bill establishes that, for the required disclosures relating to an offered timeshare interest or plan, the terms "vacation ownership interest" or "vacation ownership plan" or substantially similar terms are sufficient disclosure and may be used as an alternative term and that, in providing the full name of a developer or a marketing company, the disclosure of the entity's assumed name is sufficient disclosure and complies with state law if the entity has complied with other applicable laws relating to assumed business names. The bill removes from the information that must be included in a timeshare interest purchase contract a statement that the timeshare common properties are not mortgaged, with certain exceptions, and, in the event a timeshare interest is sold under a lease, right to use, or membership agreement where free and clear title to the accommodation is not passed to the purchaser, a statement that the timeshare is free and clear, or, if subject to a mortgage, a nondisturbance clause protecting owner rights in the event of foreclosure.

Senate Bill 1036 establishes that the developer is not entitled to the release of any funds escrowed with respect to each timeshare interest until the developer has provided to the commission satisfactory evidence that the timeshare interest and any other property or rights to property appurtenant to the timeshare interest are free and clear of any claims; the developer or any other lienor or interest holder has recorded a subordination and notice to creditors document in the local jurisdiction effectively providing that any interest holder's right, lien, or encumbrance is subordinate to the owner's rights in the timeshare interest; the developer or any other interest holder has transferred the subject accommodations or amenities or all use rights to a nonprofit corporation or owners' association, with certain requirements, and prior to the transfer has established a subordination and notice to creditors instrument; or alternative arrangements have been made that are adequate to protect the purchasers' rights and are approved by the commission. These changes apply to timeshare plans created on or after January 15, 2010, and to any developer who offers or disposes of an interest in a timeshare plan and a managing entity that manages a timeshare property on or after that date.

**Senate Bill 1449**

**Effective:** 9-1-09

**Senate Author:** West

**House Sponsor:** Deshotel

Senate Bill 1449 amends the Local Government Code to authorize a home-rule municipality or an eligible nonprofit housing organization that is certified by the municipality to bring an action in district court against an owner of property that is not in substantial compliance with one or more municipal ordinances regarding the prevention of substantial risk of injury to any person or regarding the prevention of an adverse health impact to any person. The bill specifies that a municipality that grants such authority has standing to intervene in the proceedings at any time as a matter of right; authorizes the court to appoint a receiver, under certain circumstances; specifies which entities or individuals are eligible to serve as a receiver; and sets forth notice and service requirements. The bill authorizes the court, on a showing of imminent risk of injury to a person occupying the property or present in the community, to issue a mandatory or prohibitory temporary restraining order or temporary injunction as necessary to protect the public health or safety and specifies that, unless inconsistent with applicable law, the rules of equity govern all matters relating to a court action.

Senate Bill 1449 grants a court-appointed receiver, subject to control of the court, all powers necessary and customary to the powers of a receiver under the laws of equity and specifies the actions the receiver is authorized to take. The bill also authorizes the receiver to demolish a single-family structure on the property on authorization by the court if the court makes specified findings, and to sell the property to an individual or organization that will bring the property into productive use. The bill requires the receiver, on completing the repairs or demolishing the structure or before petitioning the court for termination of the receivership, to file with the court a full accounting of costs and expenses incurred in the repairs or demolition, income received from the property, and, at the receiver's discretion, a receivership fee. The bill provides for the control of the property and the distribution of any net income from the property in specified situations; requires a receiver to have a lien on the property for all of the receiver's unreimbursed costs and expenses, plus any receivership fee; and authorizes any lienholder of record to intervene in an action and to request appointment as a receiver if the lienholder demonstrates to the court an ability and willingness to rehabilitate the property. The bill authorizes a receiver, or the home-rule municipality or eligible nonprofit housing organization that filed the action under which the receiver was appointed, to petition the court to terminate the receivership and order the sale of the property under certain conditions.

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Senate Bill 1449 authorizes the court to order the sale of the property if certain findings are made, and it authorizes the court to order the property sold at a public auction or to a land bank or other party as the court may direct, with specified exclusions. The bill requires the court to confirm a sale and order a distribution of the proceeds of the sale and sets the priority for the distribution. The bill requires any remaining amount to be paid to the owner or, if the owner cannot be identified or located, to be deposited in an interest-bearing account with the district clerk's office in the district court in which the action is pending. The bill requires the court to award fee title to the purchaser after the proceeds are distributed and, if the proceeds of the sale are insufficient to pay all liens, claims, and encumbrances on the property, to extinguish all such unpaid items and award title to the purchaser free and clear. The bill establishes that its provisions do not foreclose any right or remedy that may be available under other state law or the laws of equity.

### **Senate Bill 1589**

**Effective:** 9-1-09

**Senate Author:** Ogden et al.

**House Sponsor:** Pitts

Senate Bill 1589 amends the Property Code to include in the information that a holder of property presumed abandoned is required to provide to the comptroller of public accounts the driver's license or state identification number and e-mail address, if known, of each person who appears to be the property's owner or of any person who is entitled to the property. The bill requires the holder to meet specified notification requirements if the property held is valued at more than \$250, with certain exceptions, and authorizes the holder to charge the notice postage costs as a service charge against the property. The bill authorizes the comptroller, under certain conditions, to deposit unclaimed money received by the comptroller to the credit of the general revenue fund.

Senate Bill 1589 amends the Government Code to require the Department of Public Safety, the Employees Retirement System of Texas, and the Teacher Retirement System of Texas, not later than June 1 of each year, to provide the comptroller with certain identification and contact information for persons about whom those entities maintain such information in their records to assist with the return of unclaimed property. The bill specifies that such information is confidential and protected from public disclosure and requires those entities to provide the information in the format prescribed by comptroller rule. The bill amends the Labor Code to establish the same requirements and confidentiality provisions for the Texas Workforce Commission.

Senate Bill 1589 amends the Transportation Code to add the unclaimed property division of the comptroller's office to the entities to which information provided on a driver's license application that relates to the applicant's social security number may be disclosed.

## Affordable Housing

### **House Bill 2344**

**Effective:** 6-19-09

**House Author:** Giddings et al.

**Senate Sponsor:** West

House Bill 2344 amends Local Government Code provisions that apply only to a home-rule municipality that has a population of 1.18 million or more, is located predominantly in a county that has a total area of less than 1,000 square miles, and has adopted the Urban Land Bank Demonstration Program Act to authorize the private sale to a land bank of property that is ordered sold pursuant to foreclosure of a tax lien, regardless of current zoning, and on development authorizes the property to be zoned for more than one use that must include residential housing in accordance with that act. The bill exempts property determined by the land bank to not be

appropriate for residential development and sold by the bank to an adjacent property owner from statutory provisions governing the subsequent resale of property by a land bank. The bill increases from three years to four years the period following the date of acquisition during which a land bank must sell a property to a qualified participating developer without the property being transferred from the bank to certain taxing units and increases from two years to three years the period during which a qualified participating developer must apply for a construction permit and close on any construction financing without the property reverting to the bank for subsequent resale or conveyance. If the property is replatted by a qualified participating developer, the right of reverter applies to the entire property as replatted. The bill expands a current requirement for a land bank to impose deed restrictions on property sold to qualified participating developers requiring the development and sale or rental of the property to low income households to include the option of a lease-purchase of the property. The bill authorizes a land bank to permit a qualified participating developer to exchange a property purchased from the bank with any other property owned by the developer if the developer agrees to construct on the other property affordable housing for low income households and if the property will be located in either a planned development incorporating the property originally purchased from the bank or another location approved by the bank. The bill requires the land bank to adjust the required deed restrictions for each of the properties exchanged by the developer.

House Bill 2344 requires a land bank, if the bank determines that a property is not appropriate for residential development, to offer the property for sale first to an eligible adjacent property owner according to terms and conditions developed by the bank. To qualify as an eligible adjacent property owner, the person must have owned and continuously occupied as a primary residence, for the two-year period preceding the date of the sale, property adjacent to the land bank's property and satisfy eligibility requirements adopted by the bank. The bill requires the land bank to sell the property to an eligible adjacent property owner at the fair market value as determined by the applicable appraisal district or at the sales price recorded in the annual plan, whichever value is lower and, with exceptions, prohibits an adjacent property owner from leasing, selling, or transferring the property to another person before the third anniversary of the date the owner purchased the property from the land bank. The bill requires information relating to the sale of property to an eligible adjacent property owner to be included in the bank's annual performance report to the municipality.

The bill authorizes the land bank to sell two adjacent properties that are owned by the bank to a qualified participating developer if at least one of the properties is appropriate for residential development and the developer agrees to replat the two adjacent properties as one property that is appropriate for residential development.

**House Bill 2840**  
**Effective:** 9-1-09

**House Author:** Solomons et al.  
**Senate Sponsor:** Averitt

House Bill 2840 amends the Government Code to add the Texas Department of Housing and Community Affairs (TDHCA) to the list of authorized governmental agencies to which a person is required to report information regarding fraudulent activity, to include TDHCA among those state agencies authorized to share information that is confidential or otherwise restricted by law and that relates to the possible commission of corporate fraud or mortgage fraud by a person licensed or otherwise regulated by any of those agencies, and to add a TDHCA representative to the residential mortgage fraud task force. The bill also amends the Penal Code to make it an offense to intentionally or knowingly make a materially false or misleading written statement in providing a property appraisal for compensation and to add TDHCA to the list of agencies required to assist a prosecuting attorney or law enforcement agency in the investigation of an offense involving a mortgage loan.

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### **House Bill 2888**

**Effective:** Vetoed

**House Author:** Martinez, “Mando”

**Senate Sponsor:** West

House Bill 2888 amends the Government Code to require the Texas Department of Housing and Community Affairs (TDHCA) to establish a volunteer income tax assistance (VITA) grant program to provide free assistance in preparing federal income tax returns to eligible taxpayers. To qualify for a grant, an applicant must be located in Texas and be a nonprofit organization, a political subdivision of Texas, or a regional or local coalition that meets certain criteria, and each grant recipient must enter into an agreement with TDHCA with respect to the use of grant money and submit a performance report. The bill provides for the VITA grants to be funded by not more than 0.25 percent of the money received by Texas during each state fiscal biennium under the federal Temporary Assistance for Needy Families block grant, money received under the community services block grant program, and certain other money.

House Bill 2888 requires TDHCA to adopt policies to ensure that each housing development that receives financial assistance administered by TDHCA reserves a certain number of units in the development for individuals and families of very low income and accepts as tenants individuals and families receiving local, state, or federal government rental assistance. The bill requires TDHCA to establish enforcement mechanisms for housing developments that refuse to admit individuals and families receiving such assistance.

Reason Given for Veto: “House Bill No. 2888 would take funds away from the Temporary Assistance for Needy Families (TANF) program to fund a Volunteer Income Tax Assistance grant program to be administered through the Texas Department of Housing and Community Affairs. Taking TANF dollars away from their intended purpose of serving clients to fund this program is unnecessary. These funds should be used to benefit people, not create more government bureaucracy.

“Furthermore, tax assistance and Earned Income Tax Credit education programs are already provided by the Texas Workforce Commission, Texas’ 28 local workforce development boards, and numerous nonprofit organizations and community centers.”

### **House Bill 4275**

**Effective:** 6-19-09

**House Author:** Menendez et al.

**Senate Sponsor:** West

House Bill 4275 amends the Government Code to apply statutory provisions relating to the administration of the low income housing tax credit program to the administration of federal funds received by the Texas Department of Housing and Community Affairs (TDHCA) under the American Recovery and Reinvestment Act of 2009, except that TDHCA may establish a separate application procedure for the funds outside of the uniform application cycle and the deadlines for allocation of housing tax credits. The bill requires TDHCA, under any program funded by the American Recovery and Reinvestment Act of 2009, to secure the interests of Texas through bonds, property ownership, restrictive covenants, or liens filed on a property for which funds have been accepted until TDHCA and Texas do not have liability to repay or recapture such funds.

### **Senate Bill 679**

**Effective:** 6-19-09

**Senate Author:** Lucio et al.

**House Sponsor:** Davis, Yvonne

Senate Bill 679 amends the Government Code to authorize the Texas Department of Housing and Community Affairs (TDHCA) to accept gifts, grants, or donations for the housing trust fund and to require that all funds received for the housing trust fund be deposited or transferred into the Texas Treasury Safekeeping Trust Company. The bill specifies that the determination of the availability of additional funds for for-profit and nonprofit organizations from the housing trust fund, in excess of the first \$2.6 million set aside each biennium for local governments, public housing authorities, and nonprofit organizations, be made on September 1 of each state fiscal year,

and it removes a requirement for competition among nonprofit and for-profit organizations and other eligible entities in the distribution of the remainder of the fund. It requires the governing board of TDHCA, in adopting rules for a process to set priorities for use of the housing trust fund, to include the distribution of fund resources in accordance with a plan that is developed and approved by the board and is included in TDHCA's annual report regarding the fund, rather than the distribution of fund resources under a request for proposal procedure as previously required. It establishes that, under board rules, proposals will be evaluated, rather than ranked, and the criteria for evaluation will include the leveraging of resources generally, rather than of federal resources specifically. These provisions relating to the administration and use of the housing trust fund apply beginning with the state fiscal year that begins September 1, 2009.

Senate Bill 679 increases from 60 percent to 65 percent the minimum amount of the necessary labor that an owner-builder must agree to provide personally by working through a state-certified owner-builder housing program, either on the owner-builder's proposed housing or on another project, to be eligible for a program loan, and it adds the option of providing the required amount of labor through a combination of personal labor and the noncontract labor of friends, family, or volunteers or solely through such noncontract labor if a documented disability limits the owner-builder's ability to provide personal labor. The bill also includes housing rehabilitation as well as building in the projects eligible for such program financing.

Senate Bill 679 increases from \$30,000 to \$45,000 the cap on a loan made by TDHCA under the owner-builder loan program and, if an owner-builder cannot purchase necessary real property and build or rehabilitate adequate housing under the cap, requires the owner-builder to obtain the amount necessary above the cap from other sources of funds generally, rather than from specific types of entities. The bill increases from \$60,000 to \$90,000 the cap on the total amount of loans made by TDHCA and other entities combined to an owner-builder under the program and clarifies that the cap applies to amortized, repayable loans. Previous law authorized a loan made by TDHCA under the program to be secured by a lien on the real property. The bill amends the law to require such a loan to be secured by a first lien by TDHCA on the real property if the loan is the largest amortized, repayable loan secured by the property, or otherwise by a co-first lien or subordinate lien as determined by TDHCA rule.

Current law authorizes TDHCA to use up to 10 percent of the owner-builder loan program revenue available each state fiscal year to enhance the ability of tax-exempt organizations to implement the program's purposes. Beginning with state fiscal year 2010, the bill expands that provision to include enhancing the number of such organizations able to implement those purposes in the authorized uses for that portion of the revenue, and it requires TDHCA to provide financial assistance, technical training, and management support in doing so.

Senate Bill 679 postpones from August 31, 2010, to August 31, 2020, the expiration date of a provision requiring TDHCA to transfer at least \$3 million to the owner-builder revolving fund each state fiscal year from money received under the federal HOME Investments Partnership program, from money in the housing trust fund, or from money appropriated by the legislature to TDHCA.

**Senate Bill 1717**  
**Effective:** 9-1-09

**Senate Author:** West  
**House Sponsor:** Davis, Yvonne

Senate Bill 1717 amends the Government Code to require the Texas Department of Housing and Community Affairs (TDHCA) by rule to require the housing sponsor of a multifamily housing development that receives financial assistance from the state or federal government or is subject to a land use restriction agreement to submit a quarterly report to TDHCA that identifies the number of vacant units in the development at the time of the report and the number of days each

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unit has been vacant. The bill requires TDHCA to provide each member of the legislature, at the member's request, a report that disaggregates the information in the report by zip code in the member's district.

Senate Bill 1717 prohibits the owner of a development supported with a housing tax credit allocation from locking out or threatening to lock out any person residing in the development except by judicial process, with certain exceptions, or from seizing or threatening to seize the personal property of any person residing in the development except by judicial process unless the resident has abandoned the premises. The bill requires each development owner to include a conspicuous provision in the lease agreement prohibiting the owner from engaging in such a practice and, as specified by TDHCA rule, to remove any provisions in the lease agreement that are contrary to the prohibitions established by the bill. The bill requires TDHCA to adopt rules to implement and enforce these provisions not later than November 1, 2009.

## Land Use, Zoning, and Eminent Domain

### **House Bill 2685**

**Effective:** 1-15-10

**House Author:** Callegari et al.

**Senate Sponsor:** Nichols

House Bill 2685 amends the Property Code to require a governmental or private entity with eminent domain authority to provide a landowner's bill of rights statement to a landowner before or at the same time as the entity first represents in any manner to the landowner that the entity possesses eminent domain authority. The entity is also required to send or provide the property owner a landowner's bill of rights statement not later than the seventh day before the entity makes a final offer to acquire real property from the property owner. The bill requires the attorney general's office to prepare a new landowner's bill of rights statement. The attorney general's office is required to consult with stakeholders regarding the draft of the statement, which is required to be drafted in plain language.

### **House Bill 2692**

**Effective:** Vetoed

**House Author:** Rodriguez et al.

**Senate Sponsor:** Watson

House Bill 2692 amends the Local Government Code to exempt a multifamily residential development of eight or more residential units intended for private sale and located less than one mile from a commuter rail station located in a municipality with a population of more than 650,000 that has a governing body consisting only of members who are elected at large and in which a commuter rail system was approved by an election held after November 1, 2004, from the prohibition against a municipality adopting a requirement that establishes a maximum sales price for a privately produced housing unit or residential building lot.

Reason Given for Veto: "House Bill No. 2692 would allow the City of Austin to set a price plan on multifamily developments located less than one mile from a commuter rail station.

"However, current law states, with very few exceptions, that a municipality may not adopt a requirement that establishes a maximum sales price for a privately owned housing unit or residential building lot. House Bill No. 2692 would also interfere with the Austin real estate market by artificially capping housing prices. The market should be allowed to thrive without unnecessary government interference."

### **House Joint Resolution 14**

**For Election:** 11-3-09

**House Author:** Corte et al.

**Senate Sponsor:** Duncan

House Joint Resolution 14 proposes an amendment to the Texas Constitution to prohibit the taking of a person's private property for public use unless the taking, damage, or destruction is necessary for the ownership, use, and enjoyment of the property by the State, a political



subdivision of the State, or the public at large or an entity granted the power of eminent domain, or the elimination of urban blight on a particular parcel of property. The term “public use” is clarified to exclude the taking of property for transfer to a private entity for economic development purposes. On or after January 1, 2010, the legislature’s ability to grant the power of eminent domain to an entity will require a two-thirds vote of all the members elected to each house.

House Joint Resolution 14 establishes a national research university fund for the purpose of providing a dedicated, independent, and equitable source of funding to enable emerging research universities in Texas to achieve national prominence. The resolution sets forth provisions relating to the allocation and administration of the fund and the requirements of the legislature in overseeing the fund.

## Landlord-Tenant

### House Bill 534

**Effective:** 1-1-10

**House Author:** Anchia et al.

**Senate Sponsor:** Carona

House Bill 534 amends the Property Code to restrict the duration of liability of a person other than a tenant who guarantees a residential lease to only the original lease term. The bill makes an exception to that provision by authorizing a person to specify in an original lease that the person will guarantee a renewal of the lease only if the original lease contains provisions specifying the renewal date of the obligation and the guarantor’s liability under the lease renewal. The bill provides that a guarantor is not prohibited from voluntarily entering into an agreement at the time of the renewal of a lease, in a separate written document, to guarantee an increased amount of rent. The bill establishes that these provisions do not release a guarantor from the guarantor’s obligations under the original lease or a valid renewal after the date specified by the guarantor in the original lease if the tenant commits certain wrongful acts.

### House Bill 882

**Effective:** 1-1-10

**House Author:** Rodriguez et al.

**Senate Sponsor:** Eltife

House Bill 882 amends the Property Code to authorize a tenant to obtain relief if the landlord has interrupted a utility service by filing a sworn complaint with the justice court in the precinct in which the rental premises are located specifying the facts of the alleged utility disconnection, and to require the tenant also to state those facts orally under oath to the justice. The bill authorizes the justice, if the justice reasonably believes the utility disconnection likely was unlawful, to issue a writ of restoration of utility service that entitles the tenant to immediate and temporary restoration of the service, pending a final hearing on the complaint. The bill requires the writ to be served on either the landlord or the landlord’s management company, on-premises manager, or rent collector in the same manner as a writ of possession in a forcible detainer suit, and requires the writ to notify the landlord of the right to a hearing, to be held within a specified time frame. The bill authorizes a judgment for court costs to be rendered against a landlord who fails to request a hearing by a certain date, authorizes a party in the complaint to appeal the court’s judgment at the hearing in the same manner as a party may appeal a judgment in a forcible detainer suit, and provides that an issued writ of possession supersedes a writ of restoration of utility service.

House Bill 882 provides that, if the landlord or the person on whom the writ is served fails to immediately comply with or later disobeys the writ, such failure is grounds for contempt of court against that party. The bill sets forth contempt procedures and procedures for challenging a contempt finding, and authorizes a landlord, in a separate cause of action, to recover specified

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damages from a tenant who in bad faith files a sworn complaint resulting in a writ being served on the landlord or the landlord's agent. The bill establishes filing and service fees, authorizes the justice to defer the tenant's payment of such fees, and authorizes court costs to be waived only if the tenant executes a pauper's affidavit. The bill repeals provisions authorizing a landlord to interrupt or cause the interruption of electrical service furnished to a tenant by the landlord under certain conditions.

### **House Bill 1109**

**Effective:** 6-19-09

**House Author:** Anchia et al.

**Senate Sponsor:** Carona

House Bill 1109 amends the Property Code to clarify that the exception to the prohibition against charging a tenant a late fee for failing to pay rent applies if the rent has remained unpaid one full day, rather than remains unpaid after the second day, after the date the rent was originally due.

### **House Bill 1382**

**Effective:** 5-20-09

**House Author:** Davis, Yvonne

**Senate Sponsor:** Harris

Current law prohibits a commercial landlord from assessing to a tenant a charge that is not stated in a lease or related document. House Bill 1382 amends the Property Code to specify that this prohibition does not affect the contractual right of a landlord that is a governmental entity whose function is the joint operation of an airport, air navigation facility, or airport hazard area, and whose constituent municipalities are populous home-rule municipalities to assess charges under a lease to fully compensate the entity for its operating costs.

### **House Bill 1819**

**Effective:** 6-19-09

**House Author:** Bohac et al.

**Senate Sponsor:** Ellis

House Bill 1819 amends the Local Government Code to require a municipality with a population of 1.7 million or more, not later than December 31, 2010, to adopt an ordinance to establish minimum habitability standards for multi-family rental buildings and to authorize such a municipality to establish other standards as necessary to reduce material risks to the physical health or safety of tenants of such buildings. The bill requires the municipality to establish an inspection program to determine if the buildings meet those standards and prohibits the municipality from ordering the closure of a building due to a violation of the ordinance unless the municipality makes a good faith effort to locate housing with comparable rental rates in the same school district for displaced residents. The bill makes it a Class C misdemeanor for an owner of a multi-family rental building to violate the ordinance and authorizes the municipality to impose a maximum civil penalty of \$1,000 a day for such a violation.

### **Senate Bill 83**

**Effective:** 1-1-10

**Senate Author:** Nelson et al.

**House Sponsor:** Guillen

Senate Bill 83 amends the Property Code to authorize a tenant to terminate his or her rights and obligations under a lease and vacate the dwelling before the end of the lease term and avoid liability for future rent and any other sums due under the lease as a result of those actions if the tenant is the victim, or a parent or guardian of a victim, of specified sexual offenses that take place during the preceding six-month period on the premises or at any dwelling on the premises. The bill provides that a temporary ex parte protective order to protect a tenant or other occupant of a leased dwelling is a valid protective order for this purpose, and removes language limiting the use of a temporary injunction or protective order in such a situation to family violence committed by a cotenant or occupant of the dwelling. The bill requires the tenant to provide

the landlord or landlord's agent with a copy of the documentation of the assault or abuse or of a protective order and requires the tenant to notify the landlord in writing about the termination of the lease and meet other notification requirements.

Senate Bill 83 specifies that its provisions do not affect the liability of a tenant for delinquent, unpaid rent or other sums owed the landlord before the lease was terminated, with certain exceptions; makes a landlord who violates the above requirements liable to a tenant for specified damages; and establishes that a tenant may not waive the rights established by these provisions.

**Senate Bill 1448**

**Effective:** 1-1-10

**Senate Author:** West

**House Sponsor:** Thompson

Senate Bill 1448 amends the Property Code to set forth procedures for a suit filed in a justice court by a tenant requesting relief regarding the repair of residential rental property. The bill removes language that prohibits a justice court from ordering a landlord to take reasonable action to repair or remedy a condition for which the landlord is liable to the tenant and requires the Texas Supreme Court to adopt rules of civil procedure applicable to such an order.

**Senate Bill 1715**

**Effective:** 1-1-10

**Senate Author:** West et al.

**House Sponsor:** Giddings

Senate Bill 1715 amends the Property Code to require a smoke detector installed in a residential tenancy, in addition to meeting other requirements, to be capable of alerting a hearing-impaired person in the bedrooms it serves if such capability is requested by a tenant as an accommodation for a person with a hearing-impairment disability or as required by law as a reasonable accommodation for a person with such a disability.

**Senate Bill 2126**

**Effective:** 9-1-09

**Senate Author:** Estes

**House Sponsor:** Miller, Doug

Current law authorizes the owner or manager of a manufactured home rental community to impose a service charge of not more than nine percent of the costs related to submetering of water and waste services allocated to each submetered rental or dwelling unit. Senate Bill 2126 extends that authorization to the owner or manager of an apartment house and creates an exception for a resident who resides in an apartment house unit that has received an allocation of certain low income housing tax credits under provisions of the Government Code, or for a person who receives tenant-based voucher assistance under federal law.

## **Mortgages, Liens, and Foreclosures**

**House Bill 406**

**Effective:** 9-1-09

**House Author:** Rodriguez

**Senate Sponsor:** Carona

House Bill 406 amends the Tax Code to establish requirements for the distribution, by a person who conducts a sale for the foreclosure of a tax lien under rules of civil procedure governing expedited foreclosure proceedings, of any excess proceeds following payment of amounts due to participants. The bill provides that a former owner of tax sale property, in order to establish a claim on excess proceeds, must have been a defendant in the judgment, be related within the third degree by consanguinity or affinity to a former owner who was a defendant, or have acquired by will or intestate succession the interest of a former owner who was a defendant. It prohibits a former owner who acquired an interest after the date of the judgment from establishing a claim to the proceeds except in such consanguinity, affinity, will, or intestate succession cases. The bill amends statutes governing the assignment of an owner's

claim to excess proceeds to apply also to the transfer of a claim and revises and adds to the prerequisites for an assignment or transfer to be taken. An assignee or transferee who attempts to obtain excess proceeds without complying with such prerequisites is liable to the assignor or transferor for attorney's fees and expenses. The bill requires the assignee or transferee to produce, at the hearing regarding a claim to excess proceeds, evidence verifying payment of consideration given for the assignment or transfer or, if the original of such evidence is lost or the payment was in cash, to obtain the presence of the assignor or transferor to testify. It prohibits a non-attorney from charging a fee to obtain excess proceeds and prohibits the court from ordering payment of excess proceeds to an assignee or transferee greater than 125 percent of the amount the assignee or transferee paid the assignor or transferor.

**House Bill 655**  
**Effective:** 9-1-09

**House Author:** Solomons  
**Senate Sponsor:** Seliger

House Bill 655 amends the Property Code to establish that the purchase price in a sale of foreclosed property held by a trustee or substitute trustee of the property is due and payable without delay, rather than payable immediately, on acceptance of the bid or within such reasonable time as may be agreed upon by the purchaser and the trustee or substitute trustee if the purchaser makes such request for additional time to deliver the purchase price.

**House Bill 1407**  
**Effective:** 9-1-09

**House Author:** Geren  
**Senate Sponsor:** Davis, Wendy

House Bill 1407 amends the Tax Code to revise the affidavit a former property owner must make to redeem the property after losing it in a tax sale to include a statement that the period in which the owner's right of redemption must be exercised has not expired. The bill requires an assessor-collector who receives such an affidavit to accept that the assertions set out in the affidavit are true and correct, and it specifies that an assessor-collector is not liable to any person for performing the assessor-collector's duties under law in reliance on the assertions contained in an affidavit.

**House Bill 1465**  
**Effective:** 9-1-09

**House Author:** Paxton  
**Senate Sponsor:** Wentworth

Current law requires a taxing unit filing suit to foreclose a tax lien on real property to join other taxing units that have claims for delinquent taxes against the same property. House Bill 1465 amends the Tax Code to require the taxing unit to also join each transferee of a tax lien against the property. The bill authorizes the transferee, after the joinder, to file its claim and seek foreclosure in the suit for all amounts owed the transferee that are secured by the transferred tax lien, regardless of when the original transfer of tax lien was recorded or whether the original loan secured by the transferred tax lien is delinquent. The bill provides that, in the alternative, the transferee may pay all taxes, penalties, interest, court costs, and attorney's fees owed to the taxing unit that filed the foreclosure suit and each other taxing unit that is joined. It requires each joined taxing unit, in consideration of the payment by the transferee of those taxes and charges, to transfer its tax lien to the transferee in the form and manner provided by law and enter its disclaimer in the suit. The bill authorizes the transferee, on transfer of all applicable tax liens, to seek to foreclose the tax liens in the pending suit or in any other manner provided by law, regardless of when the original transfer of tax lien was recorded or whether the original loan secured by the transferred tax lien is delinquent. The bill provides that the foreclosure may include all amounts owed to the transferee, including any amount secured by the original transfer of the tax lien. It establishes that all liens held by a transferee who is joined but fails to act in the manner provided by the bill are extinguished, and it requires the court's judgment to reflect the extinguishment of those liens.

**House Bill 3945**  
**Effective:** 9-1-09

**House Author:** Orr  
**Senate Sponsor:** Watson

House Bill 3945 amends the Property Code to authorize an authorized title insurance agent to execute a title insurance company affidavit as a release of lien and to make provisions relating to such an affidavit applicable to a mortgage on property that does not consist exclusively of a one-to-four-family residence if the original face amount of the indebtedness secured by the mortgage is less than \$1.5 million. The bill removes language conditioning the execution of such an affidavit on the mortgagee's failure to execute and deliver a release of mortgage within a specified period. The bill amends the language to be included in an affidavit as release of lien, establishes notice requirements relating to such an affidavit, authorizes the mortgagee to file a separate affidavit describing the mortgage and property and controverting the affidavit under certain conditions, and removes provisions requiring the affiant to attach to the affidavit certain documentary evidence that the mortgage has been paid off.

House Bill 3945 includes in the requirements for an affidavit's operation as a release of the described mortgage that the affidavit is not controverted by a separate affidavit by the mortgagee and makes a person who negligently causes an affidavit with false information to be executed and recorded liable to a party injured by the affidavit for actual damages, rather than for the greater of actual damages or \$5,000. The bill authorizes a title insurance company or authorized title insurance agent that, at any time after payment of the mortgage, files such an affidavit for record to use any recording fee collected for recording a release of the mortgage for the purpose of filing the affidavit. The bill establishes that provisions relating to such an affidavit do not affect any agreement or obligation of a mortgagee to execute and deliver a release of mortgage.

**Senate Bill 543**  
**Effective:** 9-1-09

**Senate Author:** Carona  
**House Sponsor:** Harless

Senate Bill 543 amends the Property Code to exclude charges for repairs from the amount of a lien a garageman has on a motor vehicle, motorboat, vessel, or outboard motor left in the garageman's care. The bill clarifies that a holder of a worker's possessory lien who retains possession of a motor vehicle, motorboat, vessel, or outboard motor is required to give written notice to the owner and each holder of a lien recorded on the certificate of title not later than the 30th day after the date on which the charges accrue. The bill requires the holder of such a lien on a motor vehicle, other than a person licensed as a franchise dealer, to file a copy of the notice and pay a fee to the county tax assessor-collector in the county in which the repairs were made and specifies the information to be included in the notice. The bill requires the county tax assessor-collector, not later than 10 days after receiving notice, to provide a copy of the notice to the owner and each lienholder in the same manner as the lienholder is required to provide notice. The bill establishes that noncompliance with the notice requirements makes a lien recorded on a certificate of title superior to the possessory lienholder's lien and makes it a Class B misdemeanor to knowingly provide false or misleading information in such a notice. The bill requires the possessory lienholder, after providing the required notice, to provide reasonable opportunity for an inspection of the vehicle repairs.

## **Property Owners' Associations**

**Senate Bill 1672**  
**Effective:** 6-19-09

**Senate Author:** Nichols  
**House Sponsor:** Berman

Senate Bill 1672 amends the Property Code to establish that, if an existing originally applicable restrictive covenant of certain subdivisions provides a procedure for successive

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extensions of the original restrictions, the procedure may be used for that purpose unless such use is expressly prohibited by the original restriction instrument. The bill amends the definition for “residential real estate subdivision” and “subdivision” for purposes of extending or modifying restrictive covenants of real estate subdivisions in a county that meets certain population requirements to establish that, in a county with a population of more than 170,000 and less than 175,000, a subdivision that is a gated community with private streets need not be located in, or within the extraterritorial jurisdiction of, a city, town, or village.

### **Senate Bill 1918**

**Effective:** 9-1-09

**Senate Author:** West

**House Sponsor:** England

Senate Bill 1918 amends the Property Code to require a property owners’ association, by a certain date, on request, to deliver to an owner or certain persons or entities acting on behalf of the owner an updated certificate that contains a statement of whether the association waives the restraint on sale, if a right of first refusal or other restraint on sale is contained in the restrictions; the status of any unpaid special assessments, dues, or other payments attributable to the owner’s property; and any changes to the information provided in the previously issued resale certificate. The bill requires requests for an updated resale certificate to be made within 180 days of the date a resale certificate is initially issued, and authorizes the update request to be made only by the party requesting the original resale certificate.

### **Senate Bill 1919**

**Effective:** 9-1-09

**Senate Author:** West

**House Sponsor:** England

Senate Bill 1919 amends the Property Code to include the name of a property owners’ association and the name and mailing address of the association’s designated representative in the information the association is required to include on its management certificate. The bill establishes that, if an association fails to record a management certificate or an amended management certificate, the purchaser, lender, or title insurance company or its agent in a transaction involving property in the association is not liable to the association for any amount due to the association on the date of a transfer to a bona fide purchaser and for any debt to or claim of the association that accrued before the date of a transfer to a bona fide purchaser. The bill specifies that a lien of a property owners’ association that fails to file a management certificate or an amended management certificate to secure an amount due on the effective date of a transfer to a bona fide purchaser is enforceable only for an amount incurred after the effective date of sale. The bill requires a property owners’ association that exists on September 1, 2009, to file the required information not later than May 1, 2010.

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

House Bill 556 - Civil Remedies and Procedures

House Bill 669 - Civil Remedies and Procedures

House Bill 2238 - Occupational Regulation

House Bill 2450 - Emergency Response

House Bill 2555 - Taxes and Tax Administration

House Bill 2763 - Occupational Regulation

House Bill 3479 - Local Government

House Bill 3857 - Military Forces and Veterans

Senate Bill 1945 - Local Government

# Public Education

This chapter covers issues relating to the state's public school system, including school finance and school district, campus, and charter school operations. It contains legislation affecting the powers and duties of the Texas Education Agency, the State Board of Education, the State Board for Educator Certification, school district boards of trustees, school administrators, teachers, professional staff, and school employees, as well as legislation relating to students and school curricula. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 3

**Effective:** 6-19-09

**House Author:** Eissler et al.

**Senate Sponsor:** Shapiro

House Bill 3 amends Education Code provisions relating to public school accountability, curriculum, and promotion requirements. The bill includes open-enrollment charter school best practices in the online clearinghouse of best practices information established by the Texas Education Agency (TEA); requires TEA to determine the appropriate topic categories for which a campus, district, or charter school may submit best practices; and expands the scope of the clearinghouse information to include best practices of campuses, districts, and charter schools that demonstrate significant improvement in student achievement.

The bill clarifies that a principal required to participate in the school leadership pilot program for principals is a principal who was employed as a principal at a campus rated academically unacceptable in the preceding school year, and it removes a provision that previously required such a principal's replacement to participate in and complete the program.

The bill requires the State Board of Education (SBOE) to adopt rules requiring students in grades six through eight to complete at least one fine arts course as part of a district's fine arts curriculum during those grade levels, beginning with the 2010-2011 school year. The bill also requires the SBOE, each time the Texas Higher Education Coordinating Board revises its official statewide inventory of workforce education courses, to revise the essential knowledge and skills of any corresponding career and technology education curriculum. The bill enumerates specific factors a district must consider in determining a student's promotion and requires each district to make public the requirements for student advancement by the start of the 2009-2010 school year.

House Bill 3 removes a prohibition against promoting a student to fourth grade if the student did not pass the statewide standardized third grade reading test but requires a student who fails to perform satisfactorily on a statewide standardized test in grades three through eight to be provided accelerated instruction in the applicable subject area and requires such a student to complete the accelerated instruction before being promoted to the next grade.

The bill requires the SBOE to designate the specific courses in the foundation curriculum required for the minimum, recommended, or advanced high school program but prohibits the board from designating a specific course or a specific number of credits in the enrichment curriculum as requirements for the recommended program, and it adds specific eligibility requirements for a student to be permitted to take courses in the minimum program. The bill also amends course credit requirements for high school graduation in the recommended and advanced high school programs. The bill requires TEA to establish a pilot program allowing a student attending school in a county that meets certain population requirements to earn the

fine arts credit by participating in a fine arts program not provided by the school district. The bill provides for a student to earn the physical education credit by participating in a private or commercially sponsored physical activity program on or off campus and outside the regular school day.

The bill establishes a pilot program to provide for the award of a high school diploma to a student who demonstrates early readiness for college under an agreement between a research university and a school district in which the district will assess a student's mastery of certain subject areas and of a language other than English in accordance with the standards filed by the university regarding specific competencies indicating mastery of those areas and that language.

House Bill 3 requires TEA to establish a student assessment data portal through which a student or the student's parent can access the student's individual test data, a district teacher or employee can access individual students' test data to develop strategies for improving student performance, an authorized employee of a public college or university can access individual test data of students applying for admission, and the public can access general student test data. The system must allow a student or parent to track the student's progress on test requirements for graduation, provide test data beginning with the 2007-2008 school year, and make such data available on or before the first day of school following the year in which it is collected.

The bill requires the commissioner of education and the commissioner of higher education to study the feasibility of allowing students to satisfy end-of-course requirements by successfully completing a dual credit course through an institution of higher education.

In addition to the performance standard set by the commissioner for satisfactory performance on required tests, the bill requires a college readiness performance standard set jointly by the commissioner of education and the commissioner of higher education for the Algebra II and English III end-of-course tests and indicating the level of preparation a student must attain in English language arts and mathematics to enroll and succeed, without remediation, in an entry-level college credit course in the same content area. The bill requires TEA to develop a required test in a manner that allows a student's score to provide reliable information relating to a student's satisfactory performance for each performance standard and an appropriate range of performances to serve as a valid indication of growth in student achievement. The bill requires TEA and the coordinating board to gather data and conduct studies to establish correlation between test performance on the Algebra II and English III end-of-course tests and college readiness, requires the two commissioners to set college readiness standards for those tests, and requires TEA and the coordinating board to ensure that, beginning with the 2011-2012 school year, the tests are capable of measuring college readiness. The bill requires TEA and the coordinating board to continue gathering data and to conduct studies at least once every three years.

The bill requires TEA and the coordinating board to conduct similar studies for science and social studies end-of-course tests and authorizes the two commissioners, if the studies substantiate a correlation between a certain level of test performance and college readiness, to establish college-readiness performance standards for science and social studies end-of-course tests. The bill requires TEA and the coordinating board to report to the legislature on the feasibility of setting college readiness performance standards for science and social studies and to conduct additional correlative studies to align student performance on end-of-course tests with postsecondary credentials, college readiness, and tests for subsequent grade levels, as applicable.

House Bill 3 authorizes a campus-level planning and decision-making committee to limit the administration of locally required tests designed to prepare students to take a statewide standardized test to a lower percentage of instructional days than the percentage set by statute,



and it extends the one-year test exemption for certain students of limited English proficiency by an additional four years for an unschooled asylee or refugee student. The bill requires TEA to determine the annual improvement required each year for a student to perform satisfactorily on the fifth and eighth grade statewide tests and to provide that information to school districts.

House Bill 3 revises a number of provisions relating to public school accreditation, including a requirement for the commissioner to adopt and regularly review a set of indicators of the quality of learning and student achievement, replacing the existing academic excellence indicator system as the basis for district and campus accreditation and ratings. The bill requires the commissioner to raise periodically the state standard for the student achievement indicator relating to the college-readiness performance standard as necessary to reach certain goals by the 2019-2020 school year. The bill requires the exclusion of certain students from computing required dropout and completion rates and from student achievement indicators for purposes of accreditation and accountability, establishes methods and standards for evaluating school district and campus performance, and eliminates the gold performance rating program. The bill also adds to the circumstances requiring the authorization of special accreditation investigations.

House Bill 3 extends the scope of the financial accountability rating system to include open-enrollment charter schools and prohibits the system from including any performance measure that requires a district to spend at least 65 percent or any other specified percentage of its operating funds for instructional purposes or that lowers a district's rating for failure to spend such a percentage of its operating funds on instruction. The bill requires the comptroller of public accounts to identify districts and campuses with resource allocation practices contributing to high student achievement and cost-effective operations, to rank the relative performance of districts and campuses, and to identify areas for improvement. The bill requires TEA to develop a process for anticipating each district's future financial solvency and a software program that districts can use to submit data to TEA and that alerts TEA of related factors. The bill requires each district to post its budget on its website and maintain it for a period of three years.

The bill revises procedures and requirements concerning accreditation interventions and sanctions, including the assignment of a campus intervention team and the implementation of a campus improvement plan, and procedures for the reconstitution, repurposing, alternative management, and closure of underperforming campuses. The bill also provides for transitional interventions and sanctions for the period of transition to the new accreditation system, which, except as otherwise provided, applies beginning with the 2011-2012 school year, and authorizes the commissioner of education to suspend the assignment of accreditation statuses and performance ratings for that year. The transitional provisions expire September 1, 2014.

House Bill 3 requires the commissioner of education to establish a recognized and exemplary rating for awarding districts and campuses an academic distinction designation and sets forth specific rating criteria. The bill requires the commissioner to award a campus a distinction designation if it is ranked in the top 25 percent of campuses in annual improvement in student achievement in core curriculum subjects, to award such a designation if a campus demonstrates an ability to significantly diminish or eliminate performance differentials between student subpopulations and is ranked in the top 25 percent of campuses under those criteria, and to award a designation for specific programs or specific categories of performance. The bill also requires the commissioner to establish separate committees to develop criteria for each component of the program or performance category designation. The bill also requires the commissioner to adopt and regularly review indicators of quality learning for the purpose of preparing reports for districts, parents, and teachers.

The bill authorizes the commissioner of education and the commissioner of higher education, in consultation with the comptroller and the Texas Workforce Commission, to award grants of up

to \$1 million to colleges and universities to develop advanced mathematics and science courses that prepare high school students for employment in a high-demand job. A college or university must work with at least one school district and one business entity and receive matching funds from one or more entities in the industry for which students are being trained.

House Bill 3 requires the comptroller to establish and administer the Jobs and Education for Texans (JET) fund as a dedicated account in the general revenue fund to provide grants to public junior colleges, technical institutes, and eligible nonprofit organizations to develop, support, or expand programs of nonprofit organizations, educational programs, and scholarships that prepare low-income students for careers in high-demand occupations.

**House Bill 171**

**Effective:** 6-19-09

**House Author:** Olivo

**Senate Sponsor:** Gallegos

House Bill 171 amends the Education Code to require a school district's student code of conduct to specify that consideration will be given to certain mitigating factors, rather than to specify whether consideration is given, in each decision concerning a student's suspension, removal to a disciplinary alternative education program, or expulsion. The bill extends the requirement to have the student code of conduct specify that consideration will be given to those factors also in a decision concerning a student's placement in a juvenile justice alternative education program and to specify that such consideration will be given in each decision concerning such disciplinary actions regardless of whether the decision concerns a mandatory or discretionary action. The bill makes its provisions applicable beginning with the 2009-2010 school year.

**House Bill 192**

**Effective:** 6-19-09

**House Author:** Alonzo et al.

**Senate Sponsor:** Van de Putte

House Bill 192 amends the Education Code to require a school district to excuse a student from attending school for appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship or for taking part in a United States naturalization oath ceremony. The bill clarifies that the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health care practitioner to receive a certain generally recognized service for such a disorder is considered an excused absence under the existing provision excusing temporary absences for health care appointments.

**House Bill 772**

**Effective:** 9-1-09

**House Author:** Howard, Donna et al.

**Senate Sponsor:** Davis, Wendy

House Bill 772 amends the Education Code to require the Texas Education Agency to broadcast over the Internet live video and audio of each open meeting held by the State Board of Education and to make available on the agency's website archived video and audio for each meeting for which live video and audio was provided under these provisions.

**House Bill 829**

**Effective:** 6-19-09

**House Author:** Hochberg

**Senate Sponsor:** Shapiro

House Bill 829 amends the Education Code to provide that a person aggrieved by the school laws of the state or by an action or decision of a school district board of trustees that violates such laws is not required to appeal to the commissioner of education before pursuing a remedy under a law outside of Title 1 or Title 2 of the code to which either title makes a reference or with which either title requires compliance. The bill establishes a deadline of not later than the 180th day after the date an appeal is filed for the commissioner, after due notice to the interested parties, to hold a hearing and issue a decision without cost to the parties involved.

**House Bill 1020****Effective:** 6-19-09**House Author:** Deshotel et al.**Senate Sponsor:** Hinojosa

House Bill 1020 amends the Education Code to prohibit a student from being expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs at an approved target range facility while the student is participating or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity sponsored or supported by the Parks and Wildlife Department or by a shooting sports sanctioning organization working with the Parks and Wildlife Department. The bill adds that this provision does not authorize a student to bring a firearm on school property to participate in or prepare for such a school-sponsored shooting sports competition or shooting sports educational activity.

**House Bill 1423****Effective:** 6-19-09**House Author:** Guillen et al.**Senate Sponsor:** Shapiro

House Bill 1423 amends the Education Code to make a public junior college eligible to be granted a charter for an open-enrollment charter school under essentially the same eligibility conditions as a public senior college or university. The bill authorizes the State Board of Education to grant a charter on the application of a public junior college for an open-enrollment charter school to operate on the campus of the public junior college or in the same county in which the public junior college campus is located if the application satisfies the following criteria: the junior college charter school's educational program is implemented under the direct supervision of a faculty member of the public junior college; the supervising faculty member has substantial experience and expertise in teacher education, classroom instruction, or educational administration; the junior college charter school's educational program is designed to meet specific goals described in the charter, such as dropout recovery, and each aspect of the program is directed toward the attainment of the goals; the attainment of those stated goals is measured using specific, objective standards set forth in the charter, including assessment methods and a time frame; and the junior college charter school's financial operations are supervised by the business office of the junior college.

The bill requires the name of a junior college charter school to include the name of the public junior college operating the school and, except as otherwise provided, makes existing provisions relating to an open-enrollment charter school applicable to a junior college charter school.

**House Bill 1425****Effective:** 6-19-09**House Author:** Lewis et al.**Senate Sponsor:** Seliger

House Bill 1425 amends the Education Code to establish that, for purposes of determining whether a county is required to develop a juvenile justice alternative education program (JJAEP) and whether an expelled student who is not detained or receiving treatment under a court order is required to be enrolled in such a program according to the population threshold for such requirements, a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county had a population of 125,000 or less according to the 2000 federal census and the county's juvenile board, with Texas Juvenile Probation Commission approval, enters into a memorandum of understanding with each school district within the county that outlines the board and district responsibilities in minimizing the number of students expelled without receiving alternative educational services and that includes the required coordination procedures between a district and a board concerning supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs.

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House Bill 1425 requires a juvenile court that has placed a child on juvenile probation or deferred prosecution under the Juvenile Justice Code and that required as a condition of probation or deferred prosecution that the child attend a JJAEP in a county that is not required to operate a JJAEP, as amended by the bill, to modify the conditions of probation or deferred prosecution if the county discontinues operation of the JJAEP. House Bill 1425 makes its provisions applicable beginning with the 2009-2010 school year.

### **House Bill 2542**

**Effective:** 6-19-09

**House Author:** Eissler et al.

**Senate Sponsor:** Van de Putte

House Bill 2542 amends the Education Code to authorize a school district to excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education. The bill limits the number of excused absences for this purpose to not more than two days during each of those two years and requires the district to adopt a policy to determine when an absence may be excused for such purpose and to verify the student's visit at the institution of higher education. The bill prohibits a student from being penalized for that absence, requires the absent student to be counted as in attendance for purposes of calculating a school district's average daily attendance, and requires the student to be allowed a reasonable amount of time to make up work missed in the same manner as another student is treated when the student is absent from school and the district is required to excuse that absence. The bill makes its provisions applicable beginning with the 2009-2010 school year.

### **House Bill 2549**

**Effective:** 6-19-09

**House Author:** Davis, John

**Senate Sponsor:** Patrick, Dan

Previous law required the county auditor in a county with a population of two million or more to audit all books, accounts, reports, vouchers, and other records relating to funds handled by the county department of education. House Bill 2549 amends the law to increase the minimum population of a county to which the law applies from two million or more to three million and to authorize, rather than require, the county auditor to audit all records relating to the financial aspects of any contractual relationship between the county and the county department of education. The bill requires the department to periodically have an audit of certain records relating to funds handled by the department prepared by an independent auditor and to deliver a copy of the audit to the commissioners court of the county.

### **House Bill 2703**

**Effective:** 6-19-09

**House Author:** Olivo

**Senate Sponsor:** Gallegos

Under current law, the criteria used to determine whether a student is at risk of dropping out of school include the student's failure to advance from one grade level to the next for one or more years. House Bill 2703 amends the Education Code to establish that a student is not considered a student at risk of dropping out of school if the student did not advance from prekindergarten or kindergarten to the next grade level only as the result of the request of the student's parents. The bill applies beginning with the 2009-2010 school year.

### **House Bill 3041**

**Effective:** 9-1-09

**House Author:** Farias

**Senate Sponsor:** Van de Putte

House Bill 3041 amends the Education Code to require the Texas Education Agency (TEA), to the extent possible, to develop and maintain a comprehensive schedule that addresses each reporting requirement generally applicable to a school district, including requirements imposed

by a state agency or entity other than TEA, and that specifies the date by which a district must comply with each requirement. The bill requires a state agency that requires a school district to periodically report information to that agency to provide TEA with information regarding the reporting requirement as necessary to enable TEA to develop and maintain the schedule.

**House Bill 3643**  
**Effective:** 6-19-09

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

House Bill 3643 amends the Education Code to include a stepchild in the definition of “child” and stepparent in the definition of “parent” for the purposes of establishing the eligibility of certain children for enrollment in a school district’s free prekindergarten classes. The bill applies beginning with the 2009-2010 school year.

**House Bill 3918**  
**Effective:** 6-19-09

**House Author:** Darby  
**Senate Sponsor:** Ogden

House Bill 3918 amends the Natural Resources Code to require each school district to perform leakage tests, rather than pressure tests, for leakage on the liquefied petroleum (LP)-gas piping system in each district facility at least biennially, to perform the leakage test to determine whether the LP-gas piping system holds at least the amount of pressure specified by the Railroad Commission of Texas, rather than the amount specified by the National Fire Protection Association 54, National Fuel Gas Code, and to conduct the test in accordance with commission rules, rather than in accordance with the National Fire Protection Association 54.

The bill removes the requirement for a school district to provide written notice to the commission specifying the date and result of each test or other inspection and instead requires the district to retain documentation specifying that information until at least the fifth anniversary of the date the test or other inspection was performed. The bill removes a requirement for the commission to retain a copy of the notice provided by a school district until at least the first anniversary of the commission’s receipt and instead authorizes the commission to review a district’s documentation of each leakage test or other inspection conducted by the district. The bill makes its provisions applicable beginning with the 2009-2010 school year.

**Senate Bill 90**  
**Effective:** 5-5-09

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

Senate Bill 90 amends the Education Code to enter Texas into the Interstate Compact on Educational Opportunity for Military Children. The compact facilitates the student placement process, qualification and eligibility for enrollment, and on-time graduation of children of members of the military and certain veterans and provides for the collection and sharing of information between and among member states.

Senate Bill 90 establishes the children and agencies to whom provisions of the compact apply; requirements for unofficial or “hand-carried” education records, official education records and transcripts, obtaining immunizations, and kindergarten and first grade entrance age in relation to the educational transition of military children; requirements for course placement, educational program placement, special education services, placement flexibility, and absences as related to deployment activities; requirements relating to eligibility for enrollment and extracurricular participation; and procedures for coursework waiver requirements, exit exams, and transfers during senior year. The bill authorizes the commissioner of education to adopt a test-passing standard that may be substituted for the completion of a course or a test score required for graduation and requires the Texas Higher Education Coordinating Board to monitor the postsecondary performance of students allowed to graduate in accordance with that passing standard.

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Senate Bill 90 requires the Texas Education Agency (TEA) to provide for coordination among state agencies, school districts, and military installations concerning Texas' participation in and compliance with the compact and compact activities and requires TEA or the commissioner of education, as appropriate, to perform the duty or function of a state council as defined by the compact to the extent that the compact requires it. The bill requires the compact commissioner responsible for administration and management of the state's participation in the compact to be appointed by the governor or as otherwise determined by each state.

Senate Bill 90 creates the Interstate Commission on Educational Opportunity for Military Children consisting of one voting representative from each member state and other ex-officio members and sets forth provisions and requirements governing the commission's operation, authority, and powers and duties.

Senate Bill 90 sets forth the state's duties under the compact, financing of the compact, and procedures by which a member state may elect to withdraw from the compact and be reinstated following withdrawal.

### **Senate Bill 300** **Effective:** 6-19-09

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

Senate Bill 300 amends the Education Code to require a school district's employment policy to require that notice of a vacant position be provided to each current district employee by posting the position either on a bulletin board at a place convenient to the public in the district's central administrative office and at the central administrative office of each campus in the district or on the district's Internet website, if the district has a website, rather than on both such bulletin boards and the district website.

The bill delays the expiration of a district-level class size exception from the end of the semester for which it is granted to the end of the school year for which it is granted and removes a prohibition against the commissioner of education granting an exception for more than one semester at a time. The bill requires a school district seeking an exception to notify the commissioner and apply for the exception not later than October 1 or the 30th day after the first school day the district exceeds the class size limit, whichever is later. The bill requires the Texas Education Agency, not later than January 1, 2011, to report to the legislature the number of applications for exceptions submitted by each school district and, for each application, whether the application was granted or denied.

The bill authorizes, rather than requires, each school district to conduct a training session for students and teachers on procedures for evacuating a school bus during an emergency. The bill encourages a school district that chooses to conduct such training to conduct the training in the fall and to structure the training session so that the session applies to school bus passengers, a portion of the session occurs on a school bus, and the session lasts for at least one hour. The bill removes provisions requiring training sessions in both fall and spring, requiring a portion of the training to occur on a school bus, and requiring the training session to last at least one hour. The bill encourages a school district, immediately before each field trip involving transportation by school bus, to review emergency evacuation procedures with the school bus passengers, including a demonstration of the emergency exits and the safe manner to exit.

The bill requires each school district board of trustees to establish a long-range energy plan, rather than a goal, to reduce the district's annual electric consumption by five percent beginning with the 2008 state fiscal year and to consume electricity in subsequent fiscal years in accordance with the plan. The bill requires the plan to include strategies for achieving energy efficiency that result in net savings or that can be achieved without financial cost to the district, and to include, for each strategy identified, the initial, short-term capital costs and lifetime costs and savings that

may result from its implementation. The bill requires the board of trustees to consider the total net costs and savings that may occur over the seven-year period following implementation of the strategy and authorizes the board of trustees to submit the required plan to the State Energy Conservation Office to determine whether funds available through loan programs administered by the office are available to the district.

The bill repeals a requirement that a school district board of trustees, for purposes of entering into energy savings performance contracts, establish a goal to reduce the annual electric consumption by five percent each year for six years, beginning September 1, 2007. The bill makes its provisions applicable beginning with the 2009-2010 school year.

**Senate Bill 759**

**Effective:** 6-19-09

**Senate Author:** Williams

**House Sponsor:** Eissler

Senate Bill 759 amends the Education Code to raise the maximum age of data that may be used to compute state and national norms of averages of achievement test results from not more than six years old to not more than eight years old at the time the test is administered and requires the standardization norms to be updated at least every eight years, rather than every six years. The bill makes an exception to the eight-year limit on the age of data to compute norms if only data older than eight years is available for a test and authorizes the commissioner of education by rule to limit such exception based on the type of test.

The bill repeals provisions that prohibited a company or organization from distributing to, selling to, or grading for the same school district the same test form for more than three school years and prohibited a district from using the same test form for more than three years; that required a company or organization grading a test to report the results to the district and to the Texas Education Agency by campus and district and in comparison to state and national averages; and that made a company or organization that failed to comply with the provisions above liable to the state in an amount equal to three times the amount of actual damages.

**Senate Bill 2033**

**Effective:** 6-19-09

**Senate Author:** Nelson et al.

**House Sponsor:** Eissler

Senate Bill 2033 amends the Education Code to require a school district to adopt a grading policy before each school year that requires a teacher to assign a grade that reflects the student's relative mastery of an assignment. The policy may not require a teacher to assign a minimum grade for an assignment without regard to the student's quality of work and may allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade. The bill makes its provisions applicable beginning with the 2009-2010 school year.

**Senate Bill 2248**

**Effective:** 6-19-09

**Senate Author:** Zaffirini

**House Sponsor:** Patrick, Diane

Senate Bill 2248 amends the Education Code to state legislative findings regarding students in substitute care and to require the Texas Education Agency, in recognition of the challenges faced by such students, to assist in their transition from one school to another by ensuring that school records for a student in substitute care are transferred to the student's new school not later than the 14th day after the date the student begins enrollment at the school; developing systems to ease such a student's transition during the student's first two weeks at a new school; developing procedures for awarding credit for course work completed by such a student while enrolled at another school; promoting practices that facilitate access by such a student to extracurricular programs, summer programs, credit transfer services, electronic courses provided

through the state virtual school network, and after-school tutoring programs at nominal or no cost; establishing procedures to lessen the adverse impact of the movement to a new school; entering into a memorandum of understanding with the Department of Family and Protective Services regarding the exchange of information as appropriate to facilitate the students' transition from one school to another; encouraging school districts and open-enrollment charter schools to provide services for a student in transition when applying for admission to postsecondary study and when seeking sources of funding for postsecondary study; requiring school districts, campuses, and open-enrollment charter schools to accept a referral for special education services made for such a student by a school previously attended by the student; and providing other assistance as identified by the agency.

The bill makes a student who has been placed in substitute care in Texas eligible to enroll full-time in courses provided through the state virtual school network, regardless of whether the student was enrolled in a public school in Texas in the preceding school year. The bill makes its provisions applicable beginning with the 2009-2010 school year.

## **Educators and Employees**

### **House Bill 200**

**Effective:** 9-1-09

**House Author:** Heflin et al.

**Senate Sponsor:** Seliger

House Bill 200 repeals a provision of the Education Code that requires continuing education for principals to be based on an individual assessment of the established knowledge, skills, and proficiencies necessary to perform successfully as a principal; that requires an individualized professional growth plan to be developed as a result of the assessment and to be used exclusively for professional growth purposes; and that requires a principal to participate in the assessment process and professional growth activities at least once every five years. The bill makes its provisions applicable beginning with the 2009-2010 school year.

### **House Bill 1365**

**Effective:** 6-19-09

**House Author:** Eissler

**Senate Sponsor:** Shapiro

House Bill 1365 amends the Education Code to require a school district that previously employed a classroom teacher, librarian, counselor, or nurse to provide a copy of that individual's service record to the school district employing the individual on the request of either the individual or the employing district not later than the 30th day after the date of the request or the date of the individual's last day of service to the district, whichever is later. The bill requires the Texas Education Agency, if a school district fails to provide an individual's service record, to provide the employing school district with information sufficient to enable the district to determine proper placement of the individual on the district's salary schedule, to the extent that information is available to the agency. The bill makes its provisions applicable beginning with the 2009-2010 school year.

### **House Bill 1470**

**Effective:** 6-19-09

**House Author:** Thibaut

**Senate Sponsor:** Van de Putte

House Bill 1470 amends the Education Code to require a school district to include notification of an employee's rights to assault leave in the relevant section of any informational handbook the school district provides to employees in an electronic or paper form or makes available by posting on the district website. The bill requires any form used by a school district through which an employee may request leave to include assault leave as an option. The bill makes its provisions applicable beginning with the 2009-2010 school year.



**House Bill 2512****Effective:** 9-1-09**House Author:** Aycok**Senate Sponsor:** Davis, Wendy

House Bill 2512 amends the Education Code to require a school district grievance policy to permit an employee who reports a grievance to make an audio recording of any meeting or proceeding at which the substance of a grievance that complies with the policy is investigated or discussed. The bill prohibits the implementation of this requirement from resulting in a delay of any timeline provided by the grievance policy and does not require the district to provide equipment for the employee to make the recording.

**House Bill 4152****Effective:** 6-19-09**House Author:** Rose et al.**Senate Sponsor:** Van de Putte

House Bill 4152 amends the Education Code to require an educator from outside the state who has submitted all documents required by the State Board for Educator Certification and who receives a certificate from the board to perform satisfactorily on the comprehensive examination specified for the class of certificate issued by the board not later than the first anniversary of the date the board completes the review of the educator's credentials and informs the educator of the examination or examinations on which the educator must perform successfully to receive a standard certificate. The bill requires the board to post on the board's website the procedures for obtaining a certificate by an out-of-state educator and requires the commissioner of education to provide guidance to school districts that employ such an educator certified as provided above on procedures to classify the educator as a highly qualified teacher in a manner consistent with the No Child Left Behind Act of 2001.

The bill requires the board, in any state fiscal year, to accept or reject, not later than the 14th day after the date the board receives the completed application, at least 90 percent of the applications the board receives for a certificate from applicants who hold a certificate or other credential issued by another state in mathematics, science, special education, or bilingual education, or another subject area that the commissioner determines has a shortage of teachers, and to accept or reject all such completed applications the board receives not later than the 30th day after the date the board receives the completed application. The bill requires an applicant to submit a letter of good standing from the state in which the teacher is certified on a form determined by the board, information necessary to complete a national criminal history record information and review, and an application fee as required by the board.

**House Bill 4435****Effective:** 6-19-09**House Author:** Allen**Senate Sponsor:** Huffman

House Bill 4435 amends the Education Code to specify that a principal required to participate in the school leadership pilot program for principals and to complete the program requirements not later than a date determined by the commissioner of education is a principal who was employed as a principal at a campus that was rated academically unacceptable during the preceding school year. The bill removes a provision that previously required a person employed to replace such a principal also to participate in and complete the program. The bill makes its provisions applicable to a principal employed at a school that is rated academically unacceptable during the 2008-2009 school year.

**Senate Bill 451****Effective:** 6-19-09**Senate Author:** Van de Putte et al.**House Sponsor:** Patrick, Diane

Senate Bill 451 amends the Education Code to require, rather than authorize, staff development provided by a school district to include training relating to instruction of students

with disabilities that is designed for educators who work primarily outside the area of special education and to require that this training be based on scientifically based research as defined by the No Child Left Behind Act of 2001. The bill requires a school district to provide this training to such an educator only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student receiving instruction from the educator.

The bill requires a school district, in developing or maintaining such training, to consult with persons with expertise in research-based practices for students with disabilities, including colleges, universities, private and nonprofit organizations, regional education service centers, qualified district personnel, and any other persons identified as qualified by the district, regardless of whether the training is provided at the campus or district level. The bill makes its provisions applicable beginning with the 2009-2010 school year.

**Senate Bill 522**

**Effective:** 5-12-09

**Senate Author:** Averitt et al.

**House Sponsor:** Eissler

Senate Bill 522 amends the Education Code to prohibit a school district's board of trustees from adopting a policy governing an employee's use of personal leave provided under the state minimum personal leave program that restricts the order in which an employee may use the state minimum personal leave and any additional personal leave provided by the school district. The bill entitles a public school employee who retains any sick leave accumulated under the former minimum sick leave program to use that sick leave or personal leave in any order to the extent that the leave used is appropriate to the purpose of the leave. The bill makes its provisions applicable beginning with the 2009-2010 school year.

**Senate Bill 1290**

**Effective:** 6-19-09

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

**House Sponsor:** Farias

Current law authorizes the assignment of a mentor teacher to each classroom teacher with less than two years of teaching experience. Senate Bill 1290 amends the Education Code to specify that the teaching experience threshold of less than two years that qualifies a classroom teacher to be assigned a mentor teacher is teaching experience of less than two years in the subject or grade level to which the classroom teacher is assigned. The bill makes the requirement that a teacher assigned as a mentor teacher teach in the same school applicable only to the extent practicable.

## **Electronic Textbooks and Educational Technology**

**House Bill 1332**

**Effective:** 6-19-09

**House Author:** Maldonado et al.

**Senate Sponsor:** Gallegos

House Bill 1332 amends the Education Code to include technological equipment and electronic textbooks in the materials that each student, or the student's parent or guardian, is responsible for returning at the end of the school year or on the student's withdrawal from school. The bill makes the failure to return an electronic textbook or technological equipment in an acceptable condition subject to the same consequences that apply to the failure to return all textbooks in an acceptable condition, including forfeiture of the student's right to free textbooks, including electronic textbooks and technological equipment until each item is paid for by the student, parent, or guardian and the possible withholding of student records. The bill makes its provisions applicable beginning with the 2009-2010 school year.

**House Bill 2488**  
**Effective:** 9-1-09**House Author:** Hochberg  
**Senate Sponsor:** Ogden

House Bill 2488 amends the Education Code to require each school district and open-enrollment charter school to certify annually to the State Board of Education (SBOE) and the commissioner of education that, for each subject in the required curriculum and each grade level, the district provides each student with textbooks, electronic textbooks, or instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level.

The bill provides for the adoption of open-source textbooks and establishes criteria and conditions under which the SBOE is required to place an open-source textbook submitted for adoption by an eligible institution of higher education on a conforming or nonconforming list. The bill exempts an open-source textbook from the requirement that the SBOE execute a contract for the purchase of each adopted textbook and the purchase or licensing of each adopted electronic textbook and instead authorizes the SBOE to execute a contract for the printing of an open-source textbook listed on the conforming or nonconforming list, which contract must allow a school district to requisition printed copies of an open-source textbook as provided by law.

The bill sets forth provisions for the purchase of state-developed open-source textbooks, requiring the commissioner to purchase such textbooks through a competitive bidding process; authorizing the purchase of more than one such textbook for a subject or grade level; requiring such textbooks to be irrevocably owned by or licensed to the state; requiring an unlimited state authority to modify, delete, combine, or add content to the textbook after purchase; authorizing the commissioner to issue a request for proposals for such a textbook at any time the commissioner determines that a need exists for additional textbook options; and requiring the costs of administering the purchase of state-developed open-source textbooks to be paid from the state textbook fund. The bill also sets forth content requirements for state-developed open-source textbooks, requiring such textbooks to be evaluated by teachers or other experts, as determined by the commissioner, before purchase and to meet requirements for inclusion on a conforming or nonconforming textbook list, and requiring revision of such a textbook following a curriculum revision or at any time as the commissioner may require, for which revisions the commissioner must use a competitive process to request proposals.

The bill requires the commissioner to determine the cost to a school district or open-enrollment charter school for a state-developed open-source textbook in an amount sufficient to cover state expenses associated with the textbook, including expenses incurred by the state in soliciting, evaluating, revising, and purchasing the textbook. If a school district or open-enrollment charter school selects a state-developed open-source textbook instead of another textbook, the bill provides for the allocation of the difference between the cost determined by the commissioner and the maximum price for a textbook in the same subject area, as determined by the SBOE. The bill authorizes a school district or open-enrollment charter school to adopt a state-developed open-source textbook at any time, regardless of the textbook review and adoption cycle.

The bill requires the commissioner to provide for the distribution of state-developed open-source textbooks in a manner consistent with distribution of textbooks, authorizes the commissioner to use a competitive process to contract for printing or other reproduction of such textbook on behalf of a school district or open-enrollment charter school, and prohibits the commissioner from requiring a school district or open-enrollment charter school to contract with a state-approved provider for such printing or reproduction.

The bill provides that a state-developed open-source textbook is state property and requires the commissioner to provide a license to each public school in the state, and certain other entities

educating students in any grade from prekindergarten through high school, to use and reproduce such a textbook and requires the commissioner, in determining the cost of licensing an entity not otherwise listed, to seek to recover the costs of developing, revising, and distributing such textbooks. A decision by the commissioner regarding the purchase, revision, cost, or distribution of a state-developed open-source textbook is final and may not be appealed.

The bill requires the commissioner to develop a schedule for the adoption of state-developed open-source textbooks and, in developing the schedule, to consider the availability of funds and textbooks for development or purchase by the state. The bill requires a school district or open-enrollment charter school that selects an open-source textbook to requisition a sufficient number of printed copies for use by students unable to access the textbook electronically unless the district or school provides to each student electronic access to the textbook at no cost to the student, or printed copies of the portion of the textbook that will be used in the course. The bill authorizes the commissioner to establish a list of equipment or devices that a school district or open-enrollment charter school may purchase using textbook credits or textbook credits in combination with other available funds to provide such electronic access.

The bill exempts open-source textbooks from the requirement for a textbook publisher or manufacturer to maintain a depository in Texas or to keep a depository in Texas to receive and fill orders for textbooks. The bill requires a publisher or manufacturer to deliver open-source textbooks to a school district or open-enrollment charter school without a delivery charge to the school district, open-enrollment charter school, or state.

**House Bill 2893**

**Effective:** 9-1-09

**House Author:** Hochberg

**Senate Sponsor:** Shapleigh

House Bill 2893 amends the Education Code to redesignate the technology immersion pilot project as the technology demonstration sites project and to remove references in law to the project's provisional status as a pilot project. The bill requires the Texas Education Agency (TEA) by rule to establish the project to demonstrate the use of technology for improving teaching and learning; to use digital tools and resources to extend learning opportunities from school to home; and to exemplify instructional practices and lessons that support academic learning in the classroom and at home. The bill requires the project to use existing home electronic devices or provide access through electronic device check-out options to allow students at school and at home to use software, online courses, and other appropriate learning technologies that have been shown to improve academic achievement and certain progress measures.

The bill requires TEA to define the conditions for the distribution and use of electronic devices not currently available to all students, develop guidelines for a distribution and check-out plan for home use of electronic devices, and review the progress made through each demonstration site included in the project. The bill removes requirements for TEA to purchase and distribute computer equipment and other technologies, to enter into contracts as necessary to implement the pilot project, and to conduct a final evaluation of the pilot project, and it transfers responsibility for the use of project funds from TEA to the participating school districts and schools.

The bill requires TEA to select participating districts and schools for the project based on each district's or school's need and technology readiness for the project, removes the selection criteria that TEA was required to consider when selecting participants for the precursor pilot project, and requires TEA to select at least five districts, rather than schools, to participate in the project. The bill authorizes TEA to include the review of the project, after its expiration, in the required comprehensive annual report covering the 2012-2013 school year, replacing a similar provision previously applicable to the precursor pilot project. The bill extends the statute's expiration from August 31, 2011, to August 31, 2013.

The bill requires the commissioner to establish a computer lending pilot program to provide computers to participating public schools that make computers available for use by students and their parents and to establish procedures for the program's administration, including procedures for distributing to participating public schools any surplus or salvage data processing equipment available for distribution under the pilot program or computers donated or purchased for that purpose with funds from any available source. The bill makes a public school eligible to participate in the pilot program if 50 percent or more of the students at the school are educationally disadvantaged and the school operates or agrees to operate a computer lending program that allows students and parents to borrow a computer; includes an option for students and parents to work toward owning a computer initially borrowed under the program, subject to any applicable legal restrictions regarding the computer's disposition; provides computer training for students and parents; and operates outside regular school hours, including operation until at least 7 p.m. on at least three days each week. The bill requires the commissioner to submit a report to the legislature regarding the computer lending pilot program not later than January 1 of each year.

House Bill 2893 amends the Government Code to require a state agency, state eleemosynary institution, or institution or agency of higher education, if a transfer or disposition of the agency's or institution's surplus or salvage data processing equipment is not made under state law governing the direct transfer or disposition of such equipment to another state agency, political subdivision, or assistance organization, to make the equipment available to the commissioner for use in the computer lending pilot program or, if the commissioner declines to take the equipment, to transfer the equipment free of charge to a school district or open-enrollment charter school, to an assistance organization specified by the school district, or to the Texas Department of Criminal Justice. All of the bill's provisions relating to the computer lending pilot program expire September 1, 2014.

**House Bill 4294**  
**Effective:** 6-19-09

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

House Bill 4294 amends the Education Code to require each school district and open-enrollment charter school to certify annually to the State Board of Education (SBOE) and the commissioner of education that, for each subject in the foundation curriculum and each grade level, the district provides each student with textbooks, electronic textbooks, or instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level. The bill authorizes the state textbook fund to be used to purchase technological equipment necessary to support the use of electronic textbooks or instructional material included on the adopted list or any textbook or material approved by the SBOE.

The bill requires the commissioner to adopt a list of electronic textbooks and instructional material, including tools, models, and investigative materials designed for use in the foundation curriculum for science in kindergarten through grade five, and it authorizes a school district to select a textbook or material on that list to be funded by the state textbook fund. The bill establishes conditions and criteria for the placement of such textbooks or material on the list, including a requirement for the SBOE to be given an opportunity to comment on the textbook or material before its placement. The bill requires the commissioner to update the list as necessary, sets forth prerequisites for the removal of textbooks or material from the list, and authorizes the provider of an electronic textbook or instructional material to update the textbook's or material's content or related navigational features or management system after notice to the commissioner.

If a school district or open-enrollment charter school selects an electronic textbook or instructional material on the list, the bill requires the state to pay the district or school an amount equal to the cost of the electronic textbook or instructional material plus textbook credits as specified in the bill, times number of such textbooks or materials needed by the district or school.

The bill authorizes a school district or open-enrollment charter school that selects a subscription-based electronic textbook or instructional material on the conforming list or the adopted list to cancel the subscription and subscribe to a new electronic textbook or instructional material before the end of the state contract period if the district or school has used the textbook or material for at least one school year and the Texas Education Agency approves the change based on a written request by the district or school that specifies the reasons for the change.

House Bill 4294 requires the commissioner by rule to establish a computer lending pilot program to provide computers to participating public schools that make computers available for use by students and their parents. The bill requires the commissioner to establish administrative procedures, including procedures for distributing to a participating school any surplus or salvage data processing equipment available for distribution under the pilot program or computers donated or purchased for that purpose with funds from any source. A school is eligible to participate if 50 percent or more of its students are educationally disadvantaged and the school operates or agrees to operate a computer lending program that allows students and parents to borrow a computer; includes an option for students and parents to work toward owning a computer initially borrowed under the program, subject to any applicable restrictions on the computer's disposition; provides computer training for students and parents; and operates outside regular school hours, including operation until at least 7 p.m. on at least three days each week. The bill requires the commissioner, not later than January 1 of each year, to submit a report to the legislature regarding the computer lending pilot program.

The bill amends the Government Code to require a state agency, a state eleemosynary institution, or an institution or agency of higher education—if a disposition of the agency's or institution's surplus or salvage data processing equipment is not made under state law governing the direct transfer or disposition of such equipment to another state agency, political subdivision, or assistance organization—to make the equipment available to the commissioner for use in the computer lending pilot program or, if the commissioner declines to take the equipment, to transfer the equipment free of charge to a school district or open-enrollment charter school, to an assistance organization specified by the district, or to the Texas Department of Criminal Justice.

**Senate Bill 2178**  
**Effective:** 9-1-09

**Senate Author:** Shapleigh  
**House Sponsor:** Hochberg

Senate Bill 2178 amends the Education Code to require the commissioner of education by rule to establish a computer lending pilot program to provide computers to participating public schools that make computers available for use by students and their parents. The bill requires the commissioner to establish administrative procedures, including procedures for distributing to a participating public school any surplus or salvage data processing equipment available for distribution under the pilot program or computers donated or purchased for that purpose with funds from any available source, including a foundation, private entity, governmental entity, and institution of higher education. A public school is eligible to participate in the program if 50 percent or more of its students are educationally disadvantaged and the school operates or agrees to operate a computer lending program that allows students and parents to borrow a computer; includes an option for students and parents to work toward owning a computer

initially borrowed under the school's lending program, subject to any applicable restrictions regarding the computer's disposition; provides computer training for students and parents; and operates outside regular school hours, including operation until at least 7 p.m. on at least three days each week. The bill requires the commissioner, not later than January 1 of each year, to submit a report to the legislature regarding the computer lending pilot program.

The bill amends the Government Code to require a state agency, a state eleemosynary institution, or an institution or agency of higher education, if a disposition of the agency's or institution's surplus or salvage data processing equipment is not made under state law governing the direct transfer or disposition of such equipment to another state agency, political subdivision, or assistance organization, to make the equipment available to the commissioner for use in the computer lending pilot program. If the commissioner declines to take the equipment, the bill requires that agency or institution to transfer the equipment to a school district or open-enrollment charter school, to an assistance organization specified by the school district, or to the Texas Department of Criminal Justice. The bill prohibits the state agency or institution from collecting a fee or other reimbursement from the commissioner for such equipment. All of the bill's provisions expire September 1, 2014.

## School Finance

### House Bill 635

**Effective:** 6-19-09

**House Author:** Guillen et al.

**Senate Sponsor:** Zaffirini et al.

House Bill 635 amends the Education Code to authorize the Texas Education Agency to seek, accept, and distribute federal or other grants available for the benefit of public education, subject to limitations or conditions imposed by grant terms or by other law. Unless otherwise prohibited by federal law, the bill authorizes the commissioner of education to determine, solely for purposes of eligibility to receive federal grant funds for technology services and support, that a Head Start program serves the function of an elementary school by providing elementary education at one or more facilities. The bill establishes that such a determination does not entitle a program to receive state funds for which it is not otherwise eligible, may not reduce the amount of federal grant funds available for school districts and open-enrollment charter schools, and is not subject to appeal.

### House Bill 709

**Effective:** 6-19-09

**House Author:** Rose et al.

**Senate Sponsor:** Watson

Current law requires a school district to use at least 60 percent of grant funds awarded to the district under the educator excellence awards program to directly award classroom teachers who effectively improve student achievement as determined by meaningful, objective measures, and it restricts uses of the remaining funds to providing stipends to teachers who meet certain criteria or perform certain functions, providing performance awards to principals and other campus employees, or implementing components of a teacher award program.

House Bill 709 amends the Education Code to authorize the remainder of those grant funds to be used also to provide stipends to classroom teachers who hold advanced certification from an organization that certifies at least 2,500 teachers in the United States each year based on the teachers' satisfaction, through study, expert evaluation, self-assessment, and peer review, of high and rigorous standards for accomplished teaching.

**House Bill 752**

**Effective:** 5-19-09

**House Author:** England

**Senate Sponsor:** Harris

Current law authorizes a municipality with territory in three counties, and a population of less than 120,000, to enter into or amend an existing agreement with a school district located in whole or in part in a reinvestment zone created by the municipality to dedicate revenue from the zone's tax increment fund to the school district for acquiring, constructing, or reconstructing an educational facility located in or outside of the zone. House Bill 752 amends the Tax Code to modify the population threshold, making the provision applicable to a three-county municipality with a population of less than 130,000.

**House Bill 3646**

**Effective:** See below

**House Author:** Hochberg et al.

**Senate Sponsor:** Shapiro et al.

House Bill 3646 amends Education Code provisions relating to public school finance. Excluding enrichment funding, the bill entitles an open-enrollment charter school to the greater of the funding per student in weighted average daily attendance (WADA) that it would have received during the 2009-2010 school year under the school finance formulas as they existed on January 1, 2009, plus an additional amount of \$120 per WADA, or the statewide average funding per WADA. In addition to the above funding, a charter school is entitled to enrichment funding based on the state average tax effort.

House Bill 3646 requires each school district, open-enrollment charter school, and the Windham School District to raise the salary of each teacher and each full-time speech pathologist, librarian, certified counselor, and nurse for the 2009-2010 and 2010-2011 school years by the greater of \$80 per month or each employee's share of \$60 per WADA in 2009-2010, factoring increased costs for social security and retirement. This increase is in addition to any increases an individual would have received under the district's 2008-2009 salary schedule or in addition to the salary the charter school or the Windham School District would have paid the employee. The salary increase is contingent on a determination by the commissioner of education that it is an allowable use of federal funds received under the American Recovery and Reinvestment Act of 2009 and appropriated under the Foundation School Program. The bill requires a local awards plan under the educator excellence program to notify eligible teachers and principals of the specific criteria and any formulas on which the awards will be based before the start of the period on which the awards will be based, eliminates existing stipends for teachers with postgraduate degrees, and repeals the awards for student achievement program.

House Bill 3646 establishes a special education grant program to make grants available to assist eligible districts in covering the cost of educating students with disabilities. Eligibility is based on a demonstrated lack of sufficient funds to serve such students, and grant recipients must serve such students in the least restrictive environment appropriate to meet their needs.

House Bill 3646 establishes priorities for the commissioner with respect to applications for funding for extended year programs and requires the commissioner to give preference to certain districts in the distribution of funds for the life skills program for student parents and for school guidance and counseling programs. The bill removes a provision that restricted flexible school day programs to students in grades 9 through 12, expands the scope of such programs to students who will be denied class credits for failure to meet all attendance requirements, and authorizes the commissioner to limit program funding for such a student's attendance to only the attendance necessary for the student to earn class credit that the student would not receive without retaking the class. The bill restricts the subsidy for a certification examination to a student who passes a certification examination qualifying the student for employment in a current or emerging high-demand, high-wage, high-skill job as determined by the commissioner of education, the commissioner of higher education, and the Texas Workforce Commission.



House Bill 3646 increases from 25 to 100 the cap on the number of districts that the Texas Education Agency (TEA) may select to participate in the financial literacy pilot program and requires TEA to report to the legislature on the program's implementation and effectiveness not later than January 1, 2011. The bill also adds assisting districts in providing instruction in personal financial literacy to the regional education service centers' core services.

House Bill 3646 requires TEA, rather than an electronic course provider, to pay the costs of evaluating and approving electronic courses for the state virtual school network (VSN) and, if TEA does not have sufficient funds to pay such costs for all of the courses submitted for evaluation and approval, to give priority to paying the costs of evaluating and approving courses that meet certain criteria, but it allows the course provider to pay such costs to ensure that the evaluation occurs. The bill requires the commissioner of education to establish procedures for verifying a teacher's completion of the professional development courses required for teaching a VSN course and to establish qualifications and professional development requirements applicable to college instructors teaching dual credit courses through the VSN, and it authorizes alternative educator professional development courses provided by a district or open-enrollment charter school for teachers seeking authorization to teach a VSN course. A district or charter school is entitled to federal, state, and local funding for a student in grades three through eight enrolled in a full-time VSN course program equal to the amount it otherwise would receive for a student in the district or school, and a district or charter school may charge a fee for enrollment in a VSN course provided during the summer. A district or charter school that is not the provider may charge a district or charter school student a nominal fee if the student enrolls in a VSN course that exceeds the normal course load for students in the equivalent grade level.

House Bill 3646 entitles a school district or open-enrollment charter school that provides a VSN course a VSN allotment of \$400 for each student completing a VSN course that satisfies a graduation requirement as part of the normal course load, and it entitles the district or charter school in which the student is enrolled to a VSN allotment of \$80 as reimbursement for administrative costs. The amount of a VSN allotment for a student completing a course that exceeds the normal workload is based on the funding appropriated for that purpose; the commissioner may set aside up to 50 percent of those funds to pay the cost of providing VSN courses for students to recover academic credit for courses in which they were previously unsuccessful and may reserve a portion of the set-aside funds to pay for VSN courses for students in alternative education settings. A VSN allotment is contingent on a student's completion of the entire course. The bill requires TEA to evaluate whether providers of different types of VSN courses should be compensated differently based on course types, to investigate the feasibility of making language acquisition courses available through the VSN, to investigate the feasibility of creating a series of VSN courses focusing on the educational needs of students in alternative education settings, and to report to the legislature on each of these studies not later than January 1, 2011.

House Bill 3646 sets the equalized wealth level for a district's maintenance and operations (M&O) tax effort up to the state compression percentage to correspond to the basic allotment or \$4,765 per pupil for each penny of tax effort up to the district's compressed tax rate.

A district may include a student attending a dual credit course taught by a college or university in its average daily attendance (ADA); effective September 1, 2011, the law reverts to its previous state. The bill requires the commissioner of education and the commissioner of higher education to conduct a study of dual credit programs and courses, focusing on the costs to the state, school district, community college, and student, and to make recommendations on related matters to the legislature.

## Public Education

Excluding enrichment revenue, House Bill 3646 limits annual increases in a district's M&O tax revenue per WADA to not more than \$350. For the 2009-2010 through 2012-2013 school years, the bill sets the basic allotment at the greater of \$4,765 or 1.65 percent of the statewide average property value per weighted student and thereafter, at the lesser of \$4,765 or that amount multiplied by the quotient of the district's compressed tax rate divided by the state maximum compressed tax rate. The bill increases the indirect cost allotment set by State Board of Education (SBOE) rule from 15 to 45 percent of the compensatory education allotment. The bill entitles a district to an allotment of \$650 for each student in ADA who has a parent or guardian on active duty in a combat zone in the U.S. military or who transferred into the district as a result of the parent's or guardian's relocation in a base closure or realignment, and to an allotment of \$50 for each student in ADA enrolled in two or more advanced career and technology courses totaling three or more credits or in an advanced course as part of a tech-prep program. The bill adds the existing \$275 high school allotment to the Tier 1 allotments, entitles a district that is required to reduce its wealth per student to the equalized wealth level to a credit in the amount of the allotment, and entitles a district not otherwise eligible for state aid under Tier 1 to this allotment. The bill also provides each district, including the South Texas Independent School District, with a minimum increase of \$120 per WADA above what it would have received for the 2009-2010 school year under the previous school finance formulas. The bill repeals hold harmless provisions for the 1997 increase in the homestead exemption, the 1999 salary schedule increase, and 2001 employee insurance benefits and repeals the exclusion of property wealthy districts from the small and mid-sized district adjustment. The bill creates a 15-member select committee to review the public school finance weights, allotments, and adjustments, sets forth its composition, meeting requirements, and additional duties, and requires the committee to issue a report not later than December 1, 2010.

House Bill 3646 allows a district to adopt a budget after adopting a tax rate for the tax year in which the fiscal year covered by the budget begins if it adopts the tax rate before receiving the certified appraisal roll for the district; a district that adopts a tax rate before adopting the budget must hold a public hearing on the proposed tax rate followed by another public hearing on the proposed budget rather than holding a single hearing on the two items.

House Bill 3646 requires each district to adopt a policy governing expenditures of local funds from vending machines, rentals, gate receipts, or other local revenue sources over which it has direct control and sets forth requirements for such a policy.

House Bill 3646 allows the SBOE to reserve a percentage of the cost value of the permanent school fund (PSF) from use in guaranteeing school district bonds, and it allows a district and a local college or university to contract for the district to contribute toward the costs of an instructional facility, stadium, or other athletic facility owned or controlled by the college or university if the contract authorizes the district's use of the facility.

House Bill 3646 establishes an intercept program, backed by Foundation School Program (FSP) appropriations other than specific school district appropriations, to provide credit enhancement for district bonds if a district's application for a PSF bond guarantee is rejected. The bill authorizes the commissioner of education to establish an open-enrollment charter school facilities credit enhancement program, and to allocate up to one percent of FSP appropriations for this purpose, to assist charter holders in obtaining financing for real property and facilities acquisitions and improvements; but it prohibits the program's implementation unless private matching funds are committed to the program for at least the first 10 years of the term of obligations for which credit enhancement is provided. The bill establishes a permanent roll-forward of the instructional facilities allotment.

House Bill 3646 amends the Election Code, Government Code, Insurance Code, and Tax Code to make conforming changes, and amends the Transportation Code to require a district to comply with school bus seat belt requirements only to the extent TEA pays or commits to pay the district for expenses incurred in compliance. Effective June 19, 2009, if for the preceding tax year a district adopted an M&O tax rate that was less than its effective M&O rate for that preceding tax year, the bill amends the Tax Code to provide for calculation of a district's rollback tax for the current year as if the district had adopted an M&O tax rate for the preceding tax year equal to its effective M&O tax rate for that preceding tax year.

Except as noted above, the bill's provisions take effect September 1, 2009, but provisions relating to grants for special education take effect only if a specific appropriation for the implementation of those provisions is provided in a general appropriations act of the 81st Legislature.

**House Bill 4540**

**Effective:** See below

**House Author:** Raymond

**Senate Sponsor:** Zaffirini

House Bill 4540 amends the Education Code to authorize the Commissioners Court of Webb County to develop or sell the rights to natural resources or minerals in lands held in trust by Webb County and to enter into an agreement as described by provisions of the Texas Constitution relating to the distribution of the permanent school fund.

House Bill 4540 takes effect December 1, 2009, contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 142.

## Specialized Curricula and Programs

**House Bill 130**

**Effective:** Vetoed

**House Author:** Patrick, Diane et al.

**Senate Sponsor:** Zaffirini et al.

House Bill 130 amends the Education Code to require the commissioner of education, using funds appropriated for the purpose, to establish a program under which grants are awarded to school districts to implement an enhanced quality full-day prekindergarten program for children who are otherwise eligible for a district's half-day prekindergarten classes. The bill establishes priorities for the awarding of grants to school districts for each school year and establishes class size limits for prekindergarten classes implemented through the program. The bill requires each class to have at least one certified teacher with specified credentials in early childhood education, but if no certified teacher is available and program services are provided by a community provider under a contract with the district, it allows the provider to employ temporarily a teacher certified by the Council for Professional Recognition as a child development associate who has a minimum of three years' experience in early childhood education and is taking one or more college education courses emphasizing early childhood education. However, the provider must employ a properly credentialed teacher not later than the contract's third anniversary date. The bill requires a district to select and implement a curriculum that includes the prekindergarten guidelines established by the Texas Education Agency (TEA).

The bill requires a district providing an enhanced program to use at least 20 percent of its grant funds to contract with one or more eligible community providers for program services unless the commissioner waives that requirement on a documented showing that the area does not have a sufficient number of eligible providers, that the district did not receive applications or other indications of interest from eligible providers, or that the district and eligible providers interested in contracting with the district were unable to reach an agreement.

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House Bill 130 sets forth specific eligibility criteria for a community provider to contract with a school district to provide an enhanced full-day prekindergarten program and requires a district and a provider contracting for program services to enter into a written contract governing the services to be provided. The bill establishes that the amount of reimbursement provided by a school district to a provider is negotiable between the district and the provider based on the services provided, subject to a minimum per-student reimbursement level imposed by the formula set forth in the bill. The bill prohibits a provider from denying enhanced program services to a student on the basis of race, religion, sex, ethnicity, national origin, or disability.

House Bill 130 imposes certain annual reporting requirements on a school district operating an enhanced program and requires TEA to collect and maintain information reported by a school district relating to certain reading diagnoses and information from the statewide standardized test given to students in the third grade; it also requires TEA to produce longitudinal student performance reports using student-level information collected for consecutive grade levels and to make the reports available to parents and the public. The bill requires the Legislative Budget Board to conduct, or contract for, an evaluation of the effectiveness of the enhanced program using the information reported to and collected by TEA and to deliver an interim report to the legislature containing the evaluation's preliminary results not later than December 1, 2012. The bill also sets forth the commissioner's duties regarding the role of regional education service centers in assisting school districts that participate in the enhanced program and regarding a determination of the amount of each grant awarded under the program, which is capped at \$4 million per district or open-enrollment charter school per year.

House Bill 130 also extends the existing requirement for students in kindergarten through grade five to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year either as part of the district's physical education curriculum or through structured daily recess activity to a student enrolled in full-day prekindergarten and, to the extent practicable, to a student enrolled in prekindergarten on less than a full-day basis in the same manner and degree as a student in full-day prekindergarten.

Reason Given for Veto: "House Bill No. 130 would create a grant program to enable eligible school districts to implement or continue full-day prekindergarten programs. Eligibility would be limited to districts whose third grade students have scored above the state average on the reading portion of the Texas Assessment of Knowledge and Skills (TAKS) for the past three years. Of those eligible districts, any previous recipients of pre-kindergarten grant funding from the Texas Education Agency (TEA) would receive funding priority.

"With limited state resources dedicated to pre-kindergarten, grant money should be directed to districts with the greatest academic need. State funding should also be directed to programs demonstrating the most efficiency, thereby benefiting the largest number of Texas students.

"Pursuant to my veto of House Bill No. 130 and approval of the state budget, the \$25 million appropriated for House Bill No. 130 should be used to expand the number of students served by the existing grant program. As a result, TEA will be equipped to provide assistance to half-day pre-kindergarten programs in districts whose third graders have scored below the state average on the reading portion of TAKS for the past three years.

"Under the funding formula for the existing grant program, \$25 million would serve more than 27,000 students over the next biennium, which is 21,000 students more than the estimated 6,800 students that would have been served under the bill's proposed program – or a 305 percent increase. Expanding our current grant program, rather than creating an additional pre-kindergarten program, will serve more students with greater needs."

**House Bill 136**  
**Effective:** 9-1-09

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

House Bill 136 amends the Education Code to require the Texas Education Agency (TEA) to develop joint strategies with other state agencies to increase community awareness of prekindergarten programs through programs that provide public assistance information. The bill authorizes the agency to develop outreach materials for use by school districts to increase such awareness, requires each district to report annually to TEA the strategies implemented to increase awareness of prekindergarten programs available in that district, and authorizes the combination of that report, at the discretion of the commissioner of education, with another report that the district submits to TEA. The bill requires TEA to post a school district's report on TEA's Internet website not later than the 90th day after the date the agency receives the report.

House Bill 136 requires TEA to provide districts with information regarding effective methods of communicating the availability of prekindergarten programs to the parent of an eligible child. The bill requires TEA, not later than December 1, 2010, to submit a report detailing the strategies developed to the legislature's presiding officers and to the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education.

**House Bill 1297**  
**Effective:** 6-19-09

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

Previous law restricted flexible school day programs to students in grades 9 through 12 who had dropped out of school or were at risk of doing so or who attended a campus implementing a campus redesign or an approved early college high school plan. House Bill 1297 amends the Education Code to authorize a school district to apply to the commissioner of education to provide a flexible school day program for students in those circumstances regardless of grade level and to provide such a program also for students who, because of failure to meet all attendance requirements, will be denied credit for one or more classes in which the students have been enrolled. The bill authorizes such a student to enroll in a course in an optional flexible school day program offered during the school year or during the period in which school is recessed for the summer to enable the student to earn class credit that the student would not otherwise be able to receive without retaking the class.

The bill authorizes the commissioner to limit funding for the attendance of a student enrolled in a flexible school day program for the purpose of earning class credit to funding only for the attendance necessary for the student to earn class credit that, as a result of attendance requirements, the student would not otherwise be able to receive without retaking the class.

**House Bill 2263**  
**Effective:** 9-1-09

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

House Bill 2263 amends the Education Code to extend the high school innovation grant initiative to middle and junior high school campuses, making such campuses eligible for grants to support the implementation of innovative improvement programs based on the best available research regarding efforts at those levels in school reform, dropout prevention, and preparation of students for postsecondary coursework or employment.

**House Bill 3076**  
**Effective:** 6-19-09

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

House Bill 3076 amends the Education Code to authorize a school district to use the parenting and paternity awareness program developed for use in the district's high school health curriculum in the district's middle or junior high school curriculum as well. The bill authorizes a teacher, at

the discretion of the district, to modify the suggested sequence and pace of the program at any grade level. The bill authorizes a school district to develop or adopt research-based programs and curriculum materials for use in conjunction with the program, sets forth content guidelines for such programs and curriculum, and requires the Texas Education Agency to evaluate the district-developed programs and curriculum materials and to distribute information regarding those programs and materials to other school districts. The bill prohibits a student under 14 years of age from participating in such a program without the permission of the student's parent or person standing in parental relation to the student. The bill makes its provisions applicable beginning with the 2009-2010 school year.

**Senate Bill 283**

**Effective:** 9-1-09

**Senate Author:** Nelson et al.

**House Sponsor:** Shelton

Senate Bill 283 amends the Education Code to specify a minimum of five members to be appointed by a school district board of trustees to the district's local school health advisory council, to require a member who is a parent of a district student to serve as council chair or co-chair, and to require at least four council meetings per year. The bill requires a school district, before each school year, to provide written notice to a parent of each district student of the board of trustees' decision regarding whether the district will provide human sexuality instruction to district students. If instructions are provided, the notice must include a summary of the basic content of the human sexuality instruction to be provided to the student, including a statement informing the parent of the instructional requirements under state law; a statement of the parent's right to review curriculum materials and remove the student from any part of the instruction without subjecting the student to any disciplinary action, academic penalty, or other district or campus sanction; and information describing opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council.

The bill authorizes a parent to use the grievance procedure concerning a complaint of a violation of any notice requirements. The bill requires the local school health advisory council, in addition to performing other duties, to submit to the board of trustees, at least annually, a written report that includes any council recommendation concerning the school district's health education curriculum and instruction or related matters not previously submitted to the board; any suggested modification to a council recommendation previously submitted; and a detailed explanation of the council's activities during the period between the date of the current report and the date of the preceding report.

The bill requires the local school health advisory council, not later than April 1, 2010, to submit to the board of trustees, in lieu of the report that otherwise would be required, an initial written report that includes any required information and a detailed explanation of the council's activities during the 12-month period preceding the date of the report.

**Senate Bill 1219**

**Effective:** 6-19-09

**Senate Author:** Averitt et al.

**House Sponsor:** Deshotel

Senate Bill 1219 amends the Education Code to authorize a public school teacher, at the discretion of the school district, to modify the suggested sequence and pace of the parenting and paternity awareness program required as part of the high school health curriculum. The bill makes its provisions applicable beginning with the 2009-2010 school year.

**Senate Bill 1344**  
**Effective:** 6-19-09

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

Senate Bill 1344 amends the Education Code to require the State Board of Education, in adopting the essential knowledge and skills for the required health curriculum, to adopt essential knowledge and skills that address the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking and alcohol poisoning. The bill requires the Texas Education Agency to compile a list of evidence-based alcohol awareness programs from which a school district must choose a program to use in the district's middle school, junior high school, and high school health curriculum. The bill makes its provisions applicable beginning with the 2009-2010 school year.

**Senate Bill 2258**  
**Effective:** 6-19-09

**Senate Author:** Zaffirini  
**House Sponsor:** Hochberg

Previous law required the commissioner of education and the commissioner of higher education jointly to establish a pilot program to award grants to participating campuses for summer programs of intensive academic instruction to promote college and workforce readiness to students at risk of dropping out of school or college. Senate Bill 2258 amends the Education Code to provide separately for two pilot programs for public school students and college students at risk of dropping out of school or college, respectively. The bill requires the commissioner of education to establish a pilot program to award grants to campuses providing intensive academic instruction during the period in which school is recessed for the summer to at-risk public school students and requires the coordinating board to develop a pilot program to award grants to colleges and universities for intensive programs designed to address the needs of students at risk of dropping out of college. The bill authorizes the coordinating board to award a grant to an institution of higher education for such an intensive program for at-risk college students under the same conditions and criteria previously applicable to the award of grants for intensive academic instruction to facilitate a student's transition from high school to college when such programs were included in the predecessor pilot program jointly established by the two commissioners.

The bill also requires the coordinating board by rule to develop a higher education bridge program in the subject area of social science, in addition to the bridge programs in the subject areas of mathematics, science, or English language arts, and clarifies that the purpose of such development is to increase student success by reducing the need for developmental education. The bill removes a provision requiring that the coordinating board by rule develop financial assistance programs for educationally disadvantaged students who take college entrance and college readiness tests.

## **Student Health and Safety**

**House Bill 281**  
**Effective:** 6-19-09

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

Current law requires the commissioner of state health services, subject to the availability of federal or state funds, to administer a grant program to assist school districts with the costs of operating school-based health centers. House Bill 281 amends the Education Code to make local health departments, hospitals, health care systems, universities, or nonprofit organizations that contract with school districts eligible to receive grants under the same rules and conditions of eligibility. The bill sets the term of a grant at five years and authorizes a grant recipient to use grant funds to establish a new school-based health center, expand an existing center, or operate

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such a center. The bill prohibits the award of a program grant to a nonprofit organization that offers reproductive and contraceptive services, counseling, or referrals, or any other services that require an abortion facility license or is affiliated with an organization that holds such a license.

House Bill 281 requires the Department of State Health Services to submit a biennial report to the legislature rather than the annual report previously required and specifies additional emphases on the efficacy of services delivered by the centers on increased student immunization rates and increased student participation in preventive health measures. The bill also authorizes the department to modify any program requirement if necessary to comply with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996 and the Family Educational Rights and Privacy Act of 1974.

### **House Bill 1041**

**Effective:** 6-19-09

**House Author:** Parker et al.

**Senate Sponsor:** West et al.

House Bill 1041 amends the Education Code to require each school district to adopt and implement a policy addressing sexual abuse of children to be included in the district improvement plan and any handbook provided students and parents. Such a policy must address ways to increase awareness of issues regarding sexual abuse of children, including knowledge of likely warning signs that a child may be a sexual abuse victim; actions that such a child victim should take to obtain assistance and intervention; and available counseling options for students affected by sexual abuse.

The bill establishes a nine-member task force appointed by the governor, lieutenant governor, and speaker of the house of representatives consisting of individuals who are actively involved in the fields of the prevention of child abuse and neglect and child welfare and who reflect the geographic diversity of the state. The bill requires the task force to establish a strategy for reducing child abuse and neglect and for improving child welfare in Texas and sets forth requirements for the task force in establishing that strategy. The bill requires the task force to consult with employees of the Department of Family and Protective Services, the Department of State Health Services, and the Texas Department of Criminal Justice as necessary to accomplish its responsibility and authorizes the task force to cooperate as necessary with any other appropriate state agency. The bill requires the governor, lieutenant governor, and speaker of the house of representatives to appoint the members of the task force not later than October 1, 2009, and requires the task force to submit the strategic plan to the governor, lieutenant governor, and speaker of the house of representatives not later than November 1, 2010. The task force is abolished and the provisions of this bill expire on September 1, 2011.

### **House Bill 1322**

**Effective:** 6-19-09

**House Author:** Hochberg

**Senate Sponsor:** Watson

House Bill 1322 amends the Education Code to require the Texas Education Agency, in coordination with the Health and Human Services Commission, to establish and maintain an Internet website to provide resources for teachers who teach students with special health needs. The bill requires the website to contain information on the treatment, management, and impact of chronic illnesses and information about food allergies that are common among students, including information about preventing exposure to a specific food when necessary to protect a student's health and information on the treatment of a student suffering from an allergic reaction to a food.



**Senate Bill 891****Effective:** 6-19-09**Senate Author:** Nelson et al.**House Sponsor:** Eissler

Senate Bill 891 amends the Education Code to require that the mandatory physical education curriculum for public schools be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life. The bill requires the State Board of Education to ensure that the curriculum (1) emphasizes the knowledge and skills capable of being used during a lifetime of regular physical activity; (2) is consistent with national physical education standards for the information that students should learn about physical activity and the physical activities that students should be able to perform; (3) requires that, on a weekly basis, at least 50 percent of the physical education class be used for actual student physical activity at a moderate or vigorous level; (4) offers students multiple choices of physical activities in which to participate; (5) offers students both cooperative and competitive games; (6) meets the needs of students of all physical ability levels, including students who have a disability, chronic health problem, or other special need who might be able to participate in physical education that is suitably adapted and, if applicable, included in the student's individualized education program; (7) takes into account the effect that gender and cultural differences might have on the degree of student interest in physical activity or on the types of physical activity in which a student is interested; (8) teaches self-management and movement skills, cooperation, fair play, and responsible participation in physical activity; (9) promotes student participation in physical activity outside of school; and (10) allows physical education classes to be an enjoyable experience for students.

Senate Bill 891 extends the existing requirement for students in kindergarten through grade five to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year either as part of the district's physical education curriculum or through structured daily recess activity to a student enrolled in full-day prekindergarten and, to the extent practicable, to a student enrolled in prekindergarten on less than a full-day basis in the same manner and degree as a student in full-day prekindergarten.

Senate Bill 891 requires each school district to establish specific objectives and goals it intends to accomplish through the physical education curriculum, including, to the extent practicable, student/teacher ratios that are small enough to achieve the curriculum's purposes and requirements and to ensure the safety of students participating in physical education. The bill requires a district to identify specifically the manner in which student safety will be maintained if the district establishes a student/teacher ratio greater than 45 to 1 in a physical education class. The bill's provisions apply beginning with the 2009-2010 school year.

**Senate Bill 892****Effective:** 6-19-09**Senate Author:** Nelson**House Sponsor:** Shelton

Senate Bill 892 amends the Education Code to require the mandatory campus improvement plan for an elementary, middle, or junior high school to set goals and objectives for the coordinated health program at the campus based on student fitness assessment data, student academic performance data, student attendance rates, the percentage of students who are educationally disadvantaged, the use and success of any method to ensure that students participate in moderate to vigorous physical activity as required under the public education curriculum, and any other indicator recommended by the local school health advisory council. The bill makes its provisions applicable beginning with the 2009-2010 school year.

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

House Bill 8 - Taxes and Tax Administration

House Bill 339 - Transportation

House Bill 1191 - Public Retirement Systems

House Bill 1801 - Taxes and Tax Administration

House Bill 2425 - Higher Education

House Bill 2480 - Higher Education

House Bill 4102 - Emergency Response

Senate Bill 1107 - Transportation

Senate Bill 1798 - Higher Education

Senate Bill 2274 - Taxes and Tax Administration

## Public Officials and Employees

This chapter covers legislation relating to elected and appointed officials, court personnel, and other public employees, including qualifications, rights, benefits, compensation, standards of conduct, and personal financial disclosure, and legislation relating to lobbying public officials and employees. This chapter includes bills on public safety personnel, except that bills on the qualifications, training, and duties of peace officers are in the **Law Enforcement** chapter. Bills relating to a public employee's retirement investments are in this chapter, while bills on public pension systems are in the **Public Retirement Systems** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 605**

**Effective:** 9-1-09

**House Author:** Farabee et al.

**Senate Sponsor:** Estes

House Bill 605 amends the Government Code to include, as a factor in the determination of reimbursable mileage for a state employee's use of a personally owned or leased motor vehicle, the consideration of not only whether a travel route is cost-effective but whether it is reasonably safe. The bill establishes criteria that a state agency may consider in determining the most cost-effective reasonably safe route and removes language stating that the shortest route between two points is considered to be the most cost-effective route. Mileage under the bill may be determined by an employee's vehicle odometer reading or by a readily available electronic mapping service. The bill removes the requirement that the comptroller of public accounts periodically issue and update a mileage guide with a chart showing the number of miles for the shortest route between points. The bill establishes that a legislator's mileage reimbursement for the use of a personally owned or leased motor vehicle or the use of a rented or public conveyance is restricted to the most cost-effective route between the origin of the legislator's travel and the final duty point.

#### **House Bill 765**

**Effective:** 6-19-09

**House Author:** Hartnett

**Senate Sponsor:** Carona

House Bill 765 amends the Government Code to require a county commissioners court to annually pay a judge of a statutory probate court who has served continuously as a statutory probate court judge or a statutory county court judge since August 31, 1995, an amount, in addition to the judge's annual salary, that is equal to the amount of benefit replacement pay a district judge is entitled to receive for equivalent continuous service. The bill requires the commissioners court to pay to a statutory probate court judge who has served on a statutory probate court or statutory county court for at least 16 years, in addition to the judge's monthly salary, monthly longevity pay in an amount equal to the amount of longevity pay a district judge is entitled to receive for equivalent years of service.

#### **House Bill 1230**

**Effective:** 6-19-09

**House Author:** Farabee

**Senate Sponsor:** Harris

House Bill 1230 amends the Local Government Code to authorize counties with a population of 120,000 or more, rather than 500,000 or more, with certain exceptions, to set the amount of the compensation and allowances of a county auditor in an amount that exceeds the limit established by law if approved by the commissioners court of the county.

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### **House Bill 1285**

**Effective:** 6-19-09

**House Author:** Eiland et al.

**Senate Sponsor:** Huffman

House Bill 1285 amends the Government Code to add to the list of persons authorized to administer an oath in Texas and issue a certificate of the fact a former secretary of state, a former lieutenant governor, a former speaker of the house of representatives, a former governor, a former attorney general, and certain county employees who obtain information for a personal bond or for purposes of appointing counsel for an indigent defendant.

### **House Bill 1462**

**Effective:** 9-1-09

**House Author:** Pickett et al.

**Senate Sponsor:** Uresti

House Bill 1462 amends the Government Code to authorize a state employee to be granted leave not to exceed five hours each month to participate in mandatory training or perform volunteer services for Court Appointed Special Advocates without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time.

### **House Bill 1925**

**Effective:** 9-1-09

**House Author:** Gutierrez et al.

**Senate Sponsor:** Wentworth

House Bill 1925 amends the Government Code to remove language capping the salary of a court administrator of a court administrator system established in a county that has more than one county criminal court or more than one county court at law having both criminal and civil jurisdiction at 70 percent of the salary paid by the county to judges.

### **House Bill 3001**

**Effective:** 6-19-09

**House Author:** Homer

**Senate Sponsor:** Eltife

House Bill 3001 amends the Local Government Code to authorize the governing body of a Type A or B general-law municipality to consider longevity and cost of living in setting the salary of a municipal employee.

### **House Bill 3829**

**Effective:** 6-19-09

**House Author:** Thompson

**Senate Sponsor:** Harris

House Bill 3829 amends the Alcoholic Beverage Code to provide that members of the Texas Alcoholic Beverage Commission receive per diem as provided by the General Appropriations Act, rather than per diem of \$10 a day, while attending commission meetings or otherwise engaged in the performance of their duties.

### **Senate Bill 497**

**Effective:** 9-1-09

**Senate Author:** Wentworth

**House Sponsor:** Hartnett

Senate Bill 497 amends the Government Code to require a county judge to file an affidavit with the comptroller of public account's judiciary section to receive a \$15,000 annual supplement from the state. The bill requires the comptroller's judiciary section to pay the compensation of a district judge who presides over asbestos-related or silica-related multidistrict litigation cases.

Senate Bill 497 authorizes a county commissioners court to provide longevity pay to an active state judge or justice who is a member of the Judicial Retirement System of Texas Plan One or Plan Two and who meets certain requirements, sets forth the longevity pay calculation, and provides that such pay is not included as part of the judge's combined salary from state and county sources for purposes of salary limitations.

**Senate Bill 654**  
**Effective:** 6-19-09

**Senate Author:** Zaffirini  
**House Sponsor:** Guillen

Current law entitles county employees in a county with a population of 75,000 or more and municipal employees in a municipality with a population of 25,000 or more to purchase continued health coverage upon retirement if those employees are entitled to receive retirement benefits from their respective county or municipal retirement plans. Senate Bill 654 amends the Local Government Code to extend this entitlement to purchase continued health coverage upon retirement to employees who retire from an appraisal district in a county with a population of 75,000 or more and who are entitled to receive retirement benefits from the appraisal district's retirement plan. This change applies to all eligible persons who leave employment with an appraisal district on or after January 1, 2010.

**Senate Bill 745**  
**Effective:** 9-1-09

**Senate Author:** Duncan  
**House Sponsor:** Solomons

Senate Bill 745 amends the Government Code to authorize a state agency's chief administrator to electronically communicate the required advance written approval for any travel related to official state business for which a reimbursement for travel expenses is claimed or for which an advance for travel expenses to be incurred is sought. The bill removes provisions that required a copy of the written approval to be submitted with a travel voucher to the comptroller of public accounts. It modifies provisions relating to the supportive information and documentation that must be submitted with a travel voucher.

**Senate Bill 812**  
**Effective:** 9-1-09

**Senate Author:** Hegar  
**House Sponsor:** Zerwas

Senate Bill 812 amends the Government Code to provide for the reimbursement of the official court reporters for the 506th Judicial District for actual and necessary expenses in an amount equal to the amount of reimbursement that would be provided to a public servant of the county in which the court is sitting if the public servant had incurred the expenses. The bill requires each county in the district to pay a portion of the reimbursement in the proportion that the county's population bears to the district's total population.

**Senate Bill 970**  
**Effective:** 6-19-09

**Senate Author:** Seliger  
**House Sponsor:** Phillips

Senate Bill 970 amends the Transportation Code to require the executive director of the Texas Department of Transportation (TxDOT) to be experienced and skilled in transportation planning and development and in organizational management, rather than a registered professional engineer in Texas and experienced and skilled in transportation planning, development, construction, and maintenance. The bill specifies that these provisions do not affect the right of the person serving as executive director of TxDOT on the effective date of the bill to continue to serve as the executive director.

**Senate Bill 1081**  
**Effective:** 6-19-09

**Senate Author:** Huffman  
**House Sponsor:** Branch

Senate Bill 1081 amends the Government Code to entitle the office of the attorney general to obtain from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information that relates to a person who is an applicant for a position of employment with the office, who is an applicant to serve as a consultant, intern, or volunteer for the office, or who proposes to enter into a contract

## Public Officials and Employees

with or who has a contract with the office to supply goods or services to the office. The bill prohibits the release or disclosure of such criminal history record information obtained by the attorney general with certain exceptions and requires the office to destroy such information after use.

### **Senate Bill 1439**

**Effective:** 9-1-09

**Senate Author:** Watson

**House Sponsor:** Leibowitz

Senate Bill 1439 amends the Government Code to add special counsel, or any other person appointed by the State Commission on Judicial Conduct to assist the commission in performing the duties of the commission, to the list of persons entitled to necessary expenses for travel, board, and lodging incurred in the performance of official duties.

### **Senate Bill 2298**

**Effective:** 6-19-09

**Senate Author:** Watson

**House Sponsor:** Farabee

Senate Bill 2298 amends the Government Code to remove a prohibition against a state employee's personal residence being considered the employee's regular or temporarily assigned place of employment. It authorizes an employee to accumulate compensatory time for hours worked during any calendar week at that residence if the employee obtains the advance approval of the employing agency's administrative head or designee. The bill authorizes a state employee who is not an employee of the legislative branch or lieutenant governor, with authorization from the administrative head or designee, to be paid for hours of compensatory time the employee earns for work directly related to a disaster or emergency declared by the appropriate officer of the state or federal government. It authorizes such an employee who is employed by a state mental health or mental retardation facility, with such authorization, to be paid for any unused compensatory time if the employing agency determines that taking the compensatory time off would disrupt the agency's normal business function. The bill specifies that the six-month limitations relating to merit salary increases and one-time merit payments do not apply if the agency's administrative head determines that the payment is made in relation to the employee's performance during a natural disaster or other extraordinary circumstance. The bill amends the Education Code similarly to specify that, for an employee who has been with an institution of higher education for more than six months, the requirement that six months elapse between merit salary increases does not apply to a one-time merit payment if the institution's chief administrative officer reaches a like determination relating to a natural disaster or extraordinary circumstance.

Other Government Code provisions entitle a retired judge appointed to a multidistrict litigation pretrial court to receive the same compensation and benefits to which a district judge is entitled.

## **Ethics, Reporting, and Disclosure**

### **House Bill 677**

**Effective:** 9-1-09

**House Author:** Hartnett

**Senate Sponsor:** Wentworth

House Bill 677 amends the Government Code to require the Texas Ethics Commission to adopt rules prescribing procedures for investigating and resolving technical and clerical violations of laws within the commission's jurisdiction. For lobbyist registrations and reports, the bill requires the commission to consider clerical violations to include obvious typographical errors and authorizes a registrant to correct such errors without penalty. The bill requires an individual, to be eligible to file a sworn complaint with the commission, to be a resident of

Texas or own real property in Texas and requires a copy of one of the specified identification documents to be attached to the complaint. The bill provides that a complainant is liable for the respondent's attorney's fees and costs incurred in defending against the complaint if the commission determines that a violation has not occurred and the complaint was filed after the 30th day before an election, the respondent is a candidate in the election, and the complaint alleges a violation other than a technical or clerical violation.

**House Bill 3216**  
**Effective:** 6-19-09

**House Author:** Naishtat  
**Senate Sponsor:** Zaffirini

House Bill 3216 requires the Texas Ethics Commission to immediately attempt to notify by telephone or electronic mail the respondent to a complaint filed with the commission, in addition to the existing requirement to notify the complainant and the respondent in writing within five business days of the filing of the complaint.

**House Bill 3218**  
**Effective:** 6-19-09

**House Author:** Naishtat  
**Senate Sponsor:** Zaffirini

House Bill 3218 amends the Government Code to require the Texas Ethics Commission to adopt a form for sworn complaints and prescribes the types of contact information for the complainant and respondent that must be provided on the form. The bill requires an individual to be a Texas resident to be eligible to file such a complaint, requires a copy of one of certain specified forms of identification to be attached to the complaint, and requires the commission, at any stage of a complaint proceeding, to dismiss the complaint if the commission determines that the complaint was filed at the direction or urging of a person who is not a Texas resident. The bill also requires the commission, in the case of a rejected complaint, to send the complainant a statement of why the complaint was rejected and a copy of the rejected complaint along with the written notice required by state law.

**House Bill 3445**  
**Effective:** 9-1-09

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

House Bill 3445 amends the Government Code to establish that a person is not required to register as a lobbyist with the Texas Ethics Commission solely because the person receives or is entitled to receive compensation or reimbursement to communicate as an employee of a vendor of a product or service to a member of the executive branch concerning state agency purchasing decisions that do not exceed \$10 million involving a product, service, or service provider or negotiations regarding such decisions. If the decision exceeds \$10 million, the bill extends the exemption to such an employee or to a person who communicates in a capacity other than as such an employee, if the person's compensation is not totally or partially contingent on the outcome of any administrative action. The bill also extends the exemption if the person receiving the compensation communicates as a member of an advisory committee or task force and has been appointed by a member of the legislative or executive branch or if the person communicates as a member of a board, task force, or advisory committee on which a member of the legislative or executive branch serves. The bill provides that a registered lobbyist who performs any such activities is exempt from certain commission reporting requirements concerning those activities. The bill sets January 1, 2010, as the date by which a person who must register as a lobbyist with the commission solely as a result of these changes in law is required to do so, and sets \$50 as the registration and renewal fee.

House Bill 3445 establishes that the law prohibiting a person from accepting employment or rendering service to influence legislation or administrative action for compensation that is totally

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or partially contingent on the passage or defeat of any legislation, the governor's approval or veto of any legislation, or the outcome of an administrative decision does not apply to a sales commission payable to an employee of a vendor of a product or service if the amount of the state agency purchasing decision does not exceed \$10 million. The law also does not apply to a quarterly or annual compensation performance bonus payable to the employee or to certain commissions or fees paid to an independent contractor of a vendor or paid to a person by a state agency if certain disclosure requirements and other conditions are met. If the amount of compensation or fee payable to an independent contractor is not known at the time of the required disclosure, the registrant must provide other specified information to the commission. The bill establishes that its provisions do not apply to real estate transactions for properties owned or managed by the permanent school fund or General Land Office. The bill provides that a person registered with the commission is not ineligible to participate in certain contracts, funds, or grants if the person had to register solely because the person communicated directly with a member of the executive branch to influence an administrative decision regarding a state agency's purchase of products or services.

House Bill 3445 amends the Health and Safety Code to provide that a person registered with the commission is not ineligible to be awarded a contract by the commissioner of public health relating to the public awareness campaign to reduce tobacco use by minors or to participate in the campaign if the person had to register with the commission solely because the person communicated directly with a member of the executive branch to influence an administrative decision regarding a state agency's purchase of products or services.

**House Bill 3602**  
**Effective:** 6-19-09

**House Author:** Paxton  
**Senate Sponsor:** Hegar

House Bill 3602 amends the Local Government Code to permit a county clerk, at the request of a person required to file a financial statement with the Texas Ethics Commission, to use electronic mail to provide copies of the financial statement form to the requestor.

**House Bill 3922**  
**Effective:** 6-19-09

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

House Bill 3922 amends the Election Code to authorize the Texas Ethics Commission to provide notice of deadlines for filing reports for a candidate, officeholder, specific-purpose committee, or general-purpose committee by electronic mail and to provide that the public information law does not apply to a filing deadline notification sent in that manner.

**Senate Bill 585**  
**Effective:** 9-1-09

**Senate Author:** Carona  
**House Sponsor:** Kent

Senate Bill 585 amends the Transportation Code to prohibit a policy board member or employee of a metropolitan planning organization from accepting or soliciting any gift, favor, or service that might reasonably tend to influence the member or employee in the discharge of official duties or that the member or employee knows or should know is being offered with the intent to influence the member's or employee's official conduct; accepting other employment or engaging in a business or professional activity that the member or employee might reasonably expect would require or induce the member or employee to disclose confidential information acquired by reason of the official position; accepting other employment or compensation that could reasonably be expected to impair the member's or employee's independence of judgment in the performance of the member's or employee's official duties; making personal investments that could reasonably be expected to create a substantial conflict between the member's or



employee's private interest and the public interest; or intentionally or knowingly soliciting, accepting, or agreeing to accept any benefit for having exercised the member's or employee's official powers or performed the member's or employee's official duties in favor of another.

The bill requires each policy board to establish an ethics policy consistent with these prohibitions and to distribute a copy of the ethics policy to each employee and policy board member. The bill establishes provisions relating to violation of a prohibition or a related ethics policy.

**Senate Bill 1807**  
**Effective:** 6-19-09

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

Senate Bill 1807 amends the Government Code to authorize the Texas Ethics Commission, after its required initial written notice regarding the filing of a sworn complaint has been sent to a person by registered or certified mail, restricted delivery, return receipt requested, to send any additional notices regarding the complaint by regular mail unless the person requests that the commission send all notices by the same method as the initial notice.

**Senate Bill 2468**  
**Effective:** Vetoed

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

Senate Bill 2468 amends the Local Government Code to prohibit a former local government officer in a county with a population of 3.3 million or more from communicating with or appearing before an officer or employee of the governing body on or under which the former officer served before the second anniversary of the date on which that officer ceased to serve on or under the governing body if the communication or appearance is made with the intent to influence and made on behalf of any person in connection with any matter on which the person seeks official action. The bill also prohibits a former local government officer from representing any person or receiving compensation for services rendered on behalf of any person regarding a particular matter in which the former officer participated during the period of service as a local government officer. The bill makes it a Class C misdemeanor to violate such prohibitions.

Reason Given for Veto: "Senate Bill No. 2468 is a piecemeal approach to addressing the issue of lobbying at the county and municipal level. The bill's restrictions on local government officers only apply to Harris County. However, if local lobbying is an issue for one Texas political subdivision, then the legislature should consider the issue on a state-wide basis to avoid creating differing and confusing standards of ethical conduct. The Texas Constitution prohibits criminal penalties that apply in one part of the state but not in other parts. This bill would have created that unconstitutional situation.

"The regulation of lobbying by former state officers and employees is governed by Government Code Section 572.054, which is under the jurisdiction of the Ethics Commission. I urge the sponsors of this bill to work with the Ethics Commission over the interim to develop appropriate language, similar to that found in Section 572.054, for legislative consideration that would apply uniform lobbying standards to all levels of Texas government."

## Public Safety Personnel

**House Bill 1146**  
**Effective:** 6-19-09

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

House Bill 1146 amends the Local Government Code to establish criteria for determining the hours worked during a week by a firefighter or member of a fire department in a municipality with a population of one million or more that has not adopted the municipal civil service law for firefighters and police officers. The bill provides that for such purposes, including for the purpose of calculating overtime hours worked, all hours are counted as hours worked during

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which the firefighter or member of the fire department is required to remain available for immediate call to duty by continuously remaining in contact with the fire department office by telephone, pager, or radio or is taking any authorized leave, including attendance incentive leave, vacation leave, holiday leave, compensatory time off, jury duty, military leave, or leave because of a death in the family.

### **House Bill 1177**

**Effective:** 9-1-09

**House Author:** Guillen et al.

**Senate Sponsor:** Zaffirini

Under current law, a peace officer or firefighter employed by the state, by a municipality with a population of 200,000 or more, or by a county with a population of 500,000 or more is entitled to legislative leave to serve in, appear before, or petition a governmental body during a regular or special session of the body. House Bill 1177 amends the Government Code to extend the entitlement to legislative leave to include peace officers and firefighters employed by a municipality with a population of 50,000 or more or by a county with a population of 190,000 or more.

### **House Bill 1960**

**Effective:** 6-19-09

**House Author:** Maldonado et al.

**Senate Sponsor:** Lucio

House Bill 1960 amends the Local Government Code to require a county to pay a peace officer employed by the county for an appearance as a witness in a criminal suit, a civil suit, or an administrative proceeding in which the county or other political subdivision or government agency is a party in interest if the appearance is required, is made on time off, and is made by the peace officer in the capacity of a peace officer. The bill specifies that the payment is at the peace officer's regular rate of pay and may be taxed as court costs in civil suits, and that the provisions do not reduce or prohibit compensation paid in excess of the regular rate of pay.

House Bill 1960 also expands an existing provision that requires a municipality to pay a firefighter or police officer for an appearance as a witness in a criminal or civil suit under the same conditions described above for an appearance by a county peace officer to require a municipality to pay a municipal firefighter or peace officer also for an appearance at an administrative proceeding under those same conditions.

### **House Bill 2113**

**Effective:** 9-1-09

**House Author:** Walle et al.

**Senate Sponsor:** Gallegos

Current law requires a firefighter and a police officer in a municipality with a population of more than 25,000 to be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees. House Bill 2113 amends the Local Government Code to establish that, for a firefighter, at least one of those holidays shall be designated as September 11th.

### **House Bill 2168**

**Effective:** 9-1-09

**House Author:** Chavez et al.

**Senate Sponsor:** Watson

House Bill 2168 amends the Local Government Code to limit the authority of a sheriff's department civil service commission in rendering a final decision regarding a disciplinary action by the sheriff's department to sustaining, overturning, or reducing the disciplinary action and to prohibit the commission from enhancing a disciplinary action by the department.

**House Bill 2307**

**Effective:** 9-1-09

**House Author:** Davis, Yvonne

**Senate Sponsor:** Deuell

House Bill 2307 amends Local Government Code provisions relating to the local control of firefighter and police officer employment matters in a municipality with a population of one million or more that has not adopted either the Fire and Police Employee Relations Act or the firefighters' and police officers' civil service law. The bill makes the meet and confer agreements negotiated under those provisions applicable to firefighters and police officers who are employed by the municipality; are covered by the municipality's fire or police pension plan, respectively; and are classified by the municipality as nonexempt, and to firefighter and police officer employee groups in which firefighters and police officers participated and paid dues via automatic payroll deduction on or before September 1, 2007.

**House Bill 2580**

**Effective:** 6-19-09

**House Author:** Frost

**Senate Sponsor:** Deuell

House Bill 2580 amends the Labor Code to require the Texas Workforce Commission (TWC) to develop, maintain, and promote a statewide employment opportunity Internet website to facilitate public awareness of peace officer employment opportunities with state and local law enforcement agencies and an exchange of information between individuals seeking such employment and state and local law enforcement agencies seeking applicants. The bill also requires TWC to contract with the Commission on Law Enforcement Officer Standards and Education to develop a license verification interface to verify certain credentials of an applicant. The bill provides contingency requirements in the event that development and operation of the Internet website and the associated license verification interface is not possible due to a lack of available funding.

**House Bill 4560**

**Effective:** 9-1-09

**House Author:** Naishtat et al.

**Senate Sponsor:** Deuell

House Bill 4560 amends the Government Code to entitle a firefighter or emergency medical technician who is exposed to methicillin-resistant *Staphylococcus aureus* to receive notification of the exposure in the manner prescribed by law for notification of emergency personnel, peace officers, detention officers, county jailers, and firefighters regarding possible exposure to reportable communicable diseases.

**Senate Bill 461**

**Effective:** 5-30-09

**Senate Author:** Gallegos et al.

**House Sponsor:** Miklos

Under previous law, in certain municipalities the only age requirement for a person taking the entrance examination for a beginning position in the fire department was a requirement that the person be at least 18 years of age. Senate Bill 461 amends the Local Government Code to prohibit a person 36 years of age or older from taking the examination. These age restrictions apply to a municipality that has a population of 10,000 or more, has a paid fire department or police department, and has voted to adopt the municipal civil service law for firefighters and police officers or that adopted such civil service provisions and whose actions were validated by the Texas Legislature.

**Senate Bill 687**

**Effective:** 9-1-09

**Senate Author:** Hegar et al.

**House Sponsor:** Driver

Senate Bill 687 amends the Government Code to expand the injuries for which a peace officer is entitled to injury leave and related benefits to include an injury sustained due to the nature of

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the officer's duties and that occurs during the course of the officer's performance of duty, rather than only an injury resulting from an assaultive offense that occurs under those circumstances. An officer is not entitled to such injury leave if the officer's own gross negligence contributed to the officer's injury or the injury was related to the performance of routine office duties. The bill removes a provision excluding transportation to or from the person's designated headquarters or the site of an assignment from the course of performance of a person's duty.

### **Senate Bill 872**

**Effective:** 5-19-09

**Senate Author:** Lucio et al.

**House Sponsor:** Menendez

Senate Bill 872 amends the Government Code to entitle the eligible surviving spouses, dependents who are not minor children, and dependent minor children of certain law enforcement officers, firefighters, or other public servants killed in the line of duty to continue to purchase health insurance coverage until the eligible survivor is eligible for federal Medicare benefits, becomes eligible for group health insurance through another employer, or reaches the age of 18. The bill entitles an eligible survivor to obtain health insurance coverage at the rate paid by current employees of the employing entity, rather than purchasing the coverage at the group rate for that coverage that exists at the time of payment.

Senate Bill 872 adds a temporary provision, set to expire September 1, 2010, authorizing an eligible survivor of a deceased individual who was killed in the line of duty on or after September 1, 1993, who did not purchase such continued health insurance within the time allowed after the individual's death or who discontinued coverage after the death, to reapply for coverage at the same rate schedule and coverage options as would apply had the eligible survivor continued coverage after the individual's death, not later than March 1, 2010. The temporary provision also provides a 180-day grace period before an eligible survivor's health insurance benefits coverage in force on the date certain individuals are killed in the line of duty may lapse for failure to pay the premium.

### **Senate Bill 1474**

**Effective:** 9-1-09

**Senate Author:** Nichols

**House Sponsor:** McReynolds

Senate Bill 1474 amends the Government Code to authorize a state employee who is emergency services personnel as defined in the bill, who is not subject to the overtime provisions of the federal Fair Labor Standards Act of 1938, and who is not an employee of the legislature, to be allowed to take compensatory time off during the 18-month period following the end of the workweek in which the compensatory time was accrued. The bill authorizes the administrative head of a state agency that employs such an employee to pay the employee overtime at the employee's regular hourly salary rate for all or part of the hours of compensatory time off accrued by the employee during a declared disaster in the preceding 18-month period and requires the administrative head to reduce the employee's compensatory time balance by one hour for each hour the employee is paid overtime.

### **Senate Bill 1896**

**Effective:** 9-1-09

**Senate Author:** Gallegos

**House Sponsor:** Walle

Previous law authorized a firefighter or police officer employed by a municipality with a population of 1.5 million or more to file a grievance relating to the same aspects of the person's employment over which the civil service commission for employees not subject to the municipal civil service law for firefighters and police officers would have jurisdiction. Senate Bill 1896 amends the Local Government Code to authorize such a firefighter or police officer to file a grievance relating to any aspect of the person's employment covered under that municipal

civil service law. The bill changes the time frame within which such individual must begin a grievance action, giving the individual 30 days from the date the individual knew or should have known of the action or inaction for which the individual feels aggrieved occurred to file a completed step I grievance form rather than 30 days from the date the action or inaction occurred. The bill also requires the firefighter's or police officer's department head to sustain the individual's grievance if the individual's supervisor has not responded as required before the 16th day after the date of the meeting that must occur upon the filing of either a step I or step II grievance form.

Senate Bill 1896 also amends provisions relating to the local control of firefighter and police officer employment matters in a municipality with a population of one million or more that has not adopted either the Fire and Police Employee Relations Act or the firefighters' and police officers' civil service law. The bill makes the meet and confer agreements negotiated under those provisions applicable to firefighters and police officers who are employed by the municipality; are covered by the municipality's fire or police pension plan, respectively; and are classified by the municipality as nonexempt. The bill makes such agreements applicable to firefighter and police officer employee groups in which firefighters and police officers participated and paid dues via automatic payroll deduction on or before September 1, 2007.

Senate Bill 1896 authorizes a municipality that has a population of more than 200,000 but less than 250,000, is located in a county in which another municipality that has a population of more than one million is predominantly located, and whose emergency medical services are administered by a fire department to charge each customer served by a municipal water account a monthly fee for the costs of emergency medical services, including salary and overtime related to medical personnel, and to collect the fee in conjunction with the bill for water services.

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

- House Bill 3785 - Special Districts
- Senate Bill 522 - Public Education
- Senate Bill 1368 - Local Government
- Senate Bill 2072 - Local Government



## Public Retirement Systems

This chapter covers legislation on the Employees Retirement System of Texas, the Teacher Retirement System of Texas, local government retirement systems, judicial retirement systems, and public safety personnel retirement systems.

### Employees Retirement System

**House Bill 582****Effective:** 5-23-09**House Author:** Dukes**Senate Sponsor:** Van de Putte

House Bill 582 amends the Insurance Code to require the board of trustees of the Employees Retirement System of Texas to establish procedures by which a parent or guardian of a child who is no longer eligible for dependent child coverage because of an employee's termination of state employment is informed through the former employing state agency that the child may be eligible to receive similar benefits under the children's health insurance program or the Medicaid program and is provided information by that agency regarding how to apply for benefits under those programs. The bill requires the board to establish the procedures not later than December 1, 2009.

**House Bill 2283****Effective:** 9-1-09**House Author:** Truitt**Senate Sponsor:** Deuell

House Bill 2283 amends the Government Code to authorize the Employees Retirement System of Texas (ERS) board of trustees to add a qualified Roth contribution option to the TexaSaver Program under which an employee may designate all or a portion of the employee's contribution under a 401(k) plan as a Roth contribution at the time the contribution is made. If authorized by federal law, the ERS board also may provide an employee the option to designate all or a portion of the employee's contribution under a 457 plan as a Roth contribution at the time the contribution is made. Subject to a separate legislative appropriation for that purpose, the bill authorizes the ERS to make matching contributions to a 401(k) plan on behalf of participating employees solely from, and in an amount specified by, the appropriation.

**House Bill 2559****Effective:** 9-1-09**House Author:** Truitt**Senate Sponsor:** Duncan

House Bill 2559 amends provisions of the Government Code relating to the powers and duties of and benefits available under the Employees Retirement System of Texas (ERS). The bill authorizes the electronic transmission of an ERS record relating to members, annuitants, retirees, beneficiaries, and alternate payees, including survivors of certain law enforcement officers, firefighters, and state employees, and grants ERS sole discretion in determining whether a record is subject to provisions governing the release of confidential records.

House Bill 2559 establishes venue in Travis County for any action by or against ERS, the trustees, officers, or employees of ERS, or an administering firm, carrier, or other governmental agency acting in cooperation with or on behalf of ERS and a two-year statute of limitations for a claim against ERS or a trustee, officer, or employee, unless otherwise specifically provided by law. The bill authorizes the ERS executive director to cause an action for interpleader concerning a claim to be filed on ERS's behalf in a district court if the executive director determines that a claim may expose ERS to a liability. The bill prohibits a person from pursuing a counterclaim or other cause of action in connection with a transaction or occurrence related to the interpleader action and makes a person who violates this prohibition liable for costs and attorney's fees.

## Public Retirement Systems

House Bill 2559 specifies that the withdrawal of a law enforcement or custodial officer's accumulated contributions for service credited in the employee membership class includes all contributions to the law enforcement and custodial officer supplemental retirement fund and that such officer's standard or reduced annuity is payable from both the ERS trust fund and the law enforcement and custodial officer supplemental retirement fund in a ratio determined by ERS.

House Bill 2559 prohibits a member who retires from the employee class on or after May 31, 2009, from returning to state employment in the same membership class for 90 days after the original retirement, and it requires a state agency to pay to ERS a surcharge for each month that it employs a person who retires from the employee class on or after September 1, 2009, and is rehired as a retiree in a position that otherwise would include membership in that class.

House Bill 2559 includes provisions applicable only to an employee hired on or after September 1, 2009, who is not an ERS member on the hire date. The bill allows such a member or the member's beneficiary to use sick leave and annual leave only for purposes of calculating the member's or beneficiary's annuity; makes such a member eligible to retire and receive a service retirement annuity if the member is at least 65 years old and has at least 10 years of employee service credit or has at least five years of employee service credit and the sum of the member's age and service credit is equal to or greater than 80; and provides for the calculation of such a member's standard service retirement annuity based on the highest 48 months of salary multiplied by 2.3 percent for each year of service credit, reduced by five percent for each year the member retires before the member reaches age 60, with a maximum possible reduction of 25 percent. The bill also provides for adjusted retirement benefits for such a member who has at least 20 years of service credit as a law enforcement or custodial officer, including a standard combined service retirement annuity (based on the highest 48 months of salary multiplied by 2.3 percent per year of service credit plus 0.5 percent and subject to reduction for a retirement before the age of 55) payable from the two funds noted above.

House Bill 2559 establishes that, if ERS has not paid benefits as of the fourth anniversary of a member's or annuitant's death and a claim for benefits is not pending based on the death, the accumulated contributions of the deceased member or the balance of the reserve for the deceased annuitant reverts to ERS's benefit and is transferred to the state accumulation account. The bill authorizes ERS, if it has not received a demand for a refund of the accumulated contributions of a member before the seventh anniversary of the member's last day of service, to refund the accumulated contributions to the member or the member's heirs. If the member or heirs cannot be found, those contributions revert to ERS and are credited to the state accumulation account.

House Bill 2559 authorizes a person to select an optional service retirement annuity under ERS that provides, after the retiree's death, for three-fourths of the reduced annuity to be payable throughout the life of the person designated by the retiree before retirement.

House Bill 2559 prohibits a member otherwise eligible to receive a disability retirement annuity from receiving the annuity if the member is still earning a salary or wage from the employment for which the member is claiming disability or is on leave without pay from such employment. For purposes of a certification of disability, the bill sets out criteria for determining a member's incapacity for the further performance of duty and requires the employee's education, training, and experience to be considered when making such a determination.

House Bill 2559 authorizes ERS to issue a subpoena that conforms to the Texas Rules of Civil Procedure that ERS determines necessary to protect the interests of a program or system administered by ERS. The bill requires the ERS board of trustees, in acquiring private financial services, to make a good faith effort to acquire services from qualified emerging fund managers, and it requires ERS to report to the board on the methods and results of such efforts.



House Bill 2559 increases the member contribution rate from 6.0 percent to 6.5 percent for members of the employee class and requires an additional 0.5 percent contribution from each law enforcement or custodial officer for deposit in the law enforcement and custodial officer supplemental retirement fund.

House Bill 2559 requires the Judicial Retirement System of Texas Plan Two to refund any contributions, interest, or membership fees used to establish service credit that is not used in computing the amount of the annuity at the time a service or disability retirement or death benefit annuity becomes payable. For the purpose of establishing service credit for an office included in membership of that system, the term of a member leaving judicial office ends not later than December 31 regardless of the date on which the member's successor takes the oath of office.

House Bill 2559 amends the Insurance Code to authorize the surviving spouse of an individual or the surviving dependent of an annuitant to secure group health coverage without evidence of the person's insurability if the individual or annuitant was eligible to participate in the state employees group benefits program but was not participating at the time of the individual's death. The bill requires a surviving spouse or dependent to apply for the coverage not later than the 30th day after the eligible individual's death and to pay for the coverage at the group rate.

House Bill 2559 authorizes ERS to deposit to the credit of the fund any unclaimed money on a finding that a good faith effort has been made to locate the person entitled to the money, except in the circumstances where the amount payable escheats to the credit of the employees life, accident, and health insurance and benefits fund. The bill authorizes ERS to distribute a supplemental annuity payment on the state's behalf from money appropriated to ERS by the 81st Legislature, Regular Session, 2009. The bill authorizes the Department of State Health Services and ERS to enter into an interagency contract to establish a state employee pilot program consistent with federal guidelines for chronic disease prevention and wellness initiatives.

**Senate Bill 2577**

**Effective:** 9-1-09

**Senate Author:** Jackson, Mike

**House Sponsor:** Zerwas

Senate Bill 2577 amends the Insurance Code to require the board of trustees of the Employees Retirement System of Texas to develop a cost-neutral or cost-positive plan for providing under the group benefits program bariatric surgery coverage for employees eligible to participate in the program. The bill authorizes the board to adopt rules as necessary to implement such a plan and requires the board to implement the plan as soon as practicable, but not later than September 1, 2010.

## Other Retirement Systems

**House Bill 360**

**Effective:** 5-26-09

**House Author:** Kuempel et al.

**Senate Sponsor:** Williams

House Bill 360 amends the Government Code to provide the framework necessary to allow the Texas Municipal Retirement System to credit or charge net investment income or losses to participating municipalities and, consequently, to allow the system to mitigate increases in municipality contribution rates through higher investment returns, enhance investment risk practices, and continue diversifying its investment portfolio. The bill also requires the system's board of trustees, in adopting rates and tables, to set a guaranteed floor of five percent for interest credits to employee accounts and the discount rate used in the annuity purchase rate.

**House Bill 407**

**Effective:** See below

**House Author:** Kuempel

**Senate Sponsor:** Williams

House Bill 407 amends provisions of the Government Code relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System (TCDRS). The bill eliminates the fixed-rate plan option and requires all subdivisions participating in TCERS to adopt a variable rate funding arrangement, except for a county that began participation in TCERS before January 1, 1992, and has not adopted the provisions of a variable rate plan. The bill sets forth provisions regarding plan funding by such a non-adopting county and requires all employers that adopt the variable rate funding to adopt a maximum vesting period of 10 years and adopt rule of 80 retirement eligibility requirements. The TCERS board of trustees is authorized to adopt an updated actuarial table based on the recommendations of the retirement system's actuary and adopt rules that prescribe the methodology for the annual allocation of investment earnings or losses to employer accounts. The bill expands the board's auditing and investigatory authority with respect to TCERS. The bill authorizes TCERS to deduct from an annuity paid to a public safety officer or other eligible retiree qualified health care premiums and directly submit the premiums to the health plan provider on the retiree's behalf, in accordance with federal law.

House Bill 407 authorizes the former spouse of a divorced member to have annuity options independent of the election by the member, authorizes all employees covered under TCERS to claim up to five years of qualified military service time for vesting purposes, and clarifies that veterans eligible under the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) are allowed to claim up to five years of USERRA time in addition to qualified military service time. The bill extends the filing deadline for retirement applications, provides alternative time periods for administrative compliance by employers, applies changes consistent with federal guidelines to withdrawals of retirement account balances, and authorizes TCERS to recognize service associated with refunded accounts under another proportionate retirement program for retirement eligibility purposes.

Provisions relating to division of benefits on divorce and relating to plan funding by a non-adopting county take effect September 1, 2009; all other provisions take effect January 1, 2010.

**House Bill 1979**

**Effective:** 6-19-09

**House Author:** Rodriguez

**Senate Sponsor:** Watson

Under current law, a member of a municipal retirement system in a municipality having a population of more than 600,000 but less than 700,000 reaches "normal retirement age" at age 62 or at age 55 with 20 years of creditable service. House Bill 1979 amends the law relating to such municipal retirement systems to establish that a member also attains normal retirement age on completing 23 years of creditable service, regardless of age. The bill entitles a member who retires after reaching normal retirement age and returns to work with the employer in a position requiring participation in another retirement system to continue receiving the retirement allowance. The bill clarifies that a retiree who resumes regular full-time employment with an employer automatically resumes membership as an active contributory member if the current employment is in a position that is not required to participate in another retirement system sponsored by the employer. The bill conditions the suspension of the retirement allowance of a retiree returning to work on the position being one in which the employee is required to participate in the same retirement system.

**House Bill 2751****Effective:** 9-1-09**House Author:** Truitt**Senate Sponsor:** Duncan et al.

House Bill 2751 amends the Government Code to authorize an emergency services department participating in the Texas Emergency Services Retirement System to elect to include departmental support staff as members of the pension system on the same terms as all other department volunteers and authorizes a participating department that previously did not enroll its support staff as members of the pension system to purchase service credit performed before the date of the election under the terms required for the purchase of prior service credit for service performed before the department's participation in the retirement system. The bill authorizes the state board of the retirement system to charge interest on past-due contributions attributable to a correction of an error by a local board related to enrollment or qualified service and requires such interest charges to be deposited in the Texas emergency services retirement fund.

House Bill 2751 also authorizes the state board, by rule, to provide a death benefit to more than one beneficiary of a member whose death was not service-related, but it prohibits payment of a death benefit to a beneficiary convicted of causing the member's death and authorizes a delay of a benefit payment pending the results of a criminal investigation. The bill also requires the state board to designate a medical board composed of three physicians to investigate essential statements and certificates made by or on behalf of a pension system member in connection with an application for disability retirement or, as requested by the commissioner, with an application for an on-duty death benefit. The bill exempts the medical board from subpoena regarding findings it makes in assisting the commissioner and grants its members immunity from liability for any opinions, conclusions, or recommendations made under these provisions.

**House Bill 2796****Effective:** 9-1-09**House Author:** Strama**Senate Sponsor:** Watson

House Bill 2796 amends the law governing the police officers retirement system in a municipality having a population of more than 600,000 and less than 700,000 to raise the cap on compensation of each noneligible member that is taken into account by the retirement system in determining retirement benefits and benefit increases from \$150,000 to \$200,000 per calendar year, indexed pursuant to the federal Internal Revenue Code of 1986. The bill maintains the existing level of the city's contributions to the police retirement system at 18 percent of the basic hourly earnings of each member employed by the city for all periods on or before September 30, 2010, but increases the required level of contribution to 19 percent for each member employed by the city for all periods after September 30, 2010.

House Bill 2796 also requires the city to contribute amounts, in addition to the percentage of each member's basic hourly earnings as required by the proportionate retirement program, to fund the additional liabilities incurred by the retirement system as a result of participating in that program. The bill sets the rate of this additional required contribution at 0.25 percent of the basic hourly earnings of each member employed by the city for all periods from January 4, 2009, through September 30, 2009, and increases that rate to 0.63 percent for each member employed by the city for all periods after September 30, 2009. The amount of the additional contribution is subject to rate increases or decreases every five years as determined necessary by the retirement system's actuary to fund the system's additional liabilities incurred as a result of its participation in the proportionate retirement program and of the consolidation of the city's public safety and emergency management department with the police department in January 2009. The effective date of this initial contribution rate adjustment is October 1, 2015, and subsequent adjustments take effect October 1 every five years after that initial adjustment date. The bill prohibits a rate adjustment from causing the additional contribution rate to be less than zero.

## Public Retirement Systems

House Bill 2796 amends the law's provisions that limit benefit payments when the amount of any payment otherwise due or the total payments due under the bill's provisions and any other qualified defined benefit plan maintained by a city would exceed Internal Revenue Code limitations to make the benefit reductions required by the statute comply with applicable code provisions.

### **House Bill 2829**

**Effective:** 9-1-09

**House Author:** Rodriguez

**Senate Sponsor:** Watson

House Bill 2829 amends the law relating to the firefighters relief and retirement fund in cities with populations of more than 600,000 but less than 700,000 to require that nominations for election to the fund's board of trustees be received between September 1 and September 15, rather than between October 1 and October 15, and to require the board to adopt rules and perform reasonable activities it considers necessary or desirable to maintain the fund's qualified status under applicable provisions of the Internal Revenue Code of 1986.

House Bill 2829 makes information contained in records in the fund's custody concerning an individual member, retiree, annuitant, or beneficiary confidential and prohibits the disclosure of such information in a form identifiable with a specific individual except to certain individuals and under the circumstances enumerated in the bill. The bill authorizes a determination regarding the circumstances and a disclosure of such information to be made without notice to the individual member, retiree, annuitant, or beneficiary.

House Bill 2829 requires the board's actuary, in determining whether to approve an increase in the three percent factor that is applied to a member's average monthly compensation for purposes of determining a service retirement annuity, to take into consideration whether the fund has reserves sufficient to enable the payment of a cost-of-living adjustment to all current members and survivors at a level equal to the average percentage increase in the Consumer Price Index for All Urban Consumers as determined by the U.S. Department of Labor for the 10 annual periods preceding the proposed effective date of the change.

House Bill 2829 establishes that, for purposes of a surviving spouse's entitlement to a monthly benefit from the fund, and with respect to an informal marriage established in Texas, a surviving spouse is considered married to a retiree as of the date a declaration of informal marriage was recorded in accordance with certain provisions of the Family Code.

House Bill 2829 establishes a method for providing cost-of-living adjustments in a retiree's or survivor's monthly benefit based on a collective adjustment amount as described in the bill. The bill provides for the cost-of-living adjustment to take effect at any time during a given calendar year, as determined by the board, and prohibits such adjustment from reducing a person's benefit below the amount of the person's initial benefit. The bill establishes the method for determining the collective adjustment amount and provides for a reduction or increase in that amount, if applicable, under the conditions set forth in the bill.

House Bill 2829 removes provisions relating to permitted investments of the fund and instead authorizes the board of trustees in its sole discretion to invest, reinvest, or change the fund's assets, requires the board to invest the funds in whatever instruments or investments it considers prudent, and establishes a prudent person standard for the board in making investments for the fund. House Bill 2829 requires the board, as soon as practicable after September 1, 2009, to adopt and maintain a written investment policy regarding the investment of fund assets. The bill prohibits the board from amending the policy unless the proposed amendment is approved by a majority of the board members at not fewer than three regular board meetings.

**Senate Bill 1063**  
**Effective:** 5-27-09

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

Senate Bill 1063 amends the Government Code to authorize an employee who has combined service in both a municipal retirement system in a municipality with a population of not less than 600,000 nor more than 700,000 and a retirement system established by a hospital district, by a charitable organization created by such a district, or by an administrative agency, and who is a member of a retirement system participating in the proportionate retirement program, to reestablish service credit previously canceled in another retirement system participating in the program if the person does not have an open account with the employing hospital district, charitable organization, or administrative agency, as applicable, for which the person performed the service for which the credit is sought. The bill makes provisions for reestablishing service credit in the Texas County and District Retirement System and the Texas Municipal Retirement System applicable to the reestablishment of service credit in a retirement system in which a hospital district, charitable organization, or administrative agency participates. The bill clarifies the status of such charitable organization or administrative agency as an agency or instrumentality of a governmental unit for purposes of its retirement system's eligibility to participate in the proportionate retirement program.

Senate Bill 1063 amends the Health and Safety Code to authorize a hospital district created in a county with a population of more than 800,000 that was not included in a hospital district's boundaries before September 1, 2003, to provide or arrange to provide health care services for eligible residents through the purchase of health coverage or other health benefits. The bill establishes that, for the purpose of such authorization, the hospital district's board of managers has the powers and duties provided to a county commissioners court under provisions governing regional or local health care programs for employees of small employers.

**Senate Bill 1628**  
**Effective:** 10-1-09

**Senate Author:** Wentworth  
**House Sponsor:** McClendon

Senate Bill 1628 amends the law relating to police and firefighter retirement systems in municipalities with a population between 1.14 million and 1.18 million to authorize the fire chief or police chief to make an irrevocable election to not become a member of the firefighters and police officers pension fund except that a person who was a member of the fund at any time during the two years preceding the date the chief assumes office may not make such an election. The election must be made not later than the 30th day after the date the chief assumes office, and a chief who does not make an election becomes a member of the fund.

The bill also authorizes a member employed for a probationary period by a municipality to elect to purchase one month of service credit for each full month in the member's probationary period, up to a maximum of 10 months, and establishes the terms and conditions of such a purchase. That election must be made on or before December 31, 2009, and the required payment must be paid to the fund on or before September 30, 2010.

Senate Bill 1628 amends the cap on the amount of the lump-sum payment for a member electing a Backward Deferred Retirement Option Plan (Back DROP) so that the number of full months of service for which the member is paid does not exceed the lesser of the number of months of service credit the member has in excess of 20 years or 60 months, rather than 48 months as previously provided.

Senate Bill 1628 exempts a retiree who is 65 years of age or older as of December 31 of the previous year from the requirement for each disability retiree to provide the board not later than May 1 of each year with a copy of the retiree's income tax return for the previous year.

## Public Retirement Systems

Senate Bill 1628 extends the application of the existing formula for calculating cost-of-living adjustments in an annuity for a member whose retirement or preretirement death occurred on or after August 30, 1971, but before October 1, 1997, to apply to an annuity for a member whose retirement or death occurred before October 1, 1999, and it makes such cost-of-living increases inapplicable to a death benefit annuity for the surviving spouse of a retiree whose death occurs on or after October 1, 2009, until the annuity becomes effective.

If a deceased member or retiree is survived by both a spouse and at least one dependent child, the bill increases the surviving spouse's share of any death benefit annuity awarded from one-half to 75 percent and decreases the share awarded to the dependent child or children from one-half to 25 percent. The 75-25 allocation is effective with respect to all annuities that are payable in part to a surviving spouse and in part to one or more surviving children as of October 1, 2009. If, at the time a death benefit annuity becomes payable, the surviving spouse is not entitled to an annuity, the bill requires that the dependent child or children be awarded 100 percent of the death benefit annuity until the annuity to the surviving spouse becomes effective. A surviving spouse is entitled to a death benefit when it becomes payable if the surviving spouse is 55 years of age or older on the date of the retiree's death; if the surviving spouse is not 55 years of age or older on the date of the retiree's death, the spouse's annuity becomes payable on the date the surviving spouse reaches age 55. A surviving spouse who is not 55 years of age or older on the date of the retiree's death is not entitled to benefits from the date of the retiree's death until the surviving spouse reaches age 55.

## Teachers Retirement System

### **House Bill 451**

**Effective:** 9-1-09

**House Author:** Allen et al.

**Senate Sponsor:** Lucio

House Bill 451 amends the Insurance Code to require a health benefit plan at a minimum to provide coverage to an enrollee who is diagnosed with autism spectrum disorder from the date of diagnosis until the enrollee completes nine years of age, rather than to an enrollee who is older than two years of age and younger than six years of age, and to make a conforming change to a provision relating to the continuation of such coverage to an enrollee who reaches the maximum age under these provisions and continues to need treatment. The bill makes these provisions applicable to a basic health benefit plan under the Texas Public School Retired Employees Group Benefits Act and to a primary care coverage plan under the Texas School Employees Uniform Group Health Coverage Act that is delivered, issued for delivery, or renewed on or after January 1, 2010.

### **House Bill 1191**

**Effective:** 9-1-09

**House Author:** Flores

**Senate Sponsor:** Lucio

Previous law authorized a retiree eligible for coverage under the Texas Public School Employees Group Insurance Program of the Teacher Retirement System of Texas to select any insurance benefit coverage for which the person was eligible on the date that the person retired and during any open enrollment periods for retirees set by the system by rule. House Bill 1191 amends the Insurance Code to extend the initial enrollment period for a retiree so that the person may select coverage at any time beginning with the date the person retires up to and including the 90th day after that retirement date or during any other open enrollment periods for a retiree set by the system by rule.

**House Bill 1259****Effective:** 6-19-09**House Author:** Kolkhorst et al.**Senate Sponsor:** Duncan

House Bill 1259 amends the Government Code to prohibit the Teacher Retirement System of Texas board of trustees from employing outside legal counsel to provide legal services to the retirement system unless the contract for such services is approved by the attorney general, regardless of the source of funds to be used to pay the outside counsel. The bill requires the attorney general to promptly act on a board request to approve a contract for outside legal services and, if the attorney general denies the request, to provide the board with the reason for the denial; on denial of such a request, the board then may select alternative outside legal counsel, subject to approval by the attorney general.

**House Bill 1364****Effective:** 9-1-09**House Author:** Eissler**Senate Sponsor:** Averitt

House Bill 1364 amends the Education Code to make the group health benefit coverage provided or offered to school district employees through a school district's mandatory participation in the uniform group coverage program under the Texas School Employees Uniform Group Health Coverage Act subject to provisions in Texas' Health Insurance Portability and Availability Act that govern coverage for preexisting conditions.

**House Bill 2656****Effective:** Vetoed**House Author:** Miller, Doug et al.**Senate Sponsor:** Duncan et al.

House Bill 2656 amends the Government Code to increase from seven to eight the number of gubernatorial appointees to the Teacher Retirement System of Texas (TRS) board of trustees by increasing from one to two the number of members who are appointed on the basis of their status as retired TRS members and their nomination for appointment by similarly situated retired TRS members. These two members hold office for staggered terms. The bill also reduces from two to one the number of gubernatorial appointees who are appointed to the board on the basis of their nomination by the State Board of Education.

Reason Given for Veto: "House Bill No. 2656 decreases the number of Teacher Retirement System (TRS) board members with financial expertise, an inappropriate adjustment in these uncertain economic times.

"The TRS board is responsible for developing the investment policy and making other pension investment decisions on behalf of Texas teachers whose retirement security rests almost entirely with TRS. Because the majority of Texas school districts do not participate in Social Security, many teachers rely on their pension benefits as their sole source of retirement income. The significance and ramifications of the board's decisions on the futures of those who steward our children's education make it imprudent to dilute the board's financial expertise with House Bill No. 2656."

**House Bill 3347****Effective:** 9-1-09**House Author:** Truitt et al.**Senate Sponsor:** Duncan

House Bill 3347 amends the Government Code to update certain statutes governing the Teacher Retirement System of Texas (TRS) to conform to applicable provisions of the federal Internal Revenue Code of 1986. The bill provides, to the extent required by applicable provisions of that code, for the treatment of differential wage payments received by an individual from an employer on or after January 1, 2009, while the individual is performing qualified military service, as "salary and wages" when determining member compensation subject to contributions and credit in TRS and provides for the treatment of an individual receiving such wages as being employed by that employer. To the extent required by the Internal Revenue Code of 1986, the

bill also makes the designated beneficiary of a member who dies on or after January 1, 2007, while performing qualified military service eligible to receive additional benefits to the same extent as if the member had resumed employment and been employed at the time of death.

House Bill 3347 authorizes an individual eligible to participate in the employees uniform insurance benefits program for employees of The University of Texas System or The Texas A&M University System to direct TRS to deduct the amount of the member's contribution and any other qualified health insurance premium from the individual's regular monthly service or disability retirement annuity payment if the individual is eligible to receive a monthly annuity from TRS greater than the authorized deduction and is eligible under the Internal Revenue Code of 1986 or a similar law to exclude from annual gross income up to \$3,000 of distributions from a retirement plan used for qualified health insurance premiums.

The bill makes an otherwise eligible portion of a rollover distribution made on or after January 1, 2002, and consisting of after-tax contributions that are not includable in gross income eligible for direct rollover from TRS but only to an individual retirement account (IRA), annuity, or qualified defined benefit plan, or to an annuity contract that agrees to separately account for amounts transferred and the earnings on those amounts, as those IRAs, annuities, plans, and contracts are described in applicable Internal Revenue Code provisions. For a distribution made on or after January 1, 2002, or one made on or after January 1, 2008, the bill adds to the types of eligible retirement plans a plan maintained by a state or other governmental entity that agrees to separately account for amounts transferred into the plan from TRS, an annuity contract, and a Roth IRA in accordance with applicable Internal Revenue Code provisions.

House Bill 3347 revises the definition of "distributee" for purposes of an eligible rollover distribution from TRS to clarify that, in accordance with certain Internal Revenue Code definitions, the term includes a former spouse who is the alternate payee under a qualified domestic relations order and, with respect to a distribution made on or after January 1, 2007, also includes a designated beneficiary who is not the employee's or former employee's spouse, surviving spouse, or alternate payee. The bill makes a direct trustee-to-trustee transfer on behalf of a distributee beneficiary who is not a spouse eligible for a rollover, but a non-spouse distributee beneficiary may roll over the distribution only to an IRA or individual retirement annuity that is established for the purpose of receiving the distribution and is considered an inherited account or annuity to which applicable Internal Revenue Code provisions apply. The bill requires a trust maintained for the benefit of one or more designated beneficiaries to be treated in the same manner as a trust maintained for a designated beneficiary, to the extent provided by federal law.

The bill requires TRS to make a one-time supplemental payment of a retirement or death benefit to each eligible annuitant not later than January 2010.

**House Bill 3480**

**Effective:** 9-1-09

**House Author:** Truitt et al.

**Senate Sponsor:** Van de Putte

House Bill 3480 amends the law relating to annuities and investments for public school employees to further regulate the practices of companies offering qualified investment products under Section 403(b), Internal Revenue Code of 1986. The bill authorizes a company that offers 403(b) custodial accounts that hold only investment products registered with the Teacher Retirement System (TRS) to certify to the TRS based on rules adopted by the TRS board of trustees, and it requires the TRS to consult with the Texas Department of Banking as well as with the Texas Department of Insurance and the State Securities Board before adopting any such rules.



House Bill 3480 prohibits a school district or open-enrollment charter school from entering into or continuing a salary reduction agreement with an employee if the subject of the agreement is not an eligible qualified investment unless the district or school provides the employee written notice stating why the investment is no longer an eligible qualified investment and stating that by signing the notice the employee is agreeing to enter into or continue the salary reduction agreement.

House Bill 3480 prohibits a person, other than a district or charter school employee, or the person's affiliate from entering into or renewing a contract to provide services for or administer a 403(b) plan offered by the district or school unless the person is licensed or certified by the Texas Department of Insurance, is registered with the State Securities Board, or is a financial institution authorized by law to exercise fiduciary powers and has its main office or a branch or trust office in Texas. If an entity that enters into a contract to administer a 403(b) plan offered by a school district or open-enrollment charter school holds a meeting at which qualified investment products will be marketed to district or school employees, the entity must provide representatives of other companies certified to the TRS an opportunity to attend and market their qualified investment products at the meeting.

House Bill 3480 requires the TRS to refer all complaints about qualified investment products, including complaints that allege violations of the law by companies certifying to the TRS that they offer qualified investment products, to the appropriate division of the Texas Department of Insurance, the Texas Department of Banking, or the State Securities Board, and it requires those agencies to investigate the complaints and to forward the results of such investigation to the attorney general. The bill requires those agencies to report to the TRS at the beginning of each fiscal year quarter on the status of any enforcement action taken or investigation or referral made regarding a company against which a complaint was made, and it authorizes the TRS to deny, suspend, or revoke the certification of a company determined to be in violation of the law in any judicial or administrative proceeding. The bill establishes a civil penalty for a violation of the applicable law and authorizes the attorney general to institute an action for injunctive relief to collect the penalty and to recover reasonable expenses incurred in obtaining the relief.



## Special Districts

This chapter covers legislation relating to special districts, including defense base development authorities, emergency services districts, groundwater conservation districts, hospital districts, improvement districts, management districts, development districts, municipal utility districts, navigation districts, special utility districts, transportation authorities and districts, and water authorities and districts. Bills that refer to special districts, but are about **elections, government purchasing, local government, and water** are in those chapters, respectively. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General; Miscellaneous Districts

#### **House Bill 2619**

**Effective:** 4-1-11

**House Author:** Frost

**Senate Sponsor:** Duncan

House Bill 2619, a continuation of the legislature's ongoing statutory revision program, transfers provisions relating to various special districts from the session laws to the Special District Local Laws Code and repeals such session laws and others that have expired or that have been impliedly repealed. The transfers affect 26 hospital districts, 35 utility districts, 19 groundwater districts, 1 drainage district, and 1 improvement district. The bill contains conforming amendments to certain session law provisions that are not codified. The bill establishes that the legislature intends no substantive change and that the repeal of a law by the bill does not affect a validation made under that repealed law.

#### **House Bill 4728**

**Effective:** 6-19-09

**House Author:** King, Phil

**Senate Sponsor:** Estes

House Bill 4728 amends the Special District Local Laws Code to expand the purpose of the Park County Utility District No. 1 to include acquiring water distribution facilities and the building, operating, and maintaining of facilities to treat, transport, and store water. The bill expands the use of customer advisory councils and establishes that the district can be a retail services provider as well as a wholesale services provider. The bill specifies that the required audit of all funds and accounts of the district is an annual audit.

#### **Senate Bill 575**

**Effective:** See below

**Senate Author:** Davis, Wendy et al.

**House Sponsor:** Shelton

Senate Bill 575 amends the Local Government Code to extend the dissolution date of a crime control and prevention district to the first uniform election date that occurs after the fifth anniversary of the date the district began to levy taxes for district purposes if the district has not held a continuation or dissolution referendum or on the first uniform election date that occurs after the fifth anniversary of the date of the most recent continuation or dissolution referendum.

Senate Bill 575 amends the Tax Code to provide that, in a municipality where a sales and use tax is imposed on residential gas and electricity services, a crime control and prevention district or a fire control, prevention, and emergency medical services district also may impose a tax on such services. The bill requires the comptroller of public accounts, on request of a municipality, to provide information relating to the amount of tax paid to the municipality by each person doing business in an area that is part of a crime control and prevention district or a fire control, prevention, and emergency medical services district.

The bill's provision amending the Local Government Code takes effect June 19, 2009; those provisions amending the Tax Code take effect January 1, 2010.

## **Economic Development—Defense Base Development Authorities**

### **House Bill 1345**

**Effective:** 9-1-09

**House Author:** Menendez

**Senate Sponsor:** Uresti

House Bill 1345 amends the Local Government Code to add chairperson and vice chairperson as optional titles for the offices of president and vice president, respectively, of the board of directors of a defense base development authority.

### **House Bill 3802**

**Effective:** 6-19-09

**House Author:** Frost

**Senate Sponsor:** Eltife

Current law authorizes the territory of the Red River Redevelopment Authority to be expanded as additional real property is conveyed to the authority by the United States. House Bill 3802 amends the Special District Local Laws Code to apply the expansion provision to real property leased to the authority by the United States. The bill authorizes the Red River Redevelopment Authority to exercise the powers granted to a municipality or county to establish and operate airports and to exercise the powers of a defense base development authority. It further authorizes the Red River Redevelopment Authority to exercise, in the territory of the authority, the powers of a municipality relating to zoning and regulation of subdivisions and property development, except in an area that is annexed for full purposes by a municipality.

House Bill 3802 authorizes the Red River Redevelopment Authority to indemnify an authority employee or former employee or a board member or former member for necessary expenses and costs, including attorney's fees, incurred by that person in connection with a claim asserted against the person if the claim relates to an act or omission of the person when acting in the scope of the person's board membership or authority employment and if the person has not been found liable or guilty on the claim.

## **Economic Development—Improvement Districts**

### **House Bill 621**

**Effective:** 6-19-09

**House Author:** Elkins

**Senate Sponsor:** West

Current law authorizes the governing body of a municipality or county to levy a special assessment on property in a public improvement district designated by the municipality or county and to provide that assessments be paid in periodic installments. House Bill 621 amends the Local Government Code to specify that the periodic installments are at an interest rate and for a period approved by the governing body and that the provision for periodic installments may, but is not required to, result in level annual installment payments. The bill establishes that an assessment bears interest at the rate specified by the governing body beginning on the occurrence of one or more events specified by the governing body, and it makes the cap on the interest rate apply if general obligation bonds, revenue bonds, time warrants, or temporary notes are issued to finance the improvement for which the assessment is assessed. The bill establishes that a lien against the property assessed runs with the land and that neither the lien nor the outstanding principal balance of the assessment is not eliminated by foreclosure of a property tax lien.

House Bill 621 makes the requirement to create a separate public improvement district fund apply if bonds are issued. The bill adds two methods of payment for a cost payable from a special assessment that is to be paid in installments and a cost payable by the municipality or county as a whole but not payable from available general funds or other available general improvement funds. The bill caps the net effective interest rate on money owed or paid in connection with those costs. It specifies that the authorization for the governing body of a municipality or county

to issue temporary notes or time warrants while an improvement is in progress is for work performed in connection with the improvement, and it authorizes bond proceeds to be used to repay those obligations. The bill also authorizes the cost of more than one improvement to be paid under an agreement with a person who contracts to install or construct the improvement and who sells the improvement to the municipality or county.

The bill makes provisions relating to the pledge of income for the payment of bonds issued in connection with a public improvement district apply to the payment of an obligation, including bonds, temporary notes, or time warrants. The bill authorizes the governing body of a municipality or county to enter into an agreement with a corporation created by the municipality or county to secure indebtedness issued by the corporation to finance an improvement project. The agreement may also provide that the corporation is responsible for managing the district or that title to one or more improvements will be held by the corporation. House Bill 621 validates all acts and proceedings related to the authorization of any taxes or bonds by a public improvement district before the effective date of the bill, and it validates an installment sales contract between a municipality or county and the party constructing an improvement if the contract was made or attempted to be made before the effective date of the bill and if the contract complies with provisions relating to payment of costs.

**House Bill 1029**  
**Effective:** 6-19-09

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

House Bill 1029 amends the Local Government Code to include the development, rehabilitation, or expansion of affordable housing as an authorized public improvement project under the Public Improvement District Assessment Act.

**House Bill 4722**  
**Effective:** 6-19-09

**House Author:** Cohen  
**Senate Sponsor:** Ellis

House Bill 4722 amends the Special District Local Laws Code to create the Harris County Improvement District No. 11. Among other provisions, the bill authorizes the district to issue bonds and impose taxes, subject to district voter approval, and to exercise the powers of a Type B development corporation under the Local Government Code, a municipal management district under the Local Government Code, and certain districts under the Water Code. The district is also authorized to exercise powers given to road and road utility districts under the Transportation Code and to contract for law enforcement and security services. The bill prohibits the district from exercising the power of eminent domain and from imposing an impact fee or assessment on specified types of utility properties.

**House Bill 4771**  
**Effective:** 6-19-09

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

House Bill 4771 amends the Special District Local Laws Code relating to Harris County Improvement District No. 5 to add provisions for the annexation or exclusion of territory by the district, economic development programs, and district authority to establish and implement tax increment reinvestment zones. The bill establishes that the district may borrow money according to terms and conditions determined by the board and that approval from the attorney general is not required for certain loans secured by district revenue other than property taxes. The bill increases from \$25,000 to \$50,000 the contract amount above which provisions relating to competitive bidding on certain public works apply. The bill allows the district to establish defined areas and, after approval at an election, impose a property tax only within the area or issue bonds payable from property taxes of the area to provide for services and improvements that primarily benefit the defined area.

## Special Districts

### **House Bill 4777**

**Effective:** 6-19-09

**House Author:** Edwards

**Senate Sponsor:** Ellis

House Bill 4777 amends the Special District Local Laws Code to create the Harris County Improvement District No. 12. The bill grants the district the powers of a municipal management district, the powers of a Type B development corporation, powers to provide for economic development programs, and the powers of a municipality under the Local Government Code relating to planning and development. The district may contract for law enforcement services and may pursue a public transit system and parking facilities. The imposition of an operation and maintenance tax and the issuance of bonds payable from property taxes require voter approval. The issuance of bonds or, in the case of an improvement project, any plans and specifications related to the use of certain land, easements, or rights-of-way, requires with specified exceptions the approval of the City of Houston. Without voter approval, however, the district may issue obligations secured by contract payments or by revenue other than property taxes. The bill sets forth provisions by which the district may establish defined areas or designate certain property and impose taxes, issue bonds, and pay for improvements, facilities, or services that benefit such area or property without effect on the rest of the district. The bill authorizes tax and assessment abatements and provides that all or any part of the district is eligible to be included in a reinvestment zone or enterprise zone. The district may not impose an impact fee on a gas or electric utility, a power generation company, or certain providers of telecommunications or public cable television. It is prohibited from exercising the power of eminent domain.

### **House Bill 4789**

**Effective:** 6-19-09

**House Author:** Brown, Betty

**Senate Sponsor:** Deuell

House Bill 4789 amends the Special District Local Laws Code to create the Kaufman County Parks Improvement District, subject to voter approval if an election is called by the commissioners court. The district must obtain voter approval in an election before imposing property taxes. It must obtain advance approval of the governing body of the city for the issuance of bonds for a park improvement project and for plans and specifications of a park improvement project financed by a bond issuance, except that instead of bond approval it may obtain city approval of a capital improvements budget. All or any part of the district is eligible to be included in a reinvestment zone or enterprise zone. The bill grants the district the power to acquire land in the county, inside or outside the district, by specified means but prohibits the district from exercising the power of eminent domain. The bill establishes that the county commissioners court may not acquire land by eminent domain for park purposes and then transfer the land or control of the land to the district, and it may not acquire land for other than park purposes and then transfer the land or control of the land to the district unless at least ten years have elapsed between acquisition and transfer.

### **House Bill 4795**

**Effective:** 6-19-09

**House Author:** Allen

**Senate Sponsor:** Ellis

House Bill 4795 changes the name of the Harris County Improvement District No. 10B to Five Corners Improvement District and describes the land to be included in the district. The bill validates and confirms all governmental acts and proceedings of the Harris County Improvement District No. 10 and the Harris County Improvement District No. 10B that were taken before the effective date of the bill in relation to the creation of the Harris County Improvement District No. 10B from land inside the Harris County Improvement District No. 10. The acts and proceedings may not be held invalid because they were not in accordance with the law governing the Harris County Improvement District No. 10 or other law. The bill establishes that its provisions do

not apply to any matter that, on the effective date of the bill, has been held invalid by a final court judgment or is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment.

**House Bill 4798**

**Effective:** 6-19-09

**House Author:** Taylor

**Senate Sponsor:** Jackson, Mike

House Bill 4798 amends the Special District Local Laws Code to create the League City Improvement District. The bill grants the district the powers of a Type B development corporation, a municipal management district, and a municipality under Local Government Code provisions relating to planning and development. The district may provide for economic development programs and contract for law enforcement. It may pursue a public transit system and parking facilities and may adopt fees, charges, or tolls and issue bonds or notes for their support. With certain exceptions, however, bond issuance requires approval of the City of League City, as does the calling of an election to authorize a sales and use tax and any improvement project plans and specifications related to certain land, easements, or rights-of-way. The bill prohibits the district itself from imposing property taxes but provides that all or part of the district may be included in a reinvestment zone, enterprise zone, or similar entity. The district may impose and collect assessments but is prohibited from financing a service or improvement project with such assessments unless petitioned by a requisite number of real property owners in the assessed area, and it is prohibited also from imposing assessments or impact fees on specified types of utilities. The bill defines the district's powers of annexation and exclusion and prohibits the annexation of certain single-family residential property. It prohibits the district from exercising the power of eminent domain. The district may limit beneficial infrastructure or services, and payment for such infrastructure or services, to defined areas or designated properties.

**House Bill 4827**

**Effective:** 6-19-09

**House Author:** Coleman

**Senate Sponsor:** Ellis

House Bill 4827 amends the Special District Local Laws Code to create the Harris County Improvement District No. 20. The district may exercise the powers of a municipal management district, a Type B development corporation, a housing finance corporation, a road district, and a road utility district, as well as certain powers of a municipal utility district and water districts generally. The district may contract for law enforcement and security services. It may adopt property taxes, assessments, and impact fees, and may pursue public transit and parking facilities supported by associated fees, charges, and tolls, including a joint transit or parking facility in conjunction with a rapid transit authority. Pursuit of a transit system, however, is contingent on the request by petition of specified property owners, and the adoption of a maintenance tax or the issuance of bonds payable from property taxes requires voter approval. Additionally, the district must obtain approval of the City of Houston for the issuance of a bond for an improvement project, the plans and specifications of such project, and plans and specifications related to the use of certain land, easements, or rights-of-way. Bonds issued to finance parks and recreational facilities are limited to one percent of the assessed value of the district's real property. The bill prohibits the district from imposing an impact fee or assessment on a gas or electric utility, a power generation company, or certain providers of telecommunications services. However, it authorizes the district to impose an assessment to pay a cost associated with the use of electrical or optical lines, and to acquire, operate, or charge fees for the use of district conduits for another party's electronic transmission line, fiber-optic cable, or telecommunications network. The district may acquire air rights and may construct related improvements. It is prohibited from exercising the power of eminent domain.

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### **House Bill 4828**

**Effective:** 6-19-09

**House Author:** Coleman

**Senate Sponsor:** Ellis

House Bill 4828 amends the Special District Local Laws Code to create the Harris County Improvement District No. 21. The district may exercise the powers of a municipal management district, a Type B development corporation, a housing finance corporation, a road district, and a road utility district, as well as certain powers of a municipal utility district and water districts generally. The district may contract for law enforcement and security services. It may adopt property taxes, assessments, and impact fees, and may pursue public transit and parking facilities supported by associated fees, charges, and tolls, including a joint transit or parking facility in conjunction with a rapid transit authority. Pursuit of a transit system, however, is contingent on the request by petition of specified property owners, and the adoption of a maintenance tax or the issuance of bonds payable from property taxes requires voter approval. Additionally, the district must obtain approval of the City of Houston for the issuance of a bond for an improvement project, the plans and specifications of such project, and plans and specifications related to the use of certain land, easements, or rights-of-way. Bonds issued to finance parks and recreational facilities are limited to one percent of the assessed value of the district's real property. The bill prohibits the district from imposing an impact fee or assessment on a gas or electric utility, a power generation company, or certain providers of telecommunications services. However, it authorizes the district to impose an assessment to pay a cost associated with the use of electrical or optical lines, and to acquire, operate, or charge fees for the use of district conduits for another party's electronic transmission line, fiber-optic cable, or telecommunications network. The district may acquire air rights and may construct related improvements. It is prohibited from exercising the power of eminent domain.

### **House Bill 4829**

**Effective:** 6-19-09

**House Author:** Fletcher

**Senate Sponsor:** Patrick, Dan

House Bill 4829 amends the Special District Local Laws Code to create the Harris County Improvement District No. 17. The bill grants the district the powers of a Type B development corporation and a municipal management district, as well as certain powers of a municipality under Local Government Code provisions relating to planning and development and Government Code provisions relating to the issuance of obligations. The district may establish economic development programs and may construct, acquire, improve, maintain, and operate a sports venue, but it is prohibited from exercising the power of eminent domain. All or any part of the district may be included in a reinvestment zone or enterprise zone. The bill authorizes the district to issue bonds payable from various revenue sources, including assessments and impact fees. The district may impose a hotel occupancy tax and, with the approval of its voters, may impose a sales and use tax. The imposition of a property tax or the issuance of bonds payable from property taxes also requires voter approval and, in the case of bonds financing a road project, requires a two-thirds majority of the voters who vote in the approval election. The total amount of the bonds or other obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district.

### **Senate Bill 978**

**Effective:** Vetoed

**Senate Author:** West

**House Sponsor:** Elkins et al.

Senate Bill 978 amends the Local Government Code to establish provisions relating to the creation and financing of public improvement districts (PIDs). The bill sets forth the exercise of powers and clarifies that a PID created under the Public Improvement District Assessment Act is not a body politic or corporate separate from the municipality or county that created the district.



The bill expands the authorized services of PIDs and makes changes to a district assessment plan, the determination of assessment, the assessment roll, and the levy of assessments. The bill authorizes a municipality that exercises powers under provisions for PIDs to establish a district in the corporate limits of the extraterritorial jurisdiction of the municipality and authorizes the governing body of the municipality to enter into a memorandum of understanding with an institution of higher education under which the municipality leases certain public improvement projects to the institution. The bill authorizes a PID to include both contiguous and noncontiguous tracts of land.

Senate Bill 978 makes changes to PID funding procedures and sources and creates the special assessment public improvement district management policy to authorize a municipality or county to establish standards and preconditions regarding a PID.

Reason Given for Veto: “Senate Bill No. 978 expands the types of projects that may be undertaken by a Public Improvement District (PID) without adequately protecting property owners in the PID from incurring the sole or disproportionate costs of projects that clearly have a general municipal or regional benefit.

“These districts were created to enable their residents to fund improvement projects specifically targeted to their respective districts. However, Senate Bill No. 978 broadens the definition of projects that qualify for PID funding to include those that may not directly benefit the property owners who are subject to paying for them. The bill compounds this problem by both permitting projects located outside the PID district and creating districts with non-contiguous acreage, creating a patchwork system that leaves taxpayers with little hope of determining who is paying for what benefit. Under such a scenario, residents of three physically separate parts of a city could be forced to pay for a project located in the county.

“I am concerned that provisions of this bill threaten to violate Texans’ rights under Article 1, section 17 of the Texas Constitution, which protects property owners from having to pay project assessments that are not to their direct benefit.

“Ultimately, the bill leaves too many unanswered questions about the reach and financial impact of Public Improvement Districts on Texas property owners. I strongly encourage interested parties and their respective legislators to revisit this legislation with an eye toward increasing transparency and setting clearly defined limits on what taxpayers are being asked to fund.”

**Senate Bill 2453**

**Effective:** 9-1-09

**Senate Author:** Williams

**House Sponsor:** Otto

Senate Bill 2453 amends the law relating to the East Montgomery County Improvement District to expand the definition of “venue,” as it relates to the district’s ability to impose a tax, to include a tourist development area along an inland waterway. The district is authorized to issue bonds for any district purpose, including for the purpose of an economic development program. Current law provides for the automatic reduction of a municipality’s sales and use tax to a rate that, when added to the district’s rate, does not exceed two percent if as a result of the imposition or increase in the district sales and use tax the overlapping sales and use tax in a municipality located in the district will exceed two percent. The bill extends this automatic reduction to the tax rate of a political subdivision in the district. The bill authorizes the district to issue bonds and revises conditions under which the district may be enlarged.

**Senate Bill 2470**

**Effective:** 9-1-09

**Senate Author:** Estes

**House Sponsor:** Keffer

Senate Bill 2470 amends the Special District Local Laws Code to create the Maverick Improvement District of Palo Pinto County. The bill grants the district the general-law powers and duties of a municipal utility district under the Water Code and a county development district under the Local Government Code, including, among other provisions, the authorization to impose taxes, including a hotel occupancy tax, and to issue bonds and other obligations. The

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bill also authorizes the district to undertake certain road projects, but road project bonds secured by property taxes may not be issued unless approved by a two-thirds majority of the voters in the district voting at an election called on the matter, and the total amount of the bonds or other obligations issued or incurred to finance road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill authorizes the district to exercise the power of eminent domain only inside its boundaries.

**Senate Bill 2472**  
**Effective:** 5-27-09

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

Senate Bill 2472 amends the Special District Local Laws Code to create the Harris County Improvement District No. 14. The bill grants the district the powers of a Type B development corporation and a municipal management district, as well as powers to establish economic development programs and the powers of a municipality under Local Government Code provisions relating to planning and development. The district may contract for law enforcement services. It may pursue public parking facilities supported by fees, charges, tolls, and issuance of bonds or notes to finance their cost. Assessments to finance a service or an improvement project are prohibited except by petition of a requisite number of real property owners in the assessed area. The bill prohibits the district from imposing an impact fee or assessment on a gas or electric utility, a power generation company, or certain providers of telecommunications services and cable television. Voter approval is required to impose sales and use or property taxes or to issue bonds payable from property taxes. The bill authorizes the district to grant tax or assessment abatements and provides that all or any part of the district may be included in a reinvestment zone or enterprise zone, but specifies that the law prohibiting taxes, assessments, or impact fees for certain types of residential properties, normally applicable to municipal management districts, does not apply. The bill contains provisions relating to annexations and exclusions. It prohibits the district from exercising the power of eminent domain. The district may limit improvements, facilities, or services and supportive taxes or bonds to a defined area or designated properties.

**Senate Bill 2473**  
**Effective:** 5-27-09

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

Senate Bill 2473 amends the Special District Local Laws Code to create the Harris County Improvement District No. 13. The bill grants the district the powers of a Type B development corporation and a municipal management district, as well as powers to establish economic development programs and the powers of a municipality under Local Government Code provisions relating to planning and development. The district may contract for law enforcement services. It may pursue public parking facilities supported by fees, charges, tolls, and the issuance of associated bonds or notes to finance that cost. Assessments to finance a service or an improvement project are prohibited except by petition of a requisite number of real property owners in the assessed area. The bill prohibits the district from imposing an impact fee or assessment on a gas or electric utility, a power generation company, or certain providers of telecommunications services and cable television. Voter approval is required to impose sales and use or property taxes or to issue bonds payable from property taxes. The bill authorizes the district to grant tax or assessment abatements and provides that all or any part of the district may be included in a reinvestment zone or enterprise zone, but specifies that the law prohibiting taxes, assessments, or impact fees for certain types of residential properties, normally applicable to municipal management districts, does not apply. The bill contains provisions relating to annexations and exclusions. It prohibits the district from exercising the power of eminent domain. The district may limit improvements, facilities, or services and supportive taxes or bonds to a defined area or designated properties.

**Senate Bill 2507**  
**Effective:** 6-19-09**Senate Author:** Jackson, Mike  
**House Sponsor:** Legler

Senate Bill 2507 amends the Special District Local Laws Code to create the Harris County Improvement District No. 16. The bill grants the district the powers of a Type B development corporation and a municipal management district, as well as authority to establish economic development programs and the powers of a municipality under Local Government Code provisions relating to planning and development. The district may contract for law enforcement services, pursue a public transit system and parking facilities, and adopt associated fees, charges, or tolls and issue associated bonds or notes to finance them. The district must obtain voter approval to impose property taxes or issue bonds payable from property taxes and must obtain approval from the City of Houston for the issuance of bonds and for the plans and specifications of certain improvement projects. The district may limit improvements, facilities, or services and their supportive taxes and bonds to a defined area or designated properties. However, it is prohibited from using assessments to finance a service or improvement project unless petitioned by a requisite number of real property owners in the assessed area. Assessments and impact fees may not be imposed on a gas or electric utility, a power generation company, or certain providers of telecommunications services. The bill authorizes the district to grant tax or assessment abatements, provides that all or any part of the district may be included in a reinvestment zone or enterprise zone, and includes provisions relating to annexations and exclusions. It prohibits the district from exercising the power of eminent domain.

**Senate Bill 2510**  
**Effective:** 6-19-09**Senate Author:** Patrick, Dan  
**House Sponsor:** Riddle

Senate Bill 2510 amends the Special District Local Laws Code to create the Harris County Improvement District No. 18. The bill grants the district the powers of a Type B development corporation and a municipal management district as well as the powers of a municipality under Local Government Code provisions relating to planning and development. The district may establish economic development programs and contract for law enforcement services. The bill authorizes district conduits for fiber-optic cable, electronic transmission lines, and other types of transmission lines and supporting facilities, and the charging of fees by the district for their use. The district may pursue public parking facilities supported by fees, charges, tolls, and the issuance of bonds to finance their cost, and it may adopt a hotel occupancy tax. Sales and use taxes, property taxes, and the issuance of bonds payable from property taxes require voter approval, but the general-law prohibition against taxes, assessments, or impact fees on certain residential properties, applicable normally to municipal management districts, does not apply. The district may grant tax or assessment abatements, and all or any part of the district may be included in a reinvestment zone or enterprise zone. Assessments to finance a service or an improvement project are prohibited except by petition of a requisite number of real property owners in the assessed area. The district may not impose an assessment or impact fee on a gas or electric utility, a power generation company, or certain providers of telecommunications services or public cable television. The bill includes provisions relating to annexations and exclusions. It prohibits the district from exercising the power of eminent domain. The district may limit improvements, facilities, or services and their supportive taxes and bonds to a defined area or designated properties.

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### **Senate Bill 2511**

**Effective:** 6-19-09

**Senate Author:** Williams

**House Sponsor:** Eiland

Senate Bill 2511 amends the Special District Local Laws Code to create the Chambers County Improvement District No. 2, subject to voter approval at a confirmation election; to grant the district the powers conferred by general law applicable to municipal management districts and municipal utility districts, including the provision of firefighting and emergency medical services; and to authorize the district to issue bonds and impose taxes. The bill authorizes the district to exercise the powers of a Type B development corporation, and all or part of the district's area is eligible for inclusion in a tax increment reinvestment zone, a tax abatement reinvestment zone, an enterprise zone, or an industrial district. The bill grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill authorizes the district to grant an abatement for a tax or assessment and prohibits the district from imposing an impact fee or assessment on specified types of utility properties.

Among other provisions, Senate Bill 2511 authorizes the district to develop or finance recreational facilities, to create a nonprofit corporation to assist and act for the district in implementing a project or providing a service, to contract for law enforcement, to establish and provide for certain economic development programs, to enter into strategic partnership agreements, and to establish defined areas or designated property to pay for projects that primarily benefit that area and do not generally benefit the entire district. The district may exercise the power of eminent domain only for the purposes and only to the extent the general law provides for a municipal utility district and subject to the limitations of such general law, but the district may not exercise that power outside the district to acquire a site or easement for an authorized road project or a recreational facility. The bill sets forth provisions on the district's authority to annex and exclude territory, as well as a municipality's authority to annex district territory. Provisions of the Water Code relating to contracts for construction work apply to the district, but Local Government Code provisions relating to competitive bidding on certain public works contracts do not. The bill requires that the district be treated as a municipal utility district situated wholly within Harris County for the purposes of any applicable evaluation by the Texas Commission on Environmental Quality regarding the economic feasibility of the district or its projects and bonds, debt service tax rate, maintenance tax rate, or overlapping tax rate.

### **Senate Bill 2512**

**Effective:** 6-19-09

**Senate Author:** Williams

**House Sponsor:** Eiland

Senate Bill 2512 amends the Special District Local Laws Code to create the Chambers County Improvement District No. 3, subject to voter approval at a confirmation election. The bill grants the district general-law powers applicable to municipal utility districts, makes general district provisions relating to fire departments applicable, and authorizes the district to issue bonds and impose taxes. It also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The district is prohibited from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility. The bill requires the district to be treated as a municipal utility district situated wholly within Harris County for the purposes of any applicable evaluation by the Texas Commission on Environmental Quality regarding the economic feasibility of the district or its projects and bonds, debt service tax rate, maintenance tax rate, or overlapping tax rate.

**Senate Bill 2515**  
**Effective:** 6-19-09

**Senate Author:** Williams  
**House Sponsor:** Eissler

Senate Bill 2515 updates and revises provisions in Texas law relating to the administration, powers and duties, operations, and financing of The Woodlands Township, formerly the Town Center Improvement District of Montgomery County, Texas. Among other provisions, the bill authorizes the district to perform the functions and services of a qualified association under community covenants; to enter into and enforce tax abatement agreements; to contract for the provision of services and facilities while retaining responsibility for the administration or enforcement of any land use restrictions or negative covenants; to undertake certain activities related to a building, improvement, facility, or property; to develop, administer, and dispose of recreational facilities; to vote on appraisal district board members; to exercise powers in the same manner as a municipality to regulate signs in road rights-of-way and annex certain territory; to provide for firefighting services and to hold an election on the adoption of the Fire and Police Employee Relations Act; to impose an events admission tax not to exceed five percent of the price of the ticket; and to impose a supplemental hotel occupancy tax not to exceed two percent of the price paid for a room in a hotel. Senate Bill 2515 ratifies and confirms certain governmental acts and proceedings of The Woodlands Township and its board and of The Woodlands Township Economic Development Zone and its governing body before June 19, 2009.

**Senate Bill 2526**  
**Effective:** 6-19-09

**Senate Author:** Watson  
**House Sponsor:** Bolton

Senate Bill 2526 amends the Special District Local Laws Code to create the Travis County Improvement District No. 1. The bill grants the district the powers of a Type B development corporation and a municipal management district, as well as the powers of a municipality under Local Government Code provisions relating to planning and development. The district may establish economic development programs and contract for law enforcement services. The bill authorizes the district to pursue public parking facilities supported by fees, charges, tolls, and the issuance of bonds to finance their cost. Before development begins, the district must obtain a traffic impact analysis to determine the effect of developing certain properties. The district may adopt a hotel occupancy tax. Sales and use taxes, property taxes, and the issuance of bonds payable from property taxes require voter approval, but the general-law prohibition against taxes, assessments, or impact fees on certain residential properties, applicable normally to municipal management districts, does not apply. The district may grant tax or assessment abatements, and all or any part of the district may be included in a reinvestment zone or enterprise zone. Assessments to finance a service or an improvement project are prohibited except by petition of a requisite number of real property owners in the assessed area. The district may not impose an assessment or impact fee on a gas or electric utility, a power generation company, or certain providers of telecommunications services or public cable television. The bill includes provisions relating to annexations and exclusions. It prohibits the district from exercising the power of eminent domain. The district may limit improvements, facilities, or services and their supportive taxes and bonds to a defined area or designated properties.

**Senate Bill 2531**  
**Effective:** 6-19-09

**Senate Author:** Gallegos  
**House Sponsor:** Hernandez

Senate Bill 2531 amends the Special District Local Laws Code to create the Harris County Improvement District No. 15. The bill grants the district the powers of a Type B development corporation and a municipal management district under the Local Government Code, as well as the powers of a municipality under Local Government Code provisions relating to planning and

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development. The district may establish economic development programs and contract for law enforcement services. The bill grants the district powers relating to maritime improvements and operations, exclusive of lands under the jurisdiction of the Port of Houston Authority of Harris County, Texas. The district may pursue a public transit system and parking facilities supported by fees, charges, tolls, and the issuance of bonds to finance their costs. Sales and use taxes, property taxes, and the issuance of bonds payable from property taxes require voter approval. The district may grant tax or assessment abatements, and all or any part of the district is eligible to be included in a reinvestment zone or enterprise zone. Assessments to finance a service or an improvement project are prohibited except by petition of a requisite number of real property owners in the assessed area. The district may not impose an assessment or impact fee on a gas or electric utility, a power generation company, or certain providers of telecommunications services or public cable television. The bill includes provisions relating to annexations and exclusions. It prohibits the district from exercising the power of eminent domain. The district may limit improvements, facilities, or services and supportive taxes or bonds to a defined area or designated properties.

**Senate Bill 2550**  
**Effective:** 6-19-09

**Senate Author:** Hinojosa  
**House Sponsor:** Hancock

Senate Bill 2550 amends the Special District Local Laws Code to create the Padre Island Gateway Municipal Management District. The bill grants the district various powers, including those of a conservation and reclamation district, road district, road utility district, municipal management district, Type B corporation, and issuer of obligations for certain public improvements, as well as powers provided to a municipality or county under the Public Improvement District Assessment Act. The district may undertake specified types of improvement projects and activities, and all or part of its area is eligible for inclusion in a tax increment reinvestment zone, tax abatement reinvestment zone, or enterprise zone created by the City of Corpus Christi. The bill makes certain powers of the district subject to control by the City of Corpus Christi and requires the district and the city to negotiate and execute a project development agreement before the district undertakes projects, imposes taxes, issues bonds, or borrows money.

**Senate Bill 2552**  
**Effective:** 6-19-09

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

Senate Bill 2552 amends the Special District Local Laws Code relating to Harris County Improvement District No. 1 to set out provisions for contracts with law enforcement, membership in charitable organizations, and economic development programs. The bill sets out financial provisions for disbursements and transfers of district money, money used for improvements or services, an operations and maintenance tax, the authority to borrow money and issue bonds, taxes for bonds, elections regarding taxes and bonds, competitive bidding, and tax and assessment abatement. The bill modifies provisions relating to the composition and qualifications of the board of directors and redefines the role of the Texas Commission on Environmental Quality in appointing directors. The bill clarifies provisions relating to the notice, hearing, and petition requirements for the financing of service and improvement projects with regard to assessments.

## Economic Development—Management Districts

### House Bill 871

**Effective:** 9-1-09

**House Author:** Farrar et al.

**Senate Sponsor:** Gallegos

House Bill 871 amends the Local Government Code to allow the board of directors of a municipal management district to mail the required written notice of a scheduled hearing on district improvement projects and services by a method other than certified mail if the board determines the alternate method provides adequate proof that the notice was timely mailed.

### House Bill 3009

**Effective:** 6-19-09

**House Author:** Coleman

**Senate Sponsor:** Ellis

House Bill 3009 amends the Local Government Code to authorize two or more municipal management districts to consolidate into one district if none of the districts to be consolidated has levied taxes or has issued bonds or notes secured by assessments or property taxes. The bill requires the consolidation to be initiated by the proposing district's adoption of a resolution and its delivery to each district with which the consolidation is proposed and establishes that the consolidation is accomplished by each district's adoption of a resolution containing the applicable terms and conditions. The bill specifies provisions to be included in the terms and conditions of consolidation and requires each district's governing board to hold a public hearing in its district regarding those terms and conditions. The bill sets forth provisions for governing the original districts during the transition period before consolidation is complete; for the transfer of each original district's debt to the consolidated district; and for the governance and powers, including the power to assess and collect taxes, of the consolidated district.

### House Bill 4720

**Effective:** 6-19-09

**House Author:** Anchia

**Senate Sponsor:** West

House Bill 4720 amends the Special District Local Laws Code to create the Trinity River West Municipal Management District in Dallas County, Texas. Among other provisions, the bill authorizes the district to impose taxes and issue bonds, but prohibits the district from imposing taxes on certain residential property. The bill grants the district the powers and duties given to a conservation and reclamation district, including a municipal utility district. The bill also authorizes the district to exercise the powers of a public improvement district and municipal management district under the Local Government Code, as well as powers under the Tax Increment Financing Act. The district is authorized to exercise the powers granted to road utility districts under provisions of the Transportation Code, except that the district may exercise powers granted by the bill without regard to those road utility provisions and may not build or operate a toll road. House Bill 4720 provides that all or part of the district's area is eligible to be included, under certain conditions and limitations, in a tax increment or tax abatement reinvestment zone created by the City of Dallas or an enterprise zone created by the city. The district may add or remove territory from the district under certain conditions but may not exercise the power of eminent domain.

### House Bill 4727

**Effective:** 6-19-09

**House Author:** Olivo

**Senate Sponsor:** Huffman

House Bill 4727 amends provisions of the Special District Local Laws Code relating to the Sierra Plantation Management District in Fort Bend County. Among other provisions, the bill entitles a board director to receive fees of office and reimbursement for actual expenses as provided by general-law provisions of the Water Code that relate to all districts. If the district

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imposes an annual property tax, the district is required to impose that tax in accordance with general-law provisions of the Water Code; however, the limitation on operation and maintenance tax used for recreational facilities under those provisions does not apply to the district. House Bill 4727 authorizes the district to annex land as provided by the Water Code, but prohibits the district from exercising the power of eminent domain. The bill makes changes to the law relating to competitive bidding, bonds and other obligations, and money used for improvements or services, and adds provisions relating to a public transit system and parking facilities.

### **House Bill 4752**

**Effective:** 9-1-09

**House Author:** Parker

**Senate Sponsor:** Estes

House Bill 4752 amends the Special District Local Laws Code to create the Prosper Management District No. 1 in Denton County. The bill requires the district to make available a district water or wastewater facility to each holder of a water utility certificate of convenience and necessity for land in the district. It prohibits the district from providing retail water or wastewater services. The district may undertake specified types of improvement projects, but before it may issue bonds, impose taxes, or borrow money, the district must negotiate and execute with the Town of Prosper an interlocal project development agreement regarding the district's plans and rules for the development and operation of the district and the financing of improvement projects. Property taxes must be approved by district voters and the maximum rate of an operation and maintenance tax must be approved by both those voters and the governing body of the town. Issuance of bonds payable from property taxes to finance a road project requires approval by a two-thirds majority of district voters, and the total amount of bonds and obligations for such projects may not exceed, at the time of issuance, one-fourth of the assessed value of the real property in the district.

### **House Bill 4759**

**Effective:** 6-19-09

**House Author:** Quintanilla

**Senate Sponsor:** Uresti

House Bill 4759 amends the Special District Local Laws Code to create the Tornillo Management District in El Paso County and to grant it the powers and duties provided by general law, including ones applicable to a municipal management district and a development corporation. The bill authorizes the district to impose a property tax, a hotel occupancy tax, and a sales and use tax and to issue bonds and other obligations to provide certain improvements and services to promote the economic health, vitality, and public welfare of the district. The bill prohibits the district from exercising the power of eminent domain and from providing wholesale or retail water or wastewater services or producing water without the consent of the El Paso County Tornillo Water Improvement District.

### **House Bill 4775**

**Effective:** 6-19-09

**House Author:** Bonnen

**Senate Sponsor:** Huffman

House Bill 4775 amends the Special District Local Laws Code to create the Alden Lake Management District in Brazoria County, Texas. The bill grants the district various powers, including the authority to issue bonds and impose taxes, which are subject to approval by district voters. The district may exercise the powers granted to a Type B development corporation, and for purposes of establishing and providing for the administration of economic development programs, the district has all of the powers of a municipality under Local Government Code provisions relating to municipal planning and development. All or part of the district's area is eligible for inclusion in a tax increment reinvestment zone, a tax abatement reinvestment zone, or an enterprise zone, and the bill grants the district the authority to define areas or to designate



certain district property to pay for improvements, facilities, or services that primarily benefit that area or property and do not generally and directly benefit the district as a whole. The district is authorized to annex land as provided by general-law provisions in the Water Code relating to all districts only if the City of Lake Jackson consents to the annexation, but may not exercise the power of eminent domain. The district is also prohibited from imposing an impact fee on the property of a public utility provider. The exemption on certain residential property and the limitation on operation and maintenance taxes for recreational facilities do not apply to the district, and the bill provides that the City of Lake Jackson is not required to pay a bond, note, or other district obligation.

**House Bill 4825****Effective:** 6-19-09**House Author:** Rose**Senate Sponsor:** Wentworth

House Bill 4825 amends the Special District Local Laws Code to create the Driftwood Economic Development Municipal Management District in Hays County, Texas. Among other provisions, the bill authorizes the district to undertake certain improvement projects and to impose taxes, including a hotel occupancy tax. The bill prohibits the district from issuing bonds and from exercising the power of eminent domain and requires the board to obtain a review of the district's financial activities for the preceding year.

**Senate Bill 1295****Effective:** 5-23-09**Senate Author:** Hegar**House Sponsor:** Howard, Charlie

Senate Bill 1295 amends the Special District Local Laws Code to create the Aliana Management District in Fort Bend County, subject to approval by the county commissioners court. The bill grants the district the powers of a Type B development corporation, most powers of a municipal management district, and certain powers of a municipality under Government Code provisions relating to issuers of obligations and Local Government Code provisions relating to planning and development. The district may construct, acquire, improve, maintain, and operate a sports venue. It is prohibited from pursuing, similarly, a turnpike or toll road. The bill authorizes the district to impose a hotel occupancy tax. With voter approval, the district may impose a sales and use tax, impose a property tax, or issue bonds payable from property taxes. Bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The district is prohibited from exercising the power of eminent domain.

**Senate Bill 2466****Effective:** 6-19-09**Senate Author:** Harris**House Sponsor:** Jackson, Jim

Senate Bill 2466 amends the Special District Local Laws Code to create the Cypress Waters Municipal Management District in Dallas County. The bill grants the district various powers, including those of a municipal management district, municipal utility district, conservation and reclamation district, road district, and road utility district, and under the Tax Increment Financing Act and provisions of the Government Code relating to obligations for certain public improvements, as well as certain economic development powers and powers applicable to a municipality or county under the Public Improvement District Assessment Act. The district may undertake specified types of improvement projects and activities, and all or part of its area is eligible for inclusion in a tax increment reinvestment zone, tax abatement reinvestment zone, or enterprise zone created by the City of Dallas. The district, however, may not exercise the power of eminent domain. Property taxes and maintenance and operation taxes must be approved by

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district voters, and before the district undertakes any improvement project, imposes taxes, issues bonds, or borrows money, the district and the city must negotiate and execute a development and operating agreement. The governing body of the city must approve the issuance of bonds, notes, credit agreements, or other obligations of the district, as provided by the development and operating agreement or by separate action.

### **Senate Bill 2467**

**Effective:** 6-19-09

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

**House Sponsor:** Fletcher

Senate Bill 2467 amends the Special District Local Laws Code to create the Waller Town Center Management District in Harris County, Texas. Among other provisions, the bill grants the district various powers, including the authority to issue bonds and impose taxes subject to approval by district voters. The district may exercise the powers granted to a Type B development corporation, and for purposes of establishing and providing for the administration of economic development programs, the district has all of the powers of a municipality under Local Government Code provisions relating to municipal planning and development. All or part of the district's area is eligible for inclusion in a tax increment reinvestment zone, a tax abatement reinvestment zone, or an enterprise zone, and the bill grants the district the authority to establish defined areas or to designate certain district property to pay for improvements, facilities, or services that primarily benefit that area and do not generally and directly benefit the district as a whole. The bill prohibits the district from imposing an impact fee on the property of a public utility provider, and provides that the exemption on certain residential property and the limitation on operation and maintenance taxes for recreational facilities do not apply to the district. Although the district is authorized to annex land as provided by general-law provisions in the Water Code relating to all districts, the bill limits the district's authorization to exercise the power of eminent domain under provisions of the Water Code by prohibiting the district from exercising that power outside the district to acquire a site for specified water or wastewater facilities or certain recreational facilities. The bill provides that the district is a water or sewer district under Local Government Code provisions relating to municipal authority to annex water or sewer districts and authority to dissolve or divide the functions of certain water-related special districts.

### **Senate Bill 2479**

**Effective:** 6-19-09

**Senate Author:** Jackson, Mike

**House Sponsor:** Weber

Senate Bill 2479 amends the Special District Local Laws Code to create the Country Place Management District, subject to voter approval at a confirmation election. In addition to the powers of a municipal management district, the bill grants the district powers of a Type B development corporation. The district may create and implement its projects through a nonprofit corporation and may contract for law enforcement services. The district may not exercise the power of eminent domain but may annex and exclude land as provided by the Water Code. The bill authorizes the district to levy an assessment, impose a property tax, and issue bonds or other obligations to provide certain improvements and services to promote the economic health, vitality, and public welfare of the district but prohibits the district from imposing an impact fee or assessment on the property of certain utilities. The bill requires the district to obtain the approval of the City of Pearland's governing body for the issuance of bonds for each improvement project. The bill authorizes the board of directors of the district to establish fees for the use of any district facilities.

**Senate Bill 2496**  
**Effective:** 6-19-09

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

Senate Bill 2496 amends the Special District Local Laws Code to authorize the Westchase District, with certain limitations, to impose an assessment to pay for burying or removing electrical or optical lines, including telephone lines, removing poles and elevated lines using them, and reconnecting such elevated lines to the buildings or other improvements to which they were connected. It authorizes the district to acquire, operate, or charge fees for the use of its conduits for a telecommunications network, fiber-optic cable, an electronic transmission line, or any other type of transmission line or supporting facility. The bill establishes that any or all of the district is eligible to be included in a reinvestment zone or enterprise zone. It provides that, for district purposes, a parking improvement is considered to be a street or road improvement. Other provisions relate to tort liability, changes in the size of the board of directors, the determination of a quorum, the creation of a nonprofit corporation, and membership of the district in a charitable organization.

**Senate Bill 2501**  
**Effective:** 6-19-09

**Senate Author:** West  
**House Sponsor:** Alonzo

Senate Bill 2501 amends the Special District Local Laws Code to create the North Oak Cliff Municipal Management District in Dallas County. The bill grants the district various powers, including those of a municipal management district, conservation and reclamation district, and road utility district, and power under the Tax Increment Financing Act and provisions of the Government Code to undertake obligations for certain public improvements, as well as certain economic development powers and powers applicable to a municipality or county under the Public Improvement District Assessment Act. The district may undertake specified types of improvement projects and activities, and all or part of its area is eligible for inclusion in a tax increment reinvestment zone, tax abatement reinvestment zone, or enterprise zone created by the City of Dallas. The district, however, may not exercise the power of eminent domain, impose an impact fee on certain residential property, or build or operate a toll road. Property taxes and maintenance and operation taxes must be approved by district voters, and before the district undertakes any improvement project, imposes taxes, issues bonds, or borrows money, the district and the city must negotiate and execute a development and operating agreement. The governing body of the city must approve the issuance of bonds, notes, credit agreements, or other obligations of the district, as provided by the development and operating agreement or by separate action.

**Senate Bill 2522**  
**Effective:** 6-19-09

**Senate Author:** Gallegos  
**House Sponsor:** Alvarado

Senate Bill 2522 amends the Special District Local Laws Code to clarify the qualifications for appointment to the board of directors of the Greater East End Management District and to require that at least 60 percent of the directors be residents of the district and that nonresident directors have a district business interest as defined in the bill. The bill requires the board to select a presiding officer and other officers according to a rotating schedule and prohibits a presiding officer from serving consecutive terms.

## **Economic Development—Miscellaneous Districts**

### **House Bill 1300**

**Effective:** 5-27-09

**House Author:** Turner, Chris

**Senate Sponsor:** Davis, Wendy

House Bill 1300 amends the Special District Local Laws Code to create the Kennedale Towncenter Development District in Tarrant County. It grants the district the general-law powers of a municipal management district, a road district, a road utility district, a municipal utility district, and a water district generally. The district may contract for law enforcement services. It may impose assessments and impact fees, but assessments to finance a service or improvement project require a petition by a specified number of real property owners in the assessed area. Additionally, the district must obtain the approval of voters to impose a maintenance tax or issue bonds payable from property taxes, unless it has obtained written consent from all of its property owners, and must obtain the approval of the City of Kennedale for the issuance of bonds for an improvement project, the plans and specifications for a project financed by bonds, or the plans and specifications for any other improvement project related to the use of certain land, easements, or rights-of-way.

### **House Bill 4376**

**Effective:** 6-19-09

**House Author:** Smith, Wayne

**Senate Sponsor:** Williams

House Bill 4376 amends the Special District Local Laws Code to authorize the Baytown Municipal Development District to spend sales tax revenue on the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements to promote new or expanded business development in the district.

### **House Bill 4755**

**Effective:** 6-19-09

**House Author:** Kuempel

**Senate Sponsor:** Wentworth

House Bill 4755 amends the Special District Local Laws Code to create the Guadalupe County Development and Management District. The bill grants the district the general-law powers of a water district, a municipal utility district, a road district and road utility district, a public improvement district, a municipal management district, and a Type B development corporation, as well as the powers of certain governmental issuers of obligations for public improvements. The bill specifies the many types of improvement projects the district may pursue but makes any such project, as well as the imposition of taxes, assessments, or fees, the borrowing of money, or issuance of bonds, contingent on an agreement with the county. Impact fees extend to residential as well as other property but may be imposed only for the limited purpose of providing capital funding for public water and wastewater facilities, drainage and storm-water facilities, and streets and alleys. The bill allows any part of the district that is annexed into a municipality to be included in a municipally created reinvestment zone or enterprise zone. The district's board of directors may add or remove district territory subject to approval by the owners of the territory, but territory may not be removed if bonds or obligations payable from taxes or assessments on any of the territory are still outstanding. The bill authorizes the district to regulate the private use of a public roadway, park, or other public area or district facility. It prohibits the district from exercising the power of eminent domain.

### **Senate Bill 1033**

**Effective:** 6-19-09

**Senate Author:** Fraser

**House Sponsor:** Sheffield

Senate Bill 1033 amends the Special District Local Laws Code to establish additional public purposes of the Temple Health and Bioscience Economic Development District. The bill provides that all or part of the area of the district is eligible to be included in a tax increment reinvestment

zone or a tax abatement reinvestment zone created by the City of Temple and authorizes the city and the board of directors of the zone, by contract with the district, to grant money deposited in a tax increment fund to the district for any purpose or to give the district the power to manage or implement a reinvestment zone's project or financing plans. The bill authorizes the district to establish and maintain reasonable fees for the use of improvements leased to or by the district and clarifies the district's authority to exercise property rights and create projects outside the boundaries of the district. The bill expands the district's bonding authority and allows the district to issue bonds, other than bonds payable from property taxes, for a project outside the boundaries of the district. The bill allows the nonprofit corporation authorized by the board of directors to be organized to perform biomedical or scientific research or provide biomedical or scientific education for the benefit of the public and requires the corporation to assist and act for the district in implementing a project or providing a service authorized by the Texas Transportation Corporation Act. The bill authorizes the district to impose a property tax, if approved at an election, to pay for district operating expenses and sets forth provisions regarding the paying and securing of revenue bonds and other district obligations.

**Senate Bill 2503**  
**Effective:** 5-27-09

**Senate Author:** Nichols  
**House Sponsor:** Brown, Betty

Senate Bill 2503 amends the Special District Local Laws Code to require the Commissioners Court of Henderson County, if there are fewer than three directors on the board of the Lake View Management and Development District, to appoint the necessary number of directors to fill all board vacancies on petition by a majority of real property owners in the district. The bill establishes a concurrence of a majority of the total membership of the board as sufficient for transacting any business of the district and requires the board to elect from among the directors, in addition to those already prescribed by law, any other officers the board considers necessary. The bill grants the district the powers and duties of a road district as provided in the Transportation Code and adds a canal, waterway, bulkhead, or dock, inside or outside the district's boundaries, that is necessary to, incidental to, or in aid of the navigation of inland water and a floodplain or wetlands regulation project, including the acquisition of necessary local, state, or federal permits, to the types of improvement projects the district may provide or contract with a governmental or private entity to provide. The bill removes the specification that property taxes imposed by the district be imposed in accordance with Local Government Code provisions governing municipal management districts in general. Senate Bill 2503 validates, ratifies, and confirms all governmental and proprietary actions of the Lake View Management and Development District taken before May 27, 2009, excluding matters in litigation or invalidated by a final court judgment.

### **Emergency—Emergency Services Districts**

**House Bill 527**  
**Effective:** 6-19-09

**House Author:** Leibowitz  
**Senate Sponsor:** Zaffirini

House Bill 527 amends the Health and Safety Code to authorize a county commissioners court to remove one or more members of an appointed board of an emergency services district if the board fails to file a required report regarding the district's finances. The bill changes certain requirements relating to such a report.

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### **House Bill 1187**

**Effective:** 6-19-09

House Bill 1187 amends the Health and Safety Code to add a licensed peace officer appointed by the county sheriff as a member of the board of managers of an emergency communication district located entirely in a county with a population of more than 20,000 and less than 30,000.

**House Author:** Kolkhorst

**Senate Sponsor:** Hegar

### **House Bill 2212**

**Effective:** 6-19-09

House Bill 2212 amends the Health and Safety Code to authorize the board of an emergency services district located wholly in one county with a population of 20,000 or less to create a new emergency services district by disannexing territory from the existing district and ordering a new district to be created in the disannexed territory. The bill requires, before the existing district may be divided, a petition for division signed by the lesser of seven percent of the district's qualified voters or at least 100 of the district's qualified voters and requires the board to schedule a hearing to consider the petition and each issue relating to the division of the district. The bill requires the board, on granting a petition to divide the district, to order an election to be held in the territory of the proposed new district to confirm the division and, if a majority of voters in the proposed new district vote to divide the district, to order the division. The bill sets forth provisions relating to the division order, the administration of the districts after division, and satisfying debt obligations of disannexed territory. The bill prohibits further division of the existing or new district.

**House Author:** Craddick

**Senate Sponsor:** Duncan

### **House Bill 2228**

**Effective:** 6-19-09

Current law prohibits the board of directors of a fire control, prevention, and emergency medical services district from holding a referendum election on the dual question of continuation or dissolution of the district and continuation or abolishment of the district sales and use tax before the fifth anniversary of the date the district was created or before the third anniversary of the date of the last such referendum election. House Bill 2228 retains the three-year interval between referendum elections but amends the Local Government Code to reduce the time the board must wait to hold the referendum election after creation of the district from five years to four years from the date the district was created.

**House Author:** Parker et al.

**Senate Sponsor:** Nelson

### **House Bill 2529**

**Effective:** See below

House Bill 2529 amends the Health and Safety Code to increase, from two years to four years, the term of service for an emergency services commissioner of an emergency services district located wholly in a county with a population of more than three million or located in more than one county. The bill requires an election for commissioner to be held every two years, rather than annually.

**House Author:** Harless

**Senate Sponsor:** Patrick, Dan

House Bill 2529 takes effect January 1, 2010, contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 85.

### **House Joint Resolution 85**

**For Election:** 11-3-09

House Joint Resolution 85 proposes an amendment to the state constitution to allow the legislature to provide for members of a governing board of an emergency services district to serve terms not to exceed four years.

**House Author:** Harless

**Senate Sponsor:** Patrick, Dan

**Senate Bill 1485****Effective:** 9-1-09**Senate Author:** Watson**House Sponsor:** Bolton

Senate Bill 1485 amends the Health and Safety Code to authorize an emergency services district to sell surplus firefighting equipment to any volunteer fire department or district in the state for fair market value if the equipment meets National Fire Protection Association Standards currently in effect or in effect when the equipment originally was purchased. The bill also authorizes a district to contract to supply surplus property to any such department or district at fair market value and to sell salvage property to any person in the state for fair market value or, if unable to do so, to destroy or otherwise dispose of the property as worthless. The bill allows the district to determine the fair market value of surplus and salvage property.

**Emergency—Hospital Districts****House Bill 118****Effective:** 9-1-09**House Author:** Heflin**Senate Sponsor:** Duncan

House Bill 118 amends the Special District Local Laws Code to allow for the removal from the board of directors of the Lynn County Hospital District a member who is absent from more than half, rather than three-fourths, of the regularly scheduled board meetings during a calendar year.

**House Bill 473****Effective:** 6-19-09**House Author:** Lewis**Senate Sponsor:** Seliger

House Bill 473 amends the Special District Local Laws Code to clarify the Ector County Hospital District's authority to act as a governmental entity for purposes of using certain alternative project delivery procurement procedures and to require the district in such a case to provide notice in the same manner as a conservation and reclamation district.

**House Bill 694****Effective:** 6-19-09**House Author:** Kuempel**Senate Sponsor:** Hegar

House Bill 694 amends the Special District Local Laws Code provisions relating to the Gonzales Healthcare Systems Hospital District to revise terms and election procedures for the board of directors and to update competitive bidding procedures for certain construction contracts. The bill authorizes the board to borrow money and secure its repayment and sets forth authorized uses of bonds and procedures for dissolution of the district.

**House Bill 781****Effective:** 6-19-09**House Author:** Farabee**Senate Sponsor:** Estes

House Bill 781 amends the Special District Local Laws Code to conform to legislation passed in the 80th Regular Session revising the terms and election procedures for the board of directors of the Electra Hospital District. The bill authorizes the district to borrow money and to use certain revenue, taxes, or bonds to secure a loan and establishes loan maturity dates. The bill also authorizes the district to provide for the security and payment of district bonds from a pledge of property taxes, revenue, and other sources as authorized by law and specifies the allowable uses of bond proceeds.

**House Bill 878****Effective:** 6-19-09**House Author:** Bonnen**Senate Sponsor:** Huffman

House Bill 878 amends the law relating to the Sweeny Hospital District to authorize the district to provide for the security and payment of district bonds from a pledge of property

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taxes, revenue, or other sources, and to specify the allowable uses of bond proceeds. The bill authorizes the district to borrow money and to use certain revenue, taxes, or bonds to secure a loan and establishes loan maturity dates.

**House Bill 1366**  
**Effective:** 6-19-09

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

House Bill 1366 amends the Health and Safety Code to change the ballot language for a proposition to authorize a tax or the issuance of bonds for hospital district system improvements. The bill requires the proposition to include, at a minimum, the information included in the election order as prescribed by law.

**House Bill 1517**  
**Effective:** 9-1-09

**House Author:** Eissler  
**Senate Sponsor:** Nichols

House Bill 1517 amends the law relating to the Montgomery County Hospital District to extend to the district certain powers granted to a county or a public hospital under the Indigent Health Care and Treatment Act. The bill provides the district the same maximum liability for services provided to an eligible resident and authorizes the district to select and require the use of mandated providers. The bill also authorizes the district to require providers to notify the district before providing nonemergency or emergency services to an eligible resident.

**House Bill 1686**  
**Effective:** 6-19-09

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

House Bill 1686 amends the law to expand the bonding authority of the Muenster Hospital District's board of directors to include issuance of bonds secured by a pledge of a combination of property taxes, revenue, and other sources and to set forth the authorized uses of bond proceeds. The bill removes a condition that the board must declare that funds are not available to meet obligations and that an emergency exists before the board may borrow money.

**House Bill 2708**  
**Effective:** 6-19-09

**House Author:** Gonzalez Toureilles  
**Senate Sponsor:** Zaffirini

House Bill 2708 amends the Special District Local Laws Code to allow the board of the Karnes County Hospital District to borrow money secured by certain revenue, taxes, or bonds.

**House Bill 2994**  
**Effective:** 6-19-09

**House Author:** Heflin  
**Senate Sponsor:** Duncan

House Bill 2994 amends the law to allow the board of the Reagan Hospital District to borrow money secured by a pledge of certain district revenue, taxes, or bonds. The board is also authorized to issue bonds payable jointly from property taxes and other revenue and may use the proceeds for certain costs related to the bonds and a facility financed by the bonds.

**House Bill 4007**  
**Effective:** 6-19-09

**House Author:** Hardcastle  
**Senate Sponsor:** Duncan

House Bill 4007 amends the Special District Local Laws Code to change the election date for members of the board of directors of the Hardeman County Hospital District to the May uniform election date of each year and revises the board's election notice requirements to conform to the Election Code.



**House Bill 4139**  
**Effective:** 6-19-09

**House Author:** Homer  
**Senate Sponsor:** Deuell

House Bill 4139 amends the Special District Local Laws Code to conform notice requirements for an election of directors of the Hopkins County Hospital District to the Election Code and to broaden the board's authority to provide financial inducements to physicians. The bill authorizes the board to acquire property, facilities, and equipment for health care providers generally, rather than only for staff physicians, entitles any district resident, rather than any district taxpayer, to be heard at a hearing on the proposed budget of the district, and removes the requirement that the annual independent audit of the district's books and records be filed with the state comptroller of public accounts.

**House Bill 4257**  
**Effective:** 6-19-09

**House Author:** Hilderbran  
**Senate Sponsor:** Uresti

House Bill 4257 amends the law relating to the Sutton County Hospital District to conform provisions for the election of the board of directors to the Election Code. The bill revises provisions regarding construction contracts to conform to the Local Government Code and the Government Code. The bill authorizes the board to borrow money secured by revenue, taxes, or bonds; allows the board to issue bonds secured by property taxes, revenue, or other sources; and specifies the allowable uses of bond proceeds.

**House Bill 4704**  
**Effective:** 6-19-09

**House Author:** Guillen  
**Senate Sponsor:** Zaffirini

House Bill 4704 amends the law to authorize the board of the Starr County Hospital District to borrow money secured by certain revenue, taxes, or bonds.

**House Bill 4730**  
**Effective:** 6-19-09

**House Author:** Craddick  
**Senate Sponsor:** Seliger

House Bill 4730 amends the law relating to the Martin County Hospital District. The bill revises the qualifications for service on the board of hospital managers and authorizes the board to pay for the bond required of the district's administrator with district money. The bill authorizes the board to employ physicians or other health care providers and to issue revenue bonds for specified purposes. The bill establishes a procedure for the dissolution of the district.

**House Bill 4745**  
**Effective:** 6-19-09

**House Author:** Heflin  
**Senate Sponsor:** Duncan

House Bill 4745 amends the Special District Local Laws Code to authorize the Lockney General Hospital District to recruit medical staff and employees, to borrow money and secure repayment of bonds, and to specify the purposes for which bond proceeds may be used. The bill updates election notice requirements for an election of the board of directors to conform to the Election Code and establishes new qualifications for eligibility to serve as a director. The bill makes procedures for competitive bidding of certain public works contracts applicable to construction contracts of more than \$25,000 made by the district and establishes procedures for dissolution of the district. The bill repeals a provision relating to a petition to be a candidate for director and one providing that the president of the board has the same right to vote as any other director.

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### **Senate Bill 524**

**Effective:** 9-1-09

**Senate Author:** Duncan

**House Sponsor:** Heflin

Senate Bill 524 amends the Special District Local Laws Code to reduce the number of unexcused absences from board meetings that constitute grounds for removal from the board of directors of the Lynn County Hospital District, providing for the removal of a member who is absent from more than half, rather than more than three-fourths, of the regularly scheduled board meetings during a calendar year without an excuse approved by a majority vote of the board.

### **Senate Bill 534**

**Effective:** 9-1-09

**Senate Author:** Shapleigh

**House Sponsor:** Chavez

Senate Bill 534 amends the Health and Safety Code to require the El Paso Commissioners Court to appoint a board of hospital managers for the El Paso County Hospital District that is composed of seven members. The bill adds provisions relating to terms, term limits, and removal of a member.

### **Senate Bill 1478**

**Effective:** 6-19-09

**Senate Author:** Carona

**House Sponsor:** Vaught

Senate Bill 1478 amends the Health and Safety Code to authorize the board of hospital managers of a hospital district in a county with a population of 190,000 or more to lease undeveloped real property for up to 50 years with the approval of the commissioners court for the development and construction of facilities designed to generate revenue for the financial benefit of the district. The bill authorizes the board, directly or through a nonprofit corporation, to contract or enter into a joint venture with a public or private entity as necessary to enter into a lease.

### **Senate Bill 1705**

**Effective:** 6-19-09

**Senate Author:** West

**House Sponsor:** Pitts

Senate Bill 1705 amends the Health and Safety Code to authorize the board of hospital managers of the Dallas County Hospital District to appoint, contract for, or employ physicians, dentists, and other health care providers as necessary to provide medical and dental care for the indigent and needy residents of the district. The bill requires the district to establish a committee consisting of at least five active physicians providing care in the district whose function is to approve or adopt policies, including policies relating to credentialing, quality assurance, utilization review, peer review, medical decision-making, governance of the committee, and due process, to ensure that a physician employed by the district is exercising the physician's independent medical judgment in providing patient care. The bill also requires each physician employed by the board to ultimately report to the chief medical officer of the Dallas County Hospital District for all matters relating to the practice of medicine.

### **Senate Bill 1712**

**Effective:** 6-19-09

**Senate Author:** Hegar

**House Sponsor:** Weber

Senate Bill 1712 amends the Special District Local Laws Code to increase from 25 years to 99 years the maximum permissible term of a lease agreement entered into by the Matagorda County Hospital District board of managers when leasing district property.

### **Senate Bill 2093**

**Effective:** 6-19-09

**Senate Author:** Duncan

**House Sponsor:** Chisum

Senate Bill 2093 amends the law to set forth the composition, terms, and eligibility requirements of the board of directors of the North Wheeler County Hospital District. The

bill requires an election for directors to be held annually on the May uniform election date, modifies the notice requirements of such an election, and requires the criteria for inclusion on the ballot as a candidate for director to be in accordance with provisions of the Election Code. The bill establishes that the district operates on a fiscal year established by the board that may not be changed if revenue bonds are outstanding or more than once in a 24-month period. The bill expands the board's bonding authority to include issuance of bonds secured by a pledge of operational revenue of district hospitals, a mortgage or deed of trust lien on district property, property taxes, and other sources, and requires a bond secured by a property tax to be approved at an election. The bill provides for the use of bond proceeds and sets out procedures for the dissolution of the district.

**Senate Bill 2517**  
**Effective:** 6-19-09

**Senate Author:** Duncan  
**House Sponsor:** Hilderbran

Senate Bill 2517 amends the Special District Local Laws Code and session law to provide for the dissolution of the Ballinger Memorial Hospital District and the North Runnels County Hospital District on the creation of the Runnels County Hospital District. The bill sets forth the general powers and duties of the Runnels County Hospital District and authorizes the district to exercise the power of eminent domain, borrow money, issue bonds, impose a property tax, and create and sponsor a nonprofit corporation for provision of services.

All provisions of the bill expire if the dissolution of the Ballinger Memorial Hospital District and the North Runnels County Hospital District and the creation of the Runnels County Hospital District are not approved at an election held not later than the fifth anniversary of the bill's effective date.

## **Transportation—Navigation Districts**

**House Bill 3692**  
**Effective:** 9-1-09

**House Author:** Deshotel  
**Senate Sponsor:** Huffman

House Bill 3692 amends the law to increase from \$50 to \$200 per month the compensation of a member of the board of port commissioners of the Port of Port Arthur Navigation District of Jefferson County and to increase from \$75 to \$250 per month the compensation of the president of the board.

**House Bill 3785**  
**Effective:** 6-19-09

**House Author:** Callegari  
**Senate Sponsor:** Ellis

House Bill 3785 amends the Water Code to authorize the navigation and canal commission or executive director of a navigation district to establish a program in the district to allow an employee to voluntarily transfer time earned by the employee as sick leave or vacation leave to a district employee catastrophic assistance fund. The bill authorizes an employee, on approval by the administrator, to contribute not less than one day or more than 10 days of the employee's combined accrued sick and vacation leave time to the fund in a fiscal year, and it requires the administrator to credit the fund with a dollar amount equivalent to the employee's hourly salary multiplied by the number of hours contributed by the employee. The bill establishes that an employee may be eligible for a transfer of money from the fund, not to exceed \$5,000, if the employee has suffered unreimbursed losses or expenses because of a catastrophic event. The bill authorizes the commission or executive director of a district to adopt rules and prescribe procedures and forms relating to operation of the fund.

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House Bill 3785 adds provisions that relate to the law authorizing certain officials and representatives of a navigation district or port authority to make routine purchases or contracts in an amount not to exceed \$25,000. The bill specifies that provisions governing a contract award apply to contracts valued at more than the amount authorized under that law. The bill also requires a district or port authority to comply with the Professional Services Procurement Act in procuring professional services. The bill revises certain procedures of a navigation district or port authority relating to the execution of a contract with the United States and the selection of a contractor for construction services.

### **Senate Bill 836**

**Effective:** 5-19-09

**Senate Author:** Hinojosa

**House Sponsor:** Ortiz, Jr.

Senate Bill 836 amends the law to require an election relating to the Port of Corpus Christi Authority of Nueces County, Texas, to be held in the authority as a whole, and not on a county-by-county basis. The bill authorizes the governing body of the authority to adopt, amend, repeal, and enforce an ordinance, rule, or police regulation necessary to protect, secure, and defend the ship channels and waterways in the jurisdiction of the authority and facilities served by those ship channels and waterways; promote the health, safety, and general welfare of any person using the ship channels and waterways in the jurisdiction of the authority; or comply with a federal law or regulation or implement a directive or standard of the federal government relating to securing ship channels and waterways and facilities served by ship channels and waterways. The bill authorizes a sheriff, constable, or other duly constituted peace officer of Texas or a peace officer employed or appointed by the governing body of the authority, in the enforcement of an authority ordinance, rule, or police regulation, to make arrests, serve criminal warrants, subpoenas, or writs, and perform any other service or duty that may be performed by any sheriff, constable, or other duly constituted peace officer of Texas in enforcing other laws of Texas. The bill requires the governing body of the authority, in adopting such an ordinance, rule, or police regulation, to comply with the procedures provided by the law relating to ordinances, rules, and regulations enacted by navigation districts. The bill authorizes the authority to enter into an interlocal agreement with Texas or a political subdivision of Texas to jointly provide, and share the costs of, security for the ship channels and waterways in the jurisdiction of the authority. The bill also authorizes the authority to contract with a qualified party for the provision of law enforcement services in all or part of the jurisdiction of the authority.

### **Senate Bill 1373**

**Effective:** 5-19-09

**Senate Author:** Lucio

**House Sponsor:** Pickett

Senate Bill 1373 amends Transportation Code provisions relating to permits for oversize or overweight vehicles by certain port authorities. The bill requires the fees collected for oversize and overweight vehicle permits, less administrative costs, to be used solely to provide funds for the maintenance and improvements of state highways in certain counties, rather than to make payments to the Texas Department of Transportation to provide funds for the maintenance of the highways. The bill requires the Texas Transportation Commission, with the consent of the port authority, to designate the most direct route from the Gateway International Bridge or the Veterans International Bridge at Los Tomates to the entrance of the Port of Brownsville using specific highways. The bill requires the commission, if it designates a route or changes the route designated under these provisions, to notify the port authority of the route not later than the 60th day before the date that the designation takes effect. The bill requires a port authority permit to include a statement of the route designated under these provisions. The bill removes the June 1, 2009, expiration date of the law governing port authority permits for oversize and overweight vehicles.

**Senate Bill 1571****Effective:** 9-1-09**Senate Author:** Hinojosa**House Sponsor:** Herrero

Senate Bill 1571 amends the Transportation Code to provide optional procedures for the issuance of permits by the Port of Corpus Christi Authority for the movement of oversize or overweight vehicles carrying cargo on a roadway owned and maintained by the Port of Corpus Christi Authority that is located in San Patricio County or Nueces County or on a state highway special freight corridor located in San Patricio County. The provisions in the bill relate to issuance of the permits, permit fees, permit requirements, time of movement of the vehicles, the speed limit imposed on the vehicles, enforcement, and the adoption of rules by the Texas Transportation Commission to implement these provisions. The port authority may issue special freight corridor permits only if the commission authorizes the authority to issue the permits and the cargo being transported weighs 125,000 pounds or less. Fees from special freight corridor permits must be used solely to make payments to the Texas Department of Transportation to provide funds for the maintenance of the state highway special freight corridor in San Patricio County. Fees from the roadway permits are to be used solely for the construction and maintenance of port authority roadways.

**Senate Bill 2480****Effective:** 6-19-09**Senate Author:** Hegar**House Sponsor:** Weber

Senate Bill 2480 amends the Special District Local Laws Code to provide for the membership, terms, and election of the board of navigation and canal commissioners of the Matagorda County Navigation District No. 1.

**Senate Bill 2569****Effective:** 6-19-09**Senate Author:** Lucio**House Sponsor:** Rios Ybarra

Senate Bill 2569 amends the law to provide for the membership, terms, and election of the board of navigation and canal commissioners of the Willacy County Navigation District.

**Transportation—Transportation Authorities and Districts****House Bill 1871****Effective:** 4-29-09**House Author:** Smith, Wayne**Senate Sponsor:** Jackson, Mike

House Bill 1871 amends the Water Code to authorize a ship channel security district or a county whose commissioners court has created a ship channel security district to enter into an agreement with the Texas Department of Transportation (TxDOT) to provide for use of TxDOT's facilities or property to aid security in the district. The bill authorizes a county that has entered into an agreement with TxDOT for use of TxDOT's fiber optic network for transportation purposes to use the network to serve a project aiding security in a ship channel security district in the same manner as other transportation purposes unless the agreement precludes the use of the network for that purpose.

**House Bill 2433****Effective:** 9-1-09**House Author:** Smith, Wayne**Senate Sponsor:** Williams

House Bill 2433 amends the Transportation Code to include the powers related to a commuter rail facility and other types of passenger rail services, including intercity rail services, among the powers of an intermunicipal commuter rail district that the governing bodies of an eligible county and municipality may exercise by specifying in the concurrent order or ordinance creating a freight rail district that those powers may be exercised by the district. The bill specifies

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that the limit on payments made by a local government for the financing of transportation infrastructure within the territory of the local government does not apply to a freight rail district that is exercising the powers of an intermunicipal commuter rail district as described above. The bill authorizes such a district to use money paid to the district by a local government outside the territory of the local government if the money is used for a public purpose of the local government and to pledge money paid to the district by a local government to secure the payment of a district debt.

### **House Bill 2434**

**Effective:** 5-12-09

**House Author:** Smith, Wayne

**Senate Sponsor:** Williams

House Bill 2434 amends the Transportation Code to add freight rail districts, intermunicipal commuter rail districts, and commuter rail districts to the entities to which the provision relating to the supervision by the Texas Department of Transportation of money appropriated or allocated by the federal government for the construction and maintenance of rail facilities in Texas does not apply.

### **House Bill 3070**

**Effective:** 9-1-09

**House Author:** Solomons

**Senate Sponsor:** Nelson

House Bill 3070 amends the Transportation Code to specify that an election to obtain voter approval of a coordinated county transportation authority's proposed issuance of bonds secured by a pledge of sales tax revenue and having a maturity of five years or longer must be held in the municipalities in which the authority has been authorized to impose a sales and use tax. The bill removes the condition that the proposition be approved in accordance with provisions established for the authorization of a tax levy by the authority and exempts the issuance of refunding bonds or bonds for the creation or funding of self-insurance or retirement or pension fund reserves from the election and voter approval requirements above. It provides that the authority's authorization to mortgage any part of the public transportation system to secure the payment of its bonds applies regardless of when the part of the system is acquired. The bill authorizes an authority to issue obligations and enter into credit agreements, and it amends the Government Code to make a conforming change to that effect.

House Bill 3070 validates any act or proceeding of a coordinated county transportation authority as of the date it occurred, except an act or proceeding that was a misdemeanor or felony offense at the time of occurrence.

### **Senate Bill 293**

**Effective:** 5-19-09

**Senate Author:** Carona

**House Sponsor:** Alonzo

Senate Bill 293 amends the Transportation Code to authorize a regional transportation authority, in securing the payment of the authority's bonds, to provide that a pledge of revenue realized from any tax that the authority may impose or a pledge of revenue of the public transportation system is a first lien or charge against that revenue. The bill requires revenue in excess of amounts pledged under those provisions to be used to pay the expenses of operation and maintenance of a public transportation system, including salaries, labor, materials, and repairs necessary to provide efficient service and every other proper item of expense, and to fund operating reserves. The bill removes a provision providing that such operation and maintenance expenses are a first lien and charge against any revenue of a public transportation system that is encumbered under provisions relating to regional transportation authorities.

**Senate Bill 405**  
**Effective:** 9-1-09

**Senate Author:** Shapiro  
**House Sponsor:** McCall

Senate Bill 405 amends the Transportation Code to include parking fees among the forms of compensation for the use of the public transportation system that may be set according to a zone system or to another classification that a regional transportation authority determines to be reasonable.

**Senate Bill 581**  
**Effective:** 6-19-09

**Senate Author:** Wentworth  
**House Sponsor:** Rose

Senate Bill 581 amends the law to authorize a public entity to become a part of an intermunicipal commuter rail district if the entity is located in a county that has become a part of the district. The bill provides for the board of the district to include one member appointed by each public entity that has become a part of the district. The bill requires the board to adopt a name for the district and authorizes the board by resolution to change the name. The bill also authorizes an intermunicipal commuter rail district to acquire, construct, develop, own, operate, and maintain intercity or other types of passenger rail services.

**Senate Bill 882**  
**Effective:** 6-19-09

**Senate Author:** Carona  
**House Sponsor:** Geren

Senate Bill 882 amends the Transportation Code to provide that a regional tollway authority has the same powers and duties as the Texas Department of Transportation (TxDOT), a county acting under state law, and a regional mobility authority regarding the authority's toll collection and enforcement powers for the authority's turnpike projects and other toll projects developed, financed, constructed, or operated under a comprehensive development agreement or other agreement with the authority. The bill provides that if the amount of a contract for engineering, design, and construction services exceeds \$50 million, rules governing the award of such contracts may provide for a stipend to be offered to an unsuccessful design-build firm that submits a response to the authority's request for additional information, in an amount and for certain costs and value as specified by the bill. The bill requires a contract awarded under a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project to contain an explicit mechanism for setting the price for the purchase of the interest of the private participant in the contract and related property under the contract by the authority, rather than TxDOT. Senate Bill 882 also repeals provisions making it an offense if an authority director accepts certain prohibited benefits or a person offers those benefits.

**Senate Bill 1263**  
**Effective:** 9-1-09

**Senate Author:** Watson  
**House Sponsor:** Rodriguez

Senate Bill 1263 amends provisions of the Transportation Code relating to certain mass transit entities to add provisions that apply only to a metropolitan rapid transit authority created before July 1, 1985, in which the principal municipality has a population of 750,000 or less. The bill authorizes such an authority to employ fare enforcement officers, specifying that a fare enforcement officer is not a peace officer, and establishes that an offense relating to the nonpayment of the appropriate fare, in addition to being a Class C misdemeanor, is not a crime of moral turpitude. The bill provides that a peace officer contracted for employment by such an authority has the same powers and duties as a peace officer commissioned and employed under other provisions of the law governing metropolitan rapid transit authorities. The bill establishes when a new or revised fare takes effect, requires the board of the authority to appoint an internal

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auditor, and subjects the authority to review under the Texas Sunset Act. The bill prohibits the authority from being abolished under the act and requires the first review to be conducted as if the authority were scheduled to be abolished September 1, 2011. The bill specifies that the law relating to a referendum for a rail plan does not require the authority to hold a referendum on a proposal to build or operate a fixed rail transit system for another entity, and it authorizes the authority to spend authority funds under a contract for such a purpose if the other entity will reimburse the authority for the funds. The bill requires the authority to provide an annual report to each governing body of a municipality or county in the authority regarding the status of any financial obligation of the authority to the municipality or county. Senate Bill 1263 also revises the composition and terms of the board of directors of the authority.

### **Senate Bill 1540**

**Effective:** 4-1-11

**Senate Author:** Carona

**House Sponsor:** Phillips

Senate Bill 1540, a continuation of the legislature's ongoing statutory revision program, transfers to the Transportation Code and Natural Resources Code, without substantive change, provisions relating to regulation of railroads, the powers and duties of railroads, miscellaneous types of railways, rural rail transportation districts, intermunicipal and other commuter rail districts, the liability of certain transportation entities providing public transportation, enhanced pavement marking visibility at certain grade crossings, and the jurisdiction, powers, and duties of the Railroad Commission of Texas. The bill updates references in various codes and statutes and repeals laws that it transfers.

### **Senate Bill 1876**

**Effective:** 9-1-09

**Senate Author:** Nelson

**House Sponsor:** Solomons

Senate Bill 1876 amends the Transportation Code to specify that an election to obtain voter approval of a coordinated county transportation authority's proposed issuance of bonds secured by a pledge of sales tax revenue and having a maturity of five years or longer must be held in the municipalities in which the authority has been authorized to impose a sales and use tax. The bill removes the condition that the proposition be approved in accordance with provisions established for the authorization of a tax levy by the authority and exempts the issuance of refunding bonds or bonds for the creation or funding of self-insurance or retirement or pension fund reserves from the election and voter approval requirements above. It provides that the authority's authorization to mortgage any part of the public transportation system to secure the payment of its bonds applies regardless of when the part of the system is acquired. The bill authorizes an authority to issue obligations and enter into credit agreements, and it amends the Government Code to make a conforming change to that effect.

Senate Bill 1876 validates any act or proceeding of a coordinated county transportation authority as of the date it occurred, except an act or proceeding that was a misdemeanor or felony offense at the time of occurrence.

## **Water—Groundwater Conservation Districts**

### **House Bill 753**

**Effective:** 5-12-09

**House Author:** Gonzalez Toureilles

**Senate Sponsor:** Hegar

House Bill 753 changes the date for electing directors of the Goliad County Groundwater Conservation District from the first uniform election date in May every two years to the first uniform election date in November every two years. The bill validates governmental and proprietary actions of the district taken before the effective date of the bill, excluding matters in litigation or invalidated by a final court judgment.



**House Bill 1518**  
**Effective:** 6-19-09

**House Author:** Corte  
**Senate Sponsor:** Wentworth

House Bill 1518 amends the law relating to the Trinity Glen Rose Groundwater Conservation District to restrict the amount of fees the district may impose on nonexempt wells in the district to a maximum of \$1 per acre-foot of water used for agricultural purposes or \$40 per acre-foot of water used for any other purpose and to provide for adding to the territory of the district vacant and inhabited territory annexed by a municipality that has chosen the district as its groundwater conservation district. The bill also validates certain governmental acts and proceedings of the district.

**House Bill 1664**  
**Effective:** 6-19-09

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

House Bill 1664 amends the Special District Local Laws Code to exempt from the assessment of production fees groundwater produced within the boundaries of the Upper Trinity Groundwater Conservation District for use by a fire department or emergency services district solely for emergency purposes. The bill authorizes the district to adopt rules requiring each involved entity to report to the district on the total quantity of groundwater used or produced each month, as applicable, for emergency and nonemergency purposes.

**House Bill 1923**  
**Effective:** 5-23-09

**House Author:** Heflin  
**Senate Sponsor:** Duncan

House Bill 1923 amends the law creating the Irion County Water Conservation District. The bill makes changes to accommodate the annexation of territory or consolidation with another district. The bill moves the election date for directors from the first Saturday in April of each year to the uniform election date in May, increases the term of office of directors from two years to four years, and aligns the amount of compensation a director is entitled to receive for each day the director is engaged in district business with the fees of office specified in the Water Code. The bill modifies the district's purpose and authority to that of a groundwater conservation district rather than a water control and improvement district. The bill revises provisions relating to dates of board meetings, appointments of a treasurer and attorney for the district, a bond requirement for the general manager of the district, and the adoption of a district seal.

**House Bill 1947**  
**Effective:** 6-19-09

**House Author:** Kuempel  
**Senate Sponsor:** Wentworth

House Bill 1947 changes the date for the election of directors of the board of the Guadalupe County Groundwater Conservation District from the first Saturday in May to the uniform election date in November of each odd-numbered year.

**House Bill 2063**  
**Effective:** 6-19-09

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

House Bill 2063 amends the Water Code to clarify that a groundwater conservation district may enforce its rules against any person, including a governmental entity, by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction. The bill establishes that, in an enforcement action by a district against a governmental entity for a violation of district rules, statutory limits on the amount of fees, costs, and penalties the district may impose constitute a limit of liability of the governmental entity for the violation. The bill provides that the saving provisions of the Code Construction Act apply to the bill's amendments to the Water Code.

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### **House Bill 4713**

**Effective:** 6-19-09

**House Author:** Miller, Doug

**Senate Sponsor:** Wentworth

House Bill 4713 amends the law relating to the Cow Creek Groundwater Conservation District to authorize, rather than require, the district to exempt property on which a water conservation initiative is implemented from property taxes. The bill repeals provisions that require the district to grant an exemption or relief from property taxes on property served by a retail public utility under certain conditions.

### **House Bill 4762**

**Effective:** 9-1-09

**House Author:** King, Tracy

**Senate Sponsor:** Uresti

House Bill 4762 amends the law to add certain parcels of land to the territory of the Edwards Aquifer Authority. The bill provides that all governmental acts and proceedings of the authority relating to certain initial regular groundwater withdrawal permits that were issued by the authority as of January 1, 2005, are validated in all respects, except for any matter that on the effective date of the bill is involved in litigation that ultimately results in the matter being held invalid by a final court judgment, or any matter that has been held invalid by such a judgment.

### **House Bill 4785**

**Effective:** 6-19-09

**House Author:** Weber

**Senate Sponsor:** Jackson, Mike

House Bill 4785 amends the law relating to the Brazoria County Groundwater Conservation District to require the election of directors to be held biennially on the uniform election date in May, rather than on the first Tuesday after the first Monday in November, and provides for the term of a director whose term expires in November 2010 and a director whose term expires in November 2012. The bill specifies that the production fee established and imposed by the board of directors is based on the amount of groundwater authorized by permit to be withdrawn from a well or the amount of groundwater actually withdrawn from a well in an amount not to exceed 17 cents per thousand gallons.

### **Senate Bill 663**

**Effective:** 5-30-09

**Senate Author:** Averitt

**House Sponsor:** Miller, Sid

Senate Bill 663 dissolves the Tablerock Groundwater Conservation District on its effective date and repeals the district's chapter in the Special District Local Laws Code.

### **Senate Bill 726**

**Effective:** See below

**Senate Author:** Eltife

**House Sponsor:** Hughes

Senate Bill 726 amends the Special District Local Laws Code to create the Harrison County Groundwater Conservation District, coextensive with the boundaries of that county, subject to voter approval at a confirmation election. The bill authorizes the district to impose production fees on nonexempt wells, subject to specified maximum rates, as well as groundwater export fees, but prohibits the district from purchasing, selling, transporting, or distributing surface water or groundwater and from exercising the power of eminent domain. The bill limits ad valorem tax rates to not more than 1.5 cents per \$100 valuation and sets a \$500,000 limit on indebtedness from district bond and note issuances. The provisions of the bill pertaining to the Harrison County Groundwater Conservation District take effect June 19, 2009.

Senate Bill 726 creates the Prairielands Groundwater Conservation District, subject to voter approval at a confirmation election. The initial district boundaries encompass Ellis, Hill, Johnson, and Somervell Counties and, after September 1, 2009, Navarro County. The bill establishes contracting authority for the district, sets out provisions relating to well spacing requirements and

exemptions, and authorizes the district to establish registration and reporting requirements for certain wells that are exempt from permitting under the Water Code. The district is authorized to impose a fee, with a specified limitation on the amount, on a person producing groundwater in violation of a district rule or order. The bill prohibits the district from imposing a tax and authorizes it to impose production fees on nonexempt wells and certain wells exempted under the Water Code, subject to specified maximum rates. The provisions of the bill pertaining to the Prairielands Groundwater Conservation District take effect September 1, 2009.

**Senate Bill 848****Effective:** 5-19-09**Senate Author:** Nichols**House Sponsor:** Cook

Senate Bill 848 amends the law to change the election date of the board of directors of the Anderson County Underground Water Conservation District to the uniform election date in May.

**Senate Bill 1209****Effective:** 6-19-09**Senate Author:** Fraser**House Sponsor:** Miller, Sid

Senate Bill 1209 updates and revises provisions in Texas law relating to the Middle Trinity Groundwater Conservation District. The bill provides for the composition of the board and the election of directors following annexation of more than two counties by the district after January 1, 2009. The bill authorizes the board of directors of the district to change the number of directors elected from a county in the district for the purpose of equalizing representation of the residents in the district and moves the election date to the uniform election date in May of each even-numbered year, with certain exceptions. The bill sets forth provisions relating to the applicability and enforcement of district rules and authorizes the district to impose a fee on a person or entity for violation of a district rule or failure to comply with an order in addition to existing remedies.

**Senate Bill 1755****Effective:** 5-19-09**Senate Author:** Fraser**House Sponsor:** Sheffield

Senate Bill 1755 amends the law relating to the election of directors of the Clearwater Underground Water Conservation District. The bill moves the election date of the board of directors from the first Saturday in May to the uniform election date in November of even-numbered years.

**Senate Bill 2456****Effective:** 6-19-09**Senate Author:** Hinojosa et al.**House Sponsor:** Rios Ybarra

Senate Bill 2456 amends the Special District Local Laws Code to create the Brush Country Groundwater Conservation District, subject to voter approval at a confirmation election. The initial boundaries of the district include all of Jim Hogg County, and Brooks, Jim Wells, and Hidalgo Counties except for the portions of those counties that are located within the Kenedy County Groundwater Conservation District. The bill authorizes a person who owns a tract of land in Brooks or Hidalgo County that adjoins the boundaries of the Kenedy County Groundwater Conservation District as of June 19, 2009, to petition that district for annexation. If the tract of land is annexed not later than January 1, 2010, it will be disannexed at that time from the Brush Country Groundwater Conservation District. The bill grants the district general-law powers and duties applicable to groundwater conservation districts, including the authorization to issue bonds and impose taxes, but limits the tax rate to an amount that does not exceed three cents on each \$100. The bill prohibits the district from exercising the power of eminent domain. The bill gives the district standard powers to exempt wells from permitting requirements, but

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for the purposes of applying those provisions to the district, special definitions for “domestic use” and “livestock use” apply. Provisions prohibiting a district from imposing more restrictive permit conditions on transporters of water out of the district than the district imposes on existing in-district users and provisions relating to certain permit periods and terms do not apply to the Brush Country Groundwater Conservation District. The bill authorizes the district to impose a fee or surcharge as an export fee, but provisions in the Water Code relating to methods of calculating such fees do not apply to the district.

### **Senate Bill 2495**

**Effective:** 6-19-09

**Senate Author:** Zaffirini

**House Sponsor:** Gonzalez Toureilles

Senate Bill 2495 amends the Special District Local Laws Code to require a person to own land in the single-member district from which the person is elected to serve on the board of directors of the Bee Groundwater Conservation District.

### **Senate Bill 2497**

**Effective:** 5-27-09

**Senate Author:** Estes et al.

**House Sponsor:** Hardcastle

Senate Bill 2497 amends the Special District Local Laws Code to create the North Texas Groundwater Conservation District, subject to dissolution if not confirmed by voters before January 1, 2010. The bill grants to the district the general-law powers and duties of a groundwater conservation district, except as otherwise provided in the bill. The district is authorized to assess a production fee based on the amount of groundwater authorized by permit to be withdrawn from certain wells that may not exceed \$1 per acre-foot annually for groundwater used for agricultural purposes or 30 cents per thousand gallons annually for groundwater used for nonagricultural purposes. Senate Bill 2497 sets out provisions relating to well spacing requirements and exemptions and authorizes the district to establish registration and reporting requirements for certain wells that are exempt from permitting under the Water Code, and to impose a fee in addition to the production fee for certain violations in lieu of or in addition to other available remedies. The district is prohibited from issuing bonds, imposing a tax, and exercising the power of eminent domain.

### **Senate Bill 2513**

**Effective:** 6-19-09

**Senate Author:** Averitt

**House Sponsor:** Dunnam

Senate Bill 2513 amends the Special District Local Laws Code to change the name of the McLennan County Groundwater Conservation District to the Southern Trinity Groundwater Conservation District and to establish that the district is located in a priority groundwater management area designated by the Texas Commission on Environmental Quality (TCEQ). The bill extends the expiration date of temporary provisions relating to temporary directors and a district confirmation election from September 1, 2012, to December 31, 2013, and updates the terms of the temporary directors. The bill authorizes the district to assess fees for services or production fees based on the amount of groundwater withdrawn from a well on a permit and establishes the authorized uses and limitations on the amount of the fees. Senate Bill 2513 prohibits TCEQ from creating, before September 1, 2011, a groundwater conservation district in the priority groundwater management area or adjacent to the priority groundwater management area in which the district is located.

**Senate Bill 2520**  
**Effective:** 6-19-09

**Senate Author:** Duncan  
**House Sponsor:** Heflin

Senate Bill 2520 amends the law relating to the Santa Rita Underground Water Conservation District to require a director to be a resident of the district. The bill moves the election date for the directors to the uniform election date in May of each odd-numbered year.

**Senate Bill 2529**  
**Effective:** 9-1-09

**Senate Author:** Estes  
**House Sponsor:** Phillips

Senate Bill 2529 amends the Special District Local Laws Code to create the Red River Groundwater Conservation District, coextensive with the boundaries of Grayson and Fannin Counties. The bill grants the district general-law powers and duties applicable to groundwater conservation districts, except as otherwise provided by the bill. The bill prohibits the district from imposing a tax. The district is authorized to assess a production fee based on the amount of groundwater authorized by permit to be withdrawn from certain wells that may not exceed \$1 per acre-foot annually for groundwater used for agricultural purposes or 30 cents per 1,000 gallons annually for groundwater used for nonagricultural purposes. The district may impose an additional fee for a violation of district rules in lieu of or in addition to other available remedies, but that fee may not exceed an amount equal to 10 times the amount of the production fee. Senate Bill 2529 sets out standard provisions relating to well spacing requirements and the power to exempt wells from permitting requirements. It prohibits the district from imposing more restrictive permit conditions on transporters of water out of the district than the district imposes on existing in-district users.

**Senate Bill 2543**  
**Effective:** 6-19-09

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

Senate Bill 2543 amends the Special District Local Laws Code relating to the enforcement of rules by the Harris-Galveston Subsidence District (HGSD) and the Fort Bend Subsidence District (FBSD). The bill authorizes each subsidence district to assess and recover a civil penalty between \$50 and \$5,000 against a person other than a political subdivision for each violation, or day of a continuing violation, of the district's rules. If a political subdivision commits a violation, HGSD and FBSD may assess and recover a civil penalty amount equal to the greater of 120 percent of the sum of the fees assessed against the subdivision and the amount the subdivision would have paid to an alternative water supplier, or \$5,000 for each violation and for each day of a continuing violation.

**Senate Bill 2570**  
**Effective:** 6-19-09

**Senate Author:** Lucio  
**House Sponsor:** Rios Ybarra

Senate Bill 2570 amends the law relating to the board of directors of the Kenedy County Groundwater Conservation District to divide the district into five single-member districts for electing directors and to assign each of the existing board positions to one of the new single-member districts, taking into account the existing at-large board position elected by the voters of the Santa Gertrudis Independent School District and drawing the single-member districts in a manner that retains the existing district lines as closely as possible. Annexed territory becomes part of one or more of the single-member districts. The bill sets forth the method of electing directors.

## Water—Miscellaneous Water Districts

### **House Bill 1134**

**Effective:** 9-1-09

**House Author:** England

**Senate Sponsor:** West

House Bill 1134 amends the enabling statute of the Dallas County Flood Control District No. 1 to authorize the district to enter into a tax abatement agreement and designate an area as a reinvestment zone for a proposed residential project or projects that meet the criteria for designation as a reinvestment zone as set forth in that statute. The bill makes conforming changes and specifies that the designation expires after five years and may be renewed for a period not to exceed five years.

### **House Bill 1178**

**Effective:** 9-1-09

**House Author:** Guillen

**Senate Sponsor:** Zaffirini

House Bill 1178 amends the Special District Local Laws Code to create the Starr County Drainage District, subject to voter approval at a confirmation election, and to provide that the district territory is coextensive with the boundaries of that county. The bill grants the district the general-law powers and duties of a drainage district as well as those of a water district. The bill provides that the board of directors of the district consists of the Commissioners Court of Starr County and prohibits the district from imposing impact fees, standby fees, and assessments on property of certain utilities. If the creation of the district is not confirmed at a confirmation election, the bill's provisions expire September 1, 2011.

### **House Bill 2208**

**Effective:** 9-1-09

**House Author:** Gonzales et al.

**Senate Sponsor:** Hinojosa

House Bill 2208 amends the Water Code to require the Rio Grande Regional Water Authority to exclude from the calculation of current market value of certain water rights any sale between a municipal water supplier and a district if any territory inside the outer boundaries of the district meets certain criteria relating to a certificate of convenience and necessity.

### **House Bill 2348**

**Effective:** 6-19-09

**House Author:** Dutton et al.

**Senate Sponsor:** Whitmire

House Bill 2348 amends the Water Code to authorize a water district, located wholly or partly in a county with a population of more than 3.3 million and in whose territory an emergency services district that provides fire-fighting services to all or part of the water district is wholly or partly located, to contract with a municipality whose fire department, on the date the agreement is entered into, has an Insurance Services Office Class 1 Public Protection Classification Rating or comparable rating recognized by the state fire marshal for the provision of fire-fighting services to the water district's territory. The authorization of the emergency services district that provides fire-fighting services to the water district immediately before the date on which the agreement takes effect is not required. The bill provides for the disannexation of the water district territory annexed by the municipality if a water district enters into a strategic partnership agreement with a municipality that includes the provision of fire-fighting services. These provisions are not applicable to an agreement that is entered into after December 31, 2006, or amended after December 31, 2006, to include the provision of fire-fighting services.

### **House Bill 2666**

**Effective:** 5-12-09

**House Author:** Ritter

**Senate Sponsor:** Williams

House Bill 2666 amends the law to authorize the Lower Neches Valley Authority to acquire, own, operate, maintain, and improve the Devers Canal System and to enlarge and extend the

canal system east of the Trinity River in Chambers, Liberty, and Jefferson Counties. The bill authorizes the authority to own the water rights and appropriate and divert state water under the permits and contracts previously owned by and acquired from the Devers Canal Rice Producers Association, Inc., and to distribute, sell, and use state water for any purpose approved by the Texas Commission on Environmental Quality. The bill requires the authority, before entering into a contract to sell or provide water for any nonirrigation use in Chambers County outside the authority's boundaries that the Chambers-Liberty Counties Navigation District had authority to provide or sell under the navigation district's water rights on May 1, 2009, to send to the navigation district a written notice of intent to sell or provide water for nonirrigation use in Chambers County outside the authority's boundaries and to allow the navigation district 30 days to exercise a right of first refusal to provide the water. The authority may enter into a contract described above only if the navigation district fails to properly exercise its right of first refusal or does properly exercise that right and does not enter into a contract to sell or otherwise provide water for the use described by the authority's notice of intent within four months of receipt of the notice.

**House Bill 2906****Effective:** 6-19-09**House Author:** Kuempel**Senate Sponsor:** Wentworth

House Bill 2906 expands the boundaries of the Cibolo Creek Municipal Authority and sets forth the composition of the new district territory.

**House Bill 3031****Effective:** See below**House Author:** Keffer et al.**Senate Sponsor:** Estes

House Bill 3031 amends the Special District Local Laws Code to authorize the Brazos River Authority to sell certain residential and commercial leased tracts and other undeveloped strips of real property in the immediate vicinity of Possum Kingdom Lake. Each leaseholder has the opportunity to buy the leaseholder's individual leased tract from the purchaser or to continue leasing it from the purchaser in accordance with prescribed purchase or lease options. The bill includes provisions—applicable only to and effective only for those portions of the offered property for which no closing has occurred on or before December 30, 2010—requiring the authority to suspend for two years any applicable sale efforts to a purchaser and to initiate a tract by tract sale of a leased tract to the then-current leaseholder. Such purchases by such leaseholders, if pursued, must be completed not later than June 30, 2013. Other portions of the bill include restrictions on a leased tract, certain buffer zone provisions, purchase price specifications, and road-related and platting provisions. The bill requires the authority to reserve mineral interests. It takes effect May 27, 2009, except for the provisions described above relating to the two-year suspension period, which take effect January 1, 2011, for any portions of the offered property for which the specified closing deadline has not been met.

**House Bill 3032****Effective:** 5-27-09**House Author:** Keffer**Senate Sponsor:** Estes

House Bill 3032 amends the Special District Local Laws Code to direct the Brazos River Authority in selling certain property at Possum Kingdom Lake to offer it at fair market value. The bill sets forth procedures and requirements governing the sale, and provides that if the authority seeks to exempt any of the property from the sale, the prospective buyer must have notice and has the right to challenge an exemption designation. The authority reserves mineral interests, and retains access rights to the property to fulfill its obligations and as it considers necessary for public safety, health, and welfare purposes. The bill requires that any sale of a

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parcel exceeding 100 acres include, as a sale condition, an agreement that the purchaser will place a conservation easement on the parcel within three years of the closing date.

### **House Bill 3435**

**Effective:** 9-1-09

**House Author:** Hamilton

**Senate Sponsor:** Jackson, Mike

House Bill 3435 amends the Water Code to prohibit a water district, with certain exceptions, from imposing an impact fee, standby fee, or assessment on the property, including the equipment, rights-of-way, easements, facilities, or improvements, of an electric utility or power generation company, a gas utility or a person who owns pipelines used for the transportation or sale of oil or gas or a product or constituent of oil or gas, a person who owns pipelines used for the transportation or sale of carbon dioxide, a telecommunications provider, or a cable service or video service provider. A district may impose such a fee or assessment on such property that is used as office space and may impose an impact fee on such property on the same terms as the district imposes an impact fee on other property if the owner of the property requests water or sewer services for that property from the district. The bill's prohibition on a district does not affect a district's authority to impose a property tax on property in the boundaries of the district under the bill or under other law.

### **House Bill 4818**

**Effective:** 6-19-09

**House Author:** Harper-Brown

**Senate Sponsor:** West

House Bill 4818 amends the law relating to the Dallas County Utility and Reclamation District to validate a letter from the Federal Emergency Management Agency (FEMA) approving the City of Irving's proposed amendments to FEMA's proposed amendments to the 2007 Preliminary Digital Flood Insurance Rate Map and Flood Insurance Study and the governmental actions taken by the City of Irving and the Dallas County Utility and Reclamation District in reliance on the letter. The bill prohibits any revocation, rescission, or alteration of the letter or the actions taken in reliance on the letter without the written consent of the City of Irving, the board of directors of the district, and all the affected adjacent landowners who executed easements in reliance on the letter.

The bill conforms the compensation of a Dallas County Utility and Reclamation District director to the statutory provisions governing the fees of office and reimbursement of a district director that are generally applicable to all general-law districts under the Water Code.

### **Senate Bill 637**

**Effective:** 9-1-09

**Senate Author:** Hegar

**House Sponsor:** Zerwas

Senate Bill 637 amends the Special District Local Laws Code to create the Wharton County Drainage District, subject to voter approval at a confirmation election. The bill establishes that the district territory is coextensive with the boundaries of Wharton County and grants the district the general-law powers of a drainage district.

### **Senate Bill 715**

**Effective:** 5-12-09

**Senate Author:** Shapiro

**House Sponsor:** Laubenberg

Senate Bill 715 amends the enabling statute of the North Texas Municipal Water District to require the district to appoint an executive director, replacing previous law under which the president of the board of directors served in that capacity. It increases the fees paid to a director, in the performance of board duties, to \$150 per day and increases the maximum cumulative payment per director per calendar year to \$7,200. The bill includes various provisions modifying and clarifying the powers of the district to issue bonds and authorizes the board, if funds are



not available, to issue bond anticipation notes, revenue anticipation notes, or both to borrow money needed by the district. It provides that in the event of a catastrophe or disaster that makes a quorum of the board impossible to assemble, any directors who are available, or the highest ranking staff member of the district otherwise, may take action on the district's behalf to ensure the basic health, safety, and welfare of district customers and to call for the appointment of new directors.

**Senate Bill 794****Effective:** 6-19-09**Senate Author:** Fraser**House Sponsor:** Hilderbran

Senate Bill 794 amends the law relating to the composition of the board of directors of the Central Colorado River Authority to decrease from nine to five the number of directors on the board and to establish that a majority of the membership of the board constitutes a quorum.

**Senate Bill 799****Effective:** 5-19-09**Senate Author:** Williams**House Sponsor:** Otto

Senate Bill 799 amends the Special District Local Laws Code to add a chapter relating to the Plum Creek Fresh Water Supply District No. 1, which was created nonlegislatively under general-law provisions of the Water Code, and to change the name from the Plum Creek Fresh Water Supply District No. 1 of Liberty County to the Plum Creek Fresh Water Supply District No. 1. The bill grants the district general-law Water Code powers and duties applicable to fresh water supply districts, as well as the power to undertake drainage projects, and authorizes the district to annex adjacent land. Senate Bill 799 authorizes the district to issue bonds or other obligations and to impose taxes, but prohibits the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from property taxes from exceeding one-fourth of the assessed value of real property in the district, and prohibits the district from issuing bonds payable from property taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose. The bill includes customary provisions relating to the division of the district into successor districts.

**Senate Bill 914****Effective:** 5-19-09**Senate Author:** Williams**House Sponsor:** Otto

Senate Bill 914 amends the Special District Local Laws Code to add a chapter relating to the Liberty Lakes Fresh Water Supply District No. 1, which was created nonlegislatively under general-law provisions of the Water Code, and to change the name from the Liberty Lakes Fresh Water Supply District No. 1 of Liberty County to the Liberty Lakes Fresh Water Supply District No. 1. The bill grants the district general-law Water Code powers and duties applicable to fresh water supply districts, as well as the power to undertake drainage projects, and authorizes the district to annex adjacent land. Senate Bill 914 authorizes the district to issue bonds or other obligations and to impose taxes but prohibits the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from property taxes from exceeding one-fourth of the assessed value of real property in the district, and prohibits the district from issuing bonds payable from property taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose. The bill includes customary provisions relating to the division of the district into successor districts.

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### **Senate Bill 1040**

**Effective:** 9-1-09

**Senate Author:** Duncan et al.

**House Sponsor:** Smithee

Senate Bill 1040 amends the law relating to the Canadian River Municipal Water Authority to authorize the inclusion of officers and employees of constituent cities of the district in a closed meeting of the board of directors of the authority.

### **Senate Bill 1223**

**Effective:** 6-19-09

**Senate Author:** Eltife

**House Sponsor:** Frost

Senate Bill 1223 amends the Special District Local Laws Code to add a subtitle governing municipal water districts, and to create the Riverbend Water Resources District as a conservation and reclamation district. The district is not required to be confirmed at an election. The district is composed of the Red River Redevelopment Authority and the Texas cities of Annona, Avery, DeKalb, Hooks, Maud, New Boston, Texarkana, and Wake Village, and is granted the district powers applicable to all general and special law districts under the Water Code. The bill authorizes the board to add a member to the district and allows a member to withdraw from the district without affecting the validity of the district or its powers and duties. The district also has all the rights, powers, and privileges necessary or useful to enable it to acquire, provide, supply, deliver, and sell water inside or outside its boundaries to any person for any beneficial purpose. The bill authorizes the district to issue bonds but prohibits the district from imposing an assessment on property or a property tax or creating a debt payable from either source. If the district issues bonds payable wholly from revenue, it is required to set and revise the rates, fees, and charges assessed for water sold, waste collection and treatment services provided, and garbage collection services provided by the district so that the revenue collected is sufficient to pay certain district expenses and maintain certain funds.

### **Senate Bill 1260**

**Effective:** 9-1-09

**Senate Author:** Duncan

**House Sponsor:** Darby

Senate Bill 1260 abolishes the Lower Concho River Water and Soil Conservation Authority effective September 1, 2009.

### **Senate Bill 2462**

**Effective:** 6-19-09

**Senate Author:** Carona

**House Sponsor:** Driver

Senate Bill 2462 amends the law relating to the issuance of bonds by the Falcon's Lair Utility and Reclamation District. The bill authorizes the district board to securitize bonds with revenue from a tax increment fund. Provisions of the Water Code relating to the authority of the Texas Commission on Environmental Quality over the issuance of district bonds and the commission's supervision of district projects and improvements do not apply to bonds issued by the district and payable from certain assessments imposed by the district, to a project financed by such bonds, or to payments pursuant to an agreement under the Tax Increment Financing Act. The bill validates and confirms any act or proceeding of the district taken before June 19, 2009, as of the date on which the act or proceeding occurred, excluding matters in litigation or invalidated by a final court judgment.

### **Senate Bill 2463**

**Effective:** 6-19-09

**Senate Author:** Wentworth

**House Sponsor:** Miller, Doug

Senate Bill 2463 amends the Special District Local Laws Code to create the Comal County Water Improvement District No. 2, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties applicable to water control and improvement

districts, including powers relating to sanitary sewer systems, and the power to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The district may not hold an election to authorize the issuance of bonds payable from property taxes to finance water and wastewater facilities to provide those services for uses other than the uses specified in the bill unless the applicable municipalities and landowners enter into a development agreement. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility and imposes a limitation on the annexation of land outside the boundaries of the district. The district is prohibited from developing the surface of any land in the district for purposes other than mining, quarrying, or water resource development, retention, and distribution with certain exceptions.

**Senate Bill 2464**  
**Effective:** 6-19-09

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

Senate Bill 2464 amends the Special District Local Laws Code to create the Comal County Water Improvement District No. 1, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties applicable to water control and improvement districts, including powers relating to sanitary sewer systems, and the power to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility and imposes a limitation on the annexation of land outside the boundaries of the district. The district may not construct a water or wastewater facility unless any municipality in whose corporate limits or extraterritorial jurisdiction the facility is located at the time of construction has approved the plans and specifications of the facility.

**Senate Bill 2514**  
**Effective:** 6-19-09

**Senate Author:** Hegar  
**House Sponsor:** Zerwas

Senate Bill 2514 amends the Special District Local Laws Code to exempt the North Fort Bend Water Authority from provisions of the Water Code governing groundwater conservation districts, to authorize the district to sue certain entities for fees and other money owed to the district, including penalties, and to waive governmental immunity from suit or liability of a district or other political subdivision for the purpose of such an action.

**Senate Bill 2519**  
**Effective:** 6-19-09

**Senate Author:** Estes  
**House Sponsor:** Parker

Previous law provided that any property within the boundaries of the Clear Creek Watershed Authority that is annexed by a municipality is removed from the tax rolls of the authority. Senate Bill 2519 amends session law and the Special District Local Laws Code to establish that territory in the authority that is annexed on or after January 1, 2009, remains in the authority and is subject to authority taxes. The bill exempts the authority from the imposition of property taxes by a county, municipality, school district, or other entity. The bill validates, ratifies, and confirms governmental acts and proceedings of the district taken before the effective date of the bill, excluding matters in litigation or invalidated by a final court judgment.

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### **Senate Bill 2536** **Effective:** 6-19-09

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

Senate Bill 2536 amends the law relating to the powers of the West Harris County Regional Water Authority to specify that general provisions for groundwater conservation districts, a provision relating to the disqualification of district directors, and provisions on district notices, reports, and bankruptcy do not apply to the authority. The bill authorizes the West Harris County Regional Water Authority to bring an action against a district, other political subdivision, or other person located in the authority's territory or included in the authority's groundwater reduction plan to recover certain damages or enforce an authority rule or order, and specifies that governmental immunity granted to such an entity is waived for the purposes of such an action.

## **Water—Municipal Utility Districts**

### **House Bill 1113** **Effective:** 6-19-09

**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 1113 amends the Special District Local Laws Code to add a chapter relating to the Fort Bend County Municipal Utility District No. 194, which was created nonlegislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, subject to the approval of the Texas Transportation Commission and each municipality or county involved in the maintenance and operation of the road, and restricts the district's use of eminent domain to sites within the district's boundaries. The bill authorizes the district to issue bonds and other obligations for a road project with the approval of two-thirds of district voters voting in an election, and prohibits the total principal amount of bonds or other obligations from exceeding one-fourth of the assessed value of the real property in the district.

### **House Bill 1596** **Effective:** 6-19-09

**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 1596 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 204, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but the issuance of property tax bonds to finance such projects requires approval by a two-thirds majority in a district election, and the total bonds and obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a road project or a recreational facility.

### **House Bill 1597** **Effective:** 6-19-09

**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 1597 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 202, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but the issuance of property tax bonds to finance such projects requires approval by a two-thirds majority in a district election, and the total bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a road project or a recreational facility.

**House Bill 1598**  
**Effective:** 6-19-09**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 1598 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 203, subject to voter approval at a confirmation election, and grants the district the general-law powers and duties of a municipal utility district. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities, but provides that property tax bonds to finance road projects require approval by a two-thirds majority in a district election and that the combined bonds and obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**House Bill 1599**  
**Effective:** 6-19-09**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 1599 amends the Special District Local Laws Code to create the Waller County Municipal Utility District No. 15, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities, but provides that property tax bonds to finance road projects require approval by a two-thirds majority in a district election and combined bonds and obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

**House Bill 1600**  
**Effective:** 6-19-09**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 1600 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 201, subject to voter approval at a confirmation election, and grants the district the general-law powers and duties of a municipal utility district. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities, but provides that property tax bonds to finance road projects require approval by a two-thirds majority in a district election and that the combined bonds and obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**House Bill 1601**  
**Effective:** 6-19-09**House Author:** Zerwas  
**Senate Sponsor:** Hegar

House Bill 1601 amends the Special District Local Laws Code to create the Waller County Municipal Utility District No. 13, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities, but provides that property tax bonds to finance road projects require approval by a two-thirds majority in a district election and combined bonds and obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

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### **House Bill 1691**

**Effective:** 6-19-09

**House Author:** Zerwas

**Senate Sponsor:** Hegar

House Bill 1691 amends the Special District Local Laws Code to create the Waller County Municipal Utility District No. 14, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities, but provides that property tax bonds to finance road projects require approval by a two-thirds majority in a district election and that the combined bonds and obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

### **House Bill 1841**

**Effective:** 6-19-09

**House Author:** Kleinschmidt

**Senate Sponsor:** Hegar

House Bill 1841 amends the Special District Local Laws Code to create the XS Ranch Municipal Utility District, subject to voter approval at a confirmation election, and grants the district the general-law powers and duties of a municipal utility district. The bill grants the district the power to undertake certain road projects and to develop and maintain recreational facilities, but provides that property tax bonds to finance road projects require approval by a two-thirds majority in a district election and that the combined bonds and obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or recreational facility.

### **House Bill 1946**

**Effective:** 6-19-09

**House Author:** Bonnen

**Senate Sponsor:** Huffman

House Bill 1946 amends the Special District Local Laws Code to create the Brazoria County Municipal Utility District No. 64, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties of a municipal utility district. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill sets forth provisions relating to the annexation of the district, wholly or partly, by the Village of Bonney. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

### **House Bill 2022**

**Effective:** 6-19-09

**House Author:** Weber

**Senate Sponsor:** Hegar

House Bill 2022 amends the Special District Local Laws Code to add a chapter relating to the Sedona Lakes Municipal Utility District No. 1, which was created nonlegislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but provides that the issuance of property tax bonds for such projects requires approval by a two-thirds majority of those voting in a district election and the principal amount of the bonds, notes, and other obligations for those projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**House Bill 2035****Effective:** 9-1-09**House Author:** Keffer**Senate Sponsor:** Averitt

House Bill 2035 amends the Special District Local Laws Code to create the Hood County Granbury Municipal Utility District No. 1, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties of a municipal utility district and the power to impose taxes and issue bonds. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill authorizes the district to dedicate by fee or easement property it owns for purposes relating to a municipal airport. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**House Bill 2102****Effective:** 6-19-09**House Author:** Dutton**Senate Sponsor:** Whitmire

House Bill 2102 amends the Special District Local Laws Code to add a chapter relating to the Harris County Municipal Utility District No. 403, which was created nonlegislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, but the issuance of ad valorem tax bonds for such projects requires approval by a two-thirds majority of those voting in a district election, and the principal amount of the bonds, notes, and other obligations for those projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain to acquire a site or easement for a road project or a recreational facility.

**House Bill 4698****Effective:** 6-19-09**House Author:** King, Phil**Senate Sponsor:** Estes

House Bill 4698 amends the Special District Local Laws Code to create the Lake Weatherford Municipal Utility Districts Nos. 1 and 2, subject to voter approval at each district's confirmation election, and to grant each district the general-law powers and duties of a municipal utility district. The bill also grants each district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

Without the written consent of the City of Weatherford, the board of directors of each district is prohibited from selecting a municipality that may exercise authority within the district as a whole, if the district is located in the extraterritorial jurisdictions of more than one municipality. The bill prohibits each district from annexing land located in the extraterritorial jurisdiction of a municipality and sets forth provisions relating to the annexation of the territory of each district by the City of Weatherford. The bill prohibits each district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**House Bill 4710****Effective:** 6-19-09**House Author:** Aycock**Senate Sponsor:** Fraser

House Bill 4710 amends the Special District Local Laws Code to create the Clearwater Ranch Municipal Utility District No. 1, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties of a municipal utility district. The bill

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also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**House Bill 4712**

**Effective:** 6-19-09

**House Author:** Laubenberg

**Senate Sponsor:** Estes

House Bill 4712 amends the Special District Local Laws Code to authorize the Collin County Municipal Utility District No. 1 to divide into two or more districts. The bill prohibits a division of the district that would result in the creation of a new district that contains land outside of the boundaries of the original district as it existed on January 1, 2009.

**House Bill 4715**

**Effective:** 6-19-09

**House Author:** Creighton

**Senate Sponsor:** Williams

House Bill 4715 amends provisions of the Special District Local Laws Code relating to the East Montgomery County Municipal Utility Districts Nos. 8, 9, 10, 11, 12, 13, and 14, Montgomery County Municipal Utility Districts Nos. 100 and 101, and Liberty County Municipal Utility District No. 5. The bill provides for the appointment of successor temporary directors of those districts if permanent directors have not been elected and the terms of the temporary directors have expired and repeals provisions relating to the requirement of confirmation elections for the creation of and the expiration of temporary provisions on those districts.

**House Bill 4719**

**Effective:** 6-19-09

**House Author:** Aycock

**Senate Sponsor:** Fraser

House Bill 4719 amends the Special District Local Laws Code to create the Burnet County Municipal Utility District No. 3, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but the issuance of property tax bonds to finance such projects requires approval by a two-thirds majority in a district election, and the total bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a road project or a recreational facility.

**House Bill 4723**

**Effective:** 6-19-09

**House Author:** Taylor

**Senate Sponsor:** Hegar

House Bill 4723 amends the Special District Local Laws Code to authorize the Bayview Municipal Utility District of Galveston County to undertake certain road projects and to impose property taxes and issue bonds and other obligations to finance such projects. Bonds and other obligations for road projects secured wholly or partly by property taxes must be approved by a vote of a two-thirds majority of the voters of the defined area voting in an election called for that purpose, and the total principal amount of bonds or other obligations issued or incurred to finance such projects may not exceed one-fourth of the assessed value of the real property in the district.



**House Bill 4737****Effective:** 9-1-09**House Author:** Phillips**Senate Sponsor:** Estes

House Bill 4737 amends the Special District Local Laws Code to create the Lake Texoma Municipal Utility District No. 1, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties of a municipal utility district. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

Before the confirmation election, the district is authorized to annex, without the consent of the City of Denison, land previously owned by the United States Army Corps of Engineers or, with the city's consent, land located in the city's extraterritorial jurisdiction or corporate limits. The bill sets forth provisions relating to the city's annexation, wholly or partly, of the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**House Bill 4748****Effective:** 6-19-09**House Author:** Gattis**Senate Sponsor:** Ogden

House Bill 4748 amends the Special District Local Laws Code to extend, from September 1, 2009, to September 1, 2013, the deadline for holding a confirmation election on the creation of the Williamson County Municipal Utility District No. 21 and to extend, from September 1, 2013, to September 1, 2016, the date on which provisions relating to the district expire if the creation of the district is not confirmed by election. The bill provides that the temporary directors of the district serve until the earlier of the date initial directors are elected or September 1, 2009, and sets forth a procedure for the election of successor temporary directors if the initial directors have not been elected and the terms of the temporary directors have expired. The bill extends, from September 1, 2012, to September 1, 2016, the date on which certain temporary provisions regarding the district expire.

House Bill 4748 authorizes the division of the district into two districts after the creation of the original district has been confirmed at an election. The bill sets forth division procedures and governing requirements and grants the new district the powers and duties of the original district.

**House Bill 4754****Effective:** 6-19-09**House Author:** Kuempel**Senate Sponsor:** Wentworth

House Bill 4754 amends the Special District Local Laws Code to create the Guadalupe County Municipal Utility District No. 3, subject to voter approval at a confirmation election. The bill grants the district the power to undertake certain road projects, but the issuance of property tax bonds for such projects requires the approval of a two-thirds majority of district voters voting in an election, and the total bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a road project or a recreational facility.

**House Bill 4772****Effective:** 6-19-09**House Author:** Kleinschmidt**Senate Sponsor:** Hegar

House Bill 4772 amends the Special District Local Laws Code to create the Bastrop County Municipal Utility District No. 2, subject to voter approval at a confirmation election. The bill

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grants the district the power to undertake certain road projects, but the issuance of property tax bonds to finance such projects requires approval by a two-thirds majority in a district election, and the total bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a road project or a recreational facility. It requires the district to enter into a contract with any municipality within whose extraterritorial jurisdiction (ETJ) the district is located in order to provide, among other terms and considerations, for the regulation of development within the district and the regulation of the continuation of the district's ETJ status and its annexation by the municipality.

### **House Bill 4778**

**Effective:** 6-19-09

**House Author:** Gattis

**Senate Sponsor:** Ogden

House Bill 4778 amends the Special District Local Laws Code to create the Northwest Williamson County Municipal Utility District (MUD) No. 1, subject to voter approval at a confirmation election. The district has the powers and duties of a district under the Regional Waste Disposal Act, but it must obtain the approval of the Brazos River Authority for the design of any district wastewater treatment facility and only that river authority or a provider the river authority approves may offer wastewater service in the district. The district must comply with a 2005 agreement among the Brazos River Authority, the Lower Colorado River Authority, the Cities of Georgetown and Liberty Hill, and the Chisholm Trail Special Utility District regarding sewer service areas and customers. The bill grants the district the power to undertake certain road projects, but total bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. It prohibits the district from exercising the power of eminent domain to acquire a site or easement for a road project or a recreational facility.

### **House Bill 4779**

**Effective:** 6-19-09

**House Author:** Gattis

**Senate Sponsor:** Ogden

House Bill 4779 amends the Special District Local Laws Code to give the 3 B&J Municipal Utility District authority over certain road projects and to establish standards and requirements for the roads. The bill authorizes the district to issue bonds or other obligations for the road projects and prohibits the total principal amount of the bonds from exceeding one-fourth of the assessed value of the real property in the district at the time of issuance. The bill prohibits the district from issuing the bonds unless the issuance is approved by a two-thirds majority of the district voters voting at an election held for that purpose.

### **House Bill 4790**

**Effective:** 9-1-09

**House Author:** Phillips

**Senate Sponsor:** Estes

House Bill 4790 amends the Special District Local Laws Code to create the Brown's Ranch Municipal Utility District No. 1 of Grayson County, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties of a municipal utility district and the power to impose taxes and issue bonds. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The district is prohibited from annexing land without the written consent of each municipality in whose corporate limits or extraterritorial jurisdiction the land is located and of each water or sewer service provider whose certificated service area includes any part of the

land. The district is also prohibited from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**House Bill 4799**

**Effective:** 9-1-09

**House Author:** Gattis et al.

**Senate Sponsor:** Ogden

House Bill 4799 amends the Special District Local Laws Code to create the Seven Oaks Ranch Municipal Utility District, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties of a municipal utility district, as well as the applicable powers and duties provided by the Regional Waste Disposal Act. The bill establishes the Brazos River Authority, or a provider approved by the authority, as the district's exclusive provider of wastewater service, requires the authority's approval for the design of any district wastewater treatment facility, and requires the district to comply with certain terms regarding sewer services areas and customers. The bill authorizes the district to issue bonds or other obligations and prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or easement for a recreational facility.

**House Bill 4800**

**Effective:** 9-1-09

**House Author:** Gattis

**Senate Sponsor:** Ogden

House Bill 4800 amends the Special District Local Laws Code to create the San Gabriel Municipal Utility District No. 1 in Williamson County, subject to voter approval at a confirmation election. The bill grants the district the powers and duties of a district under the Regional Waste Disposal Act, but the district must obtain the approval of the Brazos River Authority for the design of any district wastewater treatment facility, only that river authority or a provider approved by that river authority may offer wastewater service in the district, and the district must comply with a 2005 agreement among the Brazos River Authority, the Lower Colorado River Authority, the Cities of Georgetown and Liberty Hill, and the Chisholm Trail Special Utility District regarding sewer service areas and customers. The bill requires the district to repair and maintain streets inside district boundaries after September 1, 2019, in accordance with applicable construction standards and regulations of Williamson County. It grants the district the power to undertake certain road projects, but the issuance of property tax bonds to finance such projects requires approval by a two-thirds majority of district voters voting in an election, and total bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a road project or recreational facility.

**House Bill 4803**

**Effective:** 6-19-09

**House Author:** Maldonado

**Senate Sponsor:** Ogden

House Bill 4803 amends the Special District Local Laws Code to create the South Fork Ranch Municipal Utility District, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties of a municipal utility district. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

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### **House Bill 4815**

**Effective:** 6-19-09

**House Author:** Gattis

**Senate Sponsor:** Ogden

House Bill 4815 amends the law relating to the Ranch at Cypress Creek Municipal Utility District No. 1 to provide for the inclusion of supplemental property in the Ranch at Cypress Creek Homeowners' Association on the dissolution of the district. The bill requires an election to be held, before the district is dissolved, at which all members of the association and all property owners of the supplemental property vote on the question of whether the property is to be included in the association and provides that the supplemental property is included in the association if it is approved by a two-thirds majority. The bill requires the board of directors of the district to pay the costs and expenses of the election or set of elections and prohibits the association from holding the election or set of elections more than once. The bill sets forth provisions, subject to the inclusion of the supplemental property in the association, relating to the replacement of restrictive covenants and real property restrictions governing the property and the appointment of two additional members to the association board to represent the owners of the property.

### **House Bill 4817**

**Effective:** 6-19-09

**House Author:** Gattis

**Senate Sponsor:** Ogden

House Bill 4817 amends the Special District Local Laws Code to create the Goodwater Municipal Utility District No. 1, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties of a municipal utility district, as well as the applicable powers and duties provided by the Regional Waste Disposal Act. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

The bill establishes the Brazos River Authority, or a provider approved by the authority, as the district's exclusive provider of wastewater service, requires the authority's approval for the design of any district wastewater treatment facility, and requires the district to comply with certain terms regarding sewer services areas and customers. The district is authorized to exercise the powers of a library district and a Type B development corporation, but is prohibited from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

### **Senate Bill 588**

**Effective:** 6-19-09

**Senate Author:** Hegar

**House Sponsor:** Zerwas

Senate Bill 588 amends the Special District Local Laws Code to create the Waller County Municipal Utility District No. 9, subject to voter approval at a confirmation election. It grants the district the power to undertake certain road projects, but the issuance of property tax bonds to finance such projects requires approval by a two-thirds majority in a district election, and the total bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a road project or a recreational facility.

**Senate Bill 660**  
**Effective:** 6-19-09**Senate Author:** Hegar  
**House Sponsor:** Rose

Senate Bill 660 amends the Special District Local Laws Code to create the Caldwell County Municipal Utility District No. 1, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties of a municipal utility district. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**Senate Bill 748**  
**Effective:** 6-19-09**Senate Author:** Hegar  
**House Sponsor:** Zerwas

Senate Bill 748 amends the Special District Local Laws Code to add a chapter relating to the Fort Bend Municipal Utility District No. 161, which was created nonlegislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, subject to the approval of the Texas Transportation Commission and each municipality or county involved in the maintenance and operation of the road and restricts the district's use of eminent domain to acquiring sites and easements within the district's boundaries. The bill authorizes the district to issue bonds and other obligations for a road project with the approval of two-thirds of district voters voting in an election and prohibits the total principal amount of bonds or other obligations from exceeding one-fourth of the assessed value of the real property in the district.

**Senate Bill 749**  
**Effective:** 6-19-09**Senate Author:** Hegar  
**House Sponsor:** Zerwas

Senate Bill 749 amends the Special District Local Laws Code to add a chapter relating to the Fort Bend Municipal Utility District No. 163, which was created nonlegislatively under general-law provisions of the Water Code. The bill grants the district the power to undertake certain road projects, subject to the approval of the Texas Transportation Commission and each municipality or county involved in the maintenance and operation of the road, and restricts the district's use of eminent domain to acquiring sites and easements within the district's boundaries. The bill authorizes the district to issue bonds and other obligations for a road project with the approval of two-thirds of district voters voting in an election and prohibits the total principal amount of bonds or other obligations from exceeding one-fourth of the assessed value of the real property in the district.

**Senate Bill 860**  
**Effective:** 6-19-09**Senate Author:** Hegar  
**House Sponsor:** Zerwas

Senate Bill 860 amends the Special District Local Laws Code to create the Fort Bend-Waller Counties Municipal Utility District No. 2, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties of a municipal utility district. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

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### **Senate Bill 880**

**Effective:** 6-19-09

**Senate Author:** Hegar

**House Sponsor:** Zerwas

Senate Bill 880 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 200, subject to voter approval at a confirmation election, and grants the district the general-law powers and duties of a municipal utility district. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

### **Senate Bill 929**

**Effective:** 5-27-09

**Senate Author:** Huffman

**House Sponsor:** Olivo

Senate Bill 929 amends the Special District Local Laws Code to add a chapter relating to the Sienna Plantation Municipal Utility District No. 4, which was created nonlegislatively under general-law provisions of the Water Code, and to grant the district the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project.

### **Senate Bill 930**

**Effective:** 5-27-09

**Senate Author:** Huffman

**House Sponsor:** Olivo

Senate Bill 930 amends the Special District Local Laws Code to add a chapter relating to the Sienna Plantation Municipal Utility District No. 5, which was created nonlegislatively under general-law provisions of the Water Code, and to grant the district the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project.

### **Senate Bill 931**

**Effective:** 5-27-09

**Senate Author:** Huffman

**House Sponsor:** Olivo

Senate Bill 931 amends the Special District Local Laws Code to add a chapter relating to the Sienna Plantation Municipal Utility District No. 6, which was created nonlegislatively under general-law provisions of the Water Code, and to grant the district the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project.

**Senate Bill 932****Effective:** 5-27-09**Senate Author:** Huffman**House Sponsor:** Olivo

Senate Bill 932 amends the Special District Local Laws Code to add a chapter relating to the Sienna Plantation Municipal Utility District No. 7, which was created nonlegislatively under general-law provisions of the Water Code, and to grant the district the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project.

**Senate Bill 994****Effective:** 6-19-09**Senate Author:** Hegar**House Sponsor:** Olivo

Senate Bill 994 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 192, subject to voter approval at a confirmation election, and grants the district the general-law powers and duties of a municipal utility district. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**Senate Bill 1038****Effective:** 5-27-09**Senate Author:** Patrick, Dan**House Sponsor:** Riddle

Senate Bill 1038 amends the law relating to the Northampton Municipal Utility District. The bill changes the name of the district from Norchester Municipal Utility District to Northampton Municipal Utility District and validates and confirms the act or proceeding relating to that name change, excluding matters in litigation or invalidated by a final court judgment. The bill grants the district the authority to establish and administer defined areas as long as the improvements, facilities, or services paid for by those defined areas primarily benefit the areas and not the entire district. The bill also grants the district the authority to undertake certain road projects in a defined area, to issue bonds or other obligations to finance the construction, acquisition, improvement, maintenance, or operation of such road projects, and to impose a property tax to pay for those bonds, subject to approval by a two-thirds majority of district voters, and providing that the total principal amount of bonds or other obligations does not exceed one-fourth of the assessed value of the real property in the defined area. The district is prohibited from exercising the power of eminent domain outside the district to acquire a site or easement for a road project.

**Senate Bill 1039****Effective:** 6-19-09**Senate Author:** Patrick, Dan**House Sponsor:** Fletcher

Senate Bill 1039 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 478, subject to voter approval at a confirmation election, and grants the district the general-law powers and duties of a municipal utility district. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total

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amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**Senate Bill 1337**  
**Effective:** 6-19-09

**Senate Author:** Estes  
**House Sponsor:** Phillips

Senate Bill 1337 amends the Special District Local Laws Code to create the Van Alstyne Municipal Utility District No. 1 of Grayson County, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or recreational facility, or in the corporate limits of the city of Van Alstyne unless the city has consented to that exercise of authority. The bill also prohibits the district from annexing any territory outside the initial territory described in the bill unless the city of Van Alstyne has consented to the annexation.

**Senate Bill 1464**  
**Effective:** 5-27-09

**Senate Author:** Williams  
**House Sponsor:** Creighton

Senate Bill 1464 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 525, subject to voter approval at a confirmation election, and grants the district the general-law powers and duties of a municipal utility district. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**Senate Bill 1483**  
**Effective:** 6-19-09

**Senate Author:** Huffman  
**House Sponsor:** Eiland

Senate Bill 1483 amends the Special District Local Laws Code to create the Galveston County Municipal Utility District No. 76, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. The district is also authorized to undertake certain navigation improvements and road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project, a recreational facility, or a navigation facility.

**Senate Bill 1979**  
**Effective:** 6-19-09

**Senate Author:** Nichols  
**House Sponsor:** Creighton

Senate Bill 1979 amends the Special District Local Laws Code to create the Blaketree Municipal Utility District No. 1 of Montgomery County, subject to voter approval at a



confirmation election, and to grant the district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility.

**Senate Bill 2410**  
**Effective:** 6-19-09

**Senate Author:** Deuell  
**House Sponsor:** Brown, Betty

Senate Bill 2410 amends the Special District Local Laws Code to create the Twin Lakes Municipal Utility District No. 1 of Kaufman County, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility.

**Senate Bill 2412**  
**Effective:** 9-1-09

**Senate Author:** Deuell  
**House Sponsor:** Brown, Betty

Senate Bill 2412 amends the Special District Local Laws Code to remove turnpikes or improvements in aid of turnpikes from the road projects that Las Lomas Municipal Utility District Nos. 3 and 4 of Kaufman County, and any district created under certain provisions of the Special District Local Laws Code after September 1, 2009, are authorized to construct, acquire, improve, maintain, or operate. The district is prohibited from exercising the power of eminent domain outside the district to acquire a site or easement for a road project.

**Senate Bill 2455**  
**Effective:** 5-27-09

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

Senate Bill 2455 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 495, subject to voter approval at a confirmation election, and grants the district the general-law powers and duties of a municipal utility district. The bill also grants the district the power to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**Senate Bill 2460**  
**Effective:** 6-19-09

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

Senate Bill 2460 amends the Special District Local Laws Code to create the Brazoria County Municipal Utility District No. 65, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. The district is also authorized to undertake

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certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility.

**Senate Bill 2478**  
**Effective:** 6-19-09

**Senate Author:** Wentworth  
**House Sponsor:** Rose

Senate Bill 2478 amends the Special District Local Laws Code to create the Parklands Municipal Utility District No. 1, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility.

**Senate Bill 2483**  
**Effective:** 6-19-09

**Senate Author:** Williams  
**House Sponsor:** Eissler

Current law makes provisions relating to bonds issued by a municipal utility district for recreational facilities applicable to Montgomery County so that bonds supported by property taxes cannot be issued to pay for existing recreational facilities. The provisions applied to Harris-Montgomery Counties Municipal Utility District No. 386, formerly known as Harris County Municipal Utility District No. 386, and prevented the district from selling bonds for this purpose even though the majority of the district is within Harris County. Senate Bill 2483 amends law relating to the Harris-Montgomery Counties Municipal Utility District No. 386 to make the provisions relating to such bonds inapplicable to the district, and to provide that the district retains all the rights, powers, privileges, authority, duties, and functions that it had before the effective date of the bill.

**Senate Bill 2485**  
**Effective:** 6-19-09

**Senate Author:** Williams  
**House Sponsor:** Eissler

Senate Bill 2485 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 118, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility.

**Senate Bill 2504**  
**Effective:** 9-1-09

**Senate Author:** Nichols  
**House Sponsor:** Creighton

Senate Bill 2504 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility Districts No. 128 and No. 129, subject to voter approval at confirmation elections, and to grant each district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. Each district is also

authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill sets forth the effect of annexation of each district by a municipality in whose extraterritorial jurisdiction the land in the district lies. The bill prohibits each district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility.

**Senate Bill 2506**  
**Effective:** 6-19-09

**Senate Author:** Duncan  
**House Sponsor:** Chisum

Senate Bill 2506 amends the Special District Local Laws Code to create the Gray County Municipal Utility District No. 1, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility, or to acquire land, an easement, or other property that is located more than five miles outside the district's boundaries.

**Senate Bill 2518**  
**Effective:** 6-19-09

**Senate Author:** Nichols  
**House Sponsor:** McReynolds

Senate Bill 2518 amends the Special District Local Laws Code to create the Somerset Municipal Utility District No. 3, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility.

**Senate Bill 2521**  
**Effective:** 6-19-09

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

Senate Bill 2521 amends the Special District Local Laws Code to create the Brazoria County Municipal Utility District No. 63, subject to voter approval at a confirmation election, and to grant the district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility.

**Senate Bill 2524**  
**Effective:** 6-19-09

**Senate Author:** Williams  
**House Sponsor:** Otto

Senate Bill 2524 amends the Special District Local Laws Code to create the Liberty County Municipal Utility District No. 6, subject to voter approval at a confirmation election, and to grant

## Special Districts

the district the general-law powers and duties applicable to municipal utility districts, including the authority to issue bonds and impose taxes. The district is also authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility.

## Water—Water Control and Improvement Districts

### **House Bill 2668**

**Effective:** 9-1-09

**House Author:** Ritter

**Senate Sponsor:** Williams

House Bill 2668 amends the Special District Local Laws Code to create the Smith Road Water Control and Improvement District No. 1 of Jefferson County, subject to voter approval at a confirmation election. The bill grants the district the general powers of a water control and improvement district, including the power to issue bonds and impose taxes. The district is authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill grants the district levee and flood hazard mitigation powers and requires the district to purchase potable water for the district from the West Jefferson County Municipal Water District or a successor to that supplier of potable water.

### **House Bill 4706**

**Effective:** 6-19-09

**House Author:** King, Tracy

**Senate Sponsor:** Uresti

Previous law does not specifically address the compensation of the board of directors of the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1. House Bill 4706 amends the Special District Local Laws Code to establish that a director of the district is not entitled to receive a fee of more than \$150 a month for performing the duties of a director.

### **House Bill 4811**

**Effective:** 6-19-09

**House Author:** Miller, Doug

**Senate Sponsor:** Wentworth

House Bill 4811 amends the Special District Local Laws Code to create the Comal County Water Control and Improvement District No. 6, subject to voter approval at a confirmation election. The bill grants the district the general powers of a water control and improvement district, including the power to issue bonds and impose taxes. The district is authorized to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a road project or recreational facility. The bill prohibits the district from constructing any water or wastewater improvement unless the plans and specifications for the improvement have been approved by Comal County, the City of Bulverde, and any wholesale provider of water or wastewater treatment to the district.

**Senate Bill 1204**  
**Effective:** 6-19-09

**Senate Author:** Hegar  
**House Sponsor:** Kleinschmidt

Senate Bill 1204 amends the Special District Local Laws Code relating to the powers and duties of the Bastrop County Water Control and Improvement District No. 2. Current law authorizes the district board of directors to impose a \$5 monthly charge for each developed or undeveloped unit of property in the district that must be used for certain district road projects. Senate Bill 1204 changes the monthly charge to an amount not to exceed \$15, prohibits the board from increasing the monthly charge by more than \$3 in any calendar year, and authorizes the board to grant an exemption from the charge to the owner of a unit of property who is 65 years old or older and uses the property or an owner who has been determined to have a disability under federal law. Money received from the monthly charge may be used only for specified projects, including purchasing equipment necessary to maintain or repair public streets or roadways in the district. Previous law provided that not more than 15 percent of the money could be used for road maintenance. The bill requires that not less than 15 percent of the money received each fiscal year be used for road maintenance.

**Senate Bill 1241**  
**Effective:** 5-27-09

**Senate Author:** Hegar  
**House Sponsor:** Olivo

Senate Bill 1241 amends the Special District Local Laws Code to create the Fort Bend County Water Control and Improvement District No. 10, subject to voter approval at a confirmation election, and grants the district general-law powers and duties applicable to water control and improvement districts. The district is authorized to contract with the City of Richmond to perform firefighting services in the district and may, with voter approval, issue bonds to pay for capital costs required under the contract. The district is not required to submit a fire plan to the Texas Commission on Environmental Quality if it contracts for such firefighting services. The bill also authorizes the district to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

**Senate Bill 2413**  
**Effective:** 5-27-09

**Senate Author:** Deuell  
**House Sponsor:** Brown, Betty

Previous law authorized the Kaufman County Water Control and Improvement District No. 1 to undertake certain projects relating to roads and turnpikes. Senate Bill 2413 amends the Special District Local Laws Code to remove the authority of the district to undertake road projects relating to turnpikes. The bill also prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project.

**Senate Bill 2486**  
**Effective:** 6-19-09

**Senate Author:** Williams  
**House Sponsor:** Eissler

Senate Bill 2486 amends the Special District Local Laws Code to create the Montgomery County Water Control and Improvement District No. 3, subject to voter approval at a confirmation election. The bill grants the district the general-law powers applicable to water control and improvement districts, including the power to dispose of waste and control storm water. The district is authorized to impose taxes and issue bonds, including bonds for the development of recreational facilities, but prohibited from exercising the power of eminent domain outside the district to acquire a site or easement for a recreational facility.

## Special Districts

### **Senate Bill 2509**

**Effective:** 6-19-09

**Senate Author:** Williams

**House Sponsor:** Eissler

Senate Bill 2509 amends the Special District Local Laws Code to create the Montgomery County Water Control and Improvement District No. 2, subject to voter approval at a confirmation election. The bill grants the district the general-law powers applicable to water control and improvement districts, including the power to dispose of waste and control storm water. The district is authorized to impose taxes and issue bonds, including bonds for the development of recreational facilities, but prohibited from exercising the power of eminent domain outside the district to acquire a site or easement for a recreational facility.

**The summary for the following bill is in the listed chapter:**

Senate Bill 1063 - Public Retirement Systems

# State Government

This chapter covers legislation on state agencies, assets, commemorations, and fiscal management, as well as legislation on public lands and the development, use, and public availability of electronic information in state government. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### Senate Bill 1145

**Effective:** 9-1-09

**Senate Author:** Zaffirini et al.

**House Sponsor:** Dunnam

Senate Bill 1145, to be known as the Rod Welsh Act in honor of the sergeant-at-arms of the Texas House of Representatives, amends the Government Code to provide specific instructions for the means by which the Texas flag should be folded. The bill specifies that a folded Texas flag should be presented or displayed with all folded edges secured and with the blue stripe and a portion of the white star visible, and that it should be stored or displayed in a manner that prevents tearing or soiling of the flag.

### Senate Bill 1969

**Effective:** See below

**Senate Author:** West

**House Sponsor:** Leibowitz

Senate Bill 1969, a continuation of the legislature's ongoing statutory revision program, conforms additions to the Business & Commerce Code, Insurance Code, Local Government Code, and Special District Local Laws Code, made by the 80th Legislature, to other laws enacted by that same legislature affecting the codified provisions. The bill makes various other nonsubstantive additions and corrections to enacted codes, and includes other technical and conforming changes. Except for reenacted provisions in the Education Code regarding the dollar amount of a school district's guaranteed level of state and local funds per weighted student per cent of tax effort, which take effect September 1, 2010, the bill takes effect September 1, 2009.

## Agencies

### House Bill 590

**Effective:** 5-27-09

**House Author:** Crownover

**Senate Sponsor:** Zaffirini

House Bill 590 amends the Code of Criminal Procedure and Government Code to change the name of the Crime Stoppers Advisory Council to the Texas Crime Stoppers Council.

### House Bill 874

**Effective:** 6-19-09

**House Author:** Callegari

**Senate Sponsor:** Lucio

House Bill 874 abolishes the Texas Incentive and Productivity Commission and the state employee incentive program. The bill eliminates all commission employee positions and specifies that any memorandum of understanding or interagency contract entered into between the commission and another state agency expires on the effective date of the bill. The bill repeals related provisions to make conforming changes in the Agriculture Code, Education Code, Finance Code, Government Code, Health and Safety Code, Human Resources Code, Labor Code, Occupations Code, Parks and Wildlife Code, Property Code, Water Code, and Vernon's Texas Civil Statutes.

**House Bill 1079**

**Effective:** 5-23-09

**House Author:** Kolkhorst

**Senate Sponsor:** Estes

House Bill 1079 amends the Government Code to abolish the state community development review committee. The bill transfers the review committee's appellate duties relating to a community development block grant funding decision of the executive director of the Office of Rural Community Affairs to the board of the office.

**House Bill 1093**

**Effective:** 9-1-09

**House Author:** Pickett

**Senate Sponsor:** Nelson

House Bill 1093 amends the Health and Safety Code to transfer, on May 1, 2010, all functions and activities relating to regional poison control centers performed by the Department of State Health Services (DSHS) jointly with the Commission on State Emergency Communications to the commission. The bill replaces the commissioner of public health or a qualified individual designated by the commissioner with the executive commissioner of the Health and Human Services Commission or an individual designated by the executive commissioner as a nonvoting ex officio member of the Commission on State Emergency Communications. The bill modifies the list of designated regional poison control centers for the state by replacing the R. E. Thomason General Hospital, El Paso County Hospital District, with the University Medical Center of El Paso, El Paso County Hospital District, and the Northwest Texas Hospital, Amarillo Hospital District, with the Texas Tech University Health Sciences Center at Amarillo. The bill requires the coordinating committee on poison control to coordinate the activities of the designated regional poison control centers in addition to advising the commission and modifies the committee's composition. The bill requires the revenue received from an imposed 9-1-1 equalization surcharge to be periodically allocated to fund other activities related to the poison control centers, in addition to funding the centers.

House Bill 1093 requires DSHS, on request of the commission, to provide epidemiological support to the regional poison control centers and requires each center to provide DSHS with access to data and information. The bill sets deadlines of January 1, 2010, and February 1, 2010, by which DSHS and the commission are required to enter into certain memorandums of understanding relating to the responsibilities, powers, and duties of each agency in the transfer.

**House Bill 1530**

**Effective:** 9-1-09

**House Author:** Button et al.

**Senate Sponsor:** Deuell

House Bill 1530 amends the Agriculture Code to transfer the responsibility for the licensing of pesticide applicators engaged in health-related pest control from the Department of State Health Services to the Department of Agriculture.

**House Bill 1705**

**Effective:** 9-1-09

**House Author:** Geren

**Senate Sponsor:** Ellis

House Bill 1705 amends the Government Code to abolish the telecommunications planning and oversight council. The bill transfers to the Department of Information Resources (DIR) the council's former responsibilities relating to telecommunications planning and policymaking and the state's consolidated telecommunications system and centralized capitol complex telephone system. It provides that a rule, form, plan, policy, or order of the council is continued in effect as a rule, form, plan, policy, or order of the DIR until superseded by a rule or other appropriate action of the DIR. The bill modifies provisions regarding the instructions the DIR is required to provide state agencies for use in preparing their strategic plans. It amends the law requiring a



state agency to provide the DIR a planned procurement schedule for commodity items to make such a schedule mandatory only if the DIR requires one from the agency. The bill adds an assistance organization, as defined by statutes governing surplus and salvage property, to the list of entities that the DIR by contract may allow to use the state's consolidated telecommunications system. The bill repeals provisions relating to electronic commerce and electronic state government procurement, an electronic infrastructure for online travel reservation and ticketing, the DIR's establishment of an information resources technology evaluation center, and the DIR's biennial report assessing state agency automated information systems. It eliminates the interagency panel on software portfolio management training. The bill makes conforming changes to other provisions of the Government Code, and to the Natural Resources Code and Local Government Code. It amends the Education Code to require the DIR to adopt performance and interoperability standards for software used by school districts for financial accounting or attendance reporting.

**House Bill 1830**

**Effective:** 9-1-09

**House Author:** Corte et al.

**Senate Sponsor:** Ellis

House Bill 1830 amends the Government Code to authorize the Department of Information Resources (DIR) to obtain from the Department of Public Safety or the identification division of the Federal Bureau of Investigation the criminal history record information of a person who provides network security services and who is an employee, applicant for employment, contractor, subcontractor, intern, or other volunteer with the DIR or with a contractor or subcontractor for the DIR. The bill sets forth the circumstances under which the information can be released or obtained and when information is required to be destroyed. The DIR is added to the list of state entities to which a criminal justice agency may disclose criminal history record information that is subject to an order of nondisclosure. The DIR may not obtain criminal history record information under these provisions unless it adopts policies and procedures that meet certain criteria relating to the use of the information in hiring decisions.

House Bill 1830 provides that the law pertaining to open meetings does not require the governing board of the DIR to conduct an open meeting to deliberate security assessments or deployments relating to information resource technology, network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

House Bill 1830 expands the items of confidential network security information that are exempt from public access. The bill authorizes information of a confidential nature described in the bill to be disclosed to a bidder if the governmental body determines that providing the information is necessary for the bidder to provide an accurate bid.

House Bill 1830 authorizes the information resources manager of a state agency to prepare or have prepared an executive summary of the findings of a report assessing the extent to which an interface to a computer system, among other electronic devices, is vulnerable to unauthorized access or harm, including the extent to which the agency's or contractor's electronically stored information is vulnerable to inappropriate use. The bill lists the individuals and departments to which an electronic copy of the vulnerability report is to be provided upon its completion. Previous law required the report to be provided on request.

House Bill 1830 requires the DIR to adopt rules requiring, in state agency contracts for network hardware and software, a statement by the vendor certifying that the network hardware or software, as applicable, has undergone independent certification testing for known and relevant vulnerabilities.

**House Bill 1918**

**Effective:** 9-1-09

**House Author:** Darby et al.

**Senate Sponsor:** Estes

House Bill 1918 amends the Agriculture Code, Education Code, Government Code, Health and Safety Code, and Occupations Code to change the name of the Office of Rural Community Affairs to the Texas Department of Rural Affairs and to make certain technical changes. The bill provides that a reference in another law or administrative rule to the Office of Rural Community Affairs means the Texas Department of Rural Affairs.

**House Bill 1963**

**Effective:** 5-20-09

**House Author:** Kuempel

**Senate Sponsor:** Whitmire

House Bill 1963 repeals the Government Code provision that prohibits the advertising budget for the Texas lottery in the next state fiscal year from exceeding a certain amount if the total amount of lottery prizes awarded by the Texas Lottery Commission in any state fiscal year after the fiscal year ending August 31, 2000, exceeds an amount equal to 52 percent of the gross revenue from the sale of lottery tickets in that fiscal year as determined by the comptroller of public accounts.

**House Bill 2219**

**Effective:** 9-1-09

**House Author:** Phillips

**Senate Sponsor:** Williams

House Bill 2219 amends the Transportation Code to establish that the public transportation advisory committee consists of 9, rather than 11, members and to revise the committee's composition. The bill requires the governor, lieutenant governor, and the speaker of the house of representatives to appoint committee members, rather than the Texas Transportation Commission, and requires the committee to reflect the diversity of the state. The bill prohibits the first two members whose positions expire or become vacant from being replaced.

**House Bill 2242**

**Effective:** 6-19-09

**House Author:** Leibowitz et al.

**Senate Sponsor:** Seliger

House Bill 2242 amends the Government Code to abolish the Texas cultural endowment fund on December 1, 2009. The bill requires the Texas Commission on the Arts, in consultation with interested stakeholders, to review donor restrictions on donations to the endowment fund to determine if the donations may be transferred to the Texas Commission on the Arts operating fund. The bill establishes that on December 1, 2009, any money in the endowment fund, including any interest or income earned before that date, is transferred to the operating fund or returned to the donor as determined by donor restrictions. Money transferred to the operating fund under the bill's provisions is prohibited from being used to reduce or eliminate appropriations to the commission for the fiscal biennium beginning September 1, 2009.

**House Bill 2440**

**Effective:** 9-1-09

**House Author:** McCall

**Senate Sponsor:** Williams

House Bill 2440 amends the Occupations Code to specify that a scholarship fund for fifth-year accounting students is a trust fund held by the Texas State Board of Public Accountancy outside the state treasury, rather than an account in the general revenue fund; to conform the additional fee that accompanies each license fee and that is designated for deposit to the credit of the trust fund to reflect the one-year term for each license and license renewal; and to lower the cap on administrative costs incurred to collect and distribute the fee from 15 percent to 10 percent of the total money collected. The bill removes a provision specifying an allocation of the money for administrative cost between the Texas Higher Education Coordinating Board and the Texas State Board of Public Accountancy.

The bill transfers provisions relating to scholarships for fifth-year accounting students from the Education Code to the Occupations Code and transfers functions and authority relating to these provisions from the Texas Higher Education Coordinating Board to the Texas State Board of Public Accountancy. Previous law authorized the state board to use only money appropriated to it from the fund. The bill specifies that the state board is authorized to use without appropriation any money from the trust fund. The bill requires the state board, not later than January 1, 2010, to adopt the rules required to implement provisions concerning the scholarship trust fund for fifth-year accounting students and requires the coordinating board on September 1, 2009, to transfer specified amounts to the state board for deposit in the trust fund.

**House Bill 2447**

**Effective:** See below

**House Author:** Flynn et al.

**Senate Sponsor:** Estes

House Bill 2447 amends the Occupations Code to abolish the Board of Tax Professional Examiners and transfer its functions to the Texas Department of Licensing and Regulation, where those responsibilities are divided among the department, its executive director, and the Texas Tax Professional Advisory Committee, which is created by the bill. The bill sets forth provisions regarding the committee's membership and requires the Texas Commission of Licensing and Regulation, as soon as possible after the bill's effective date, to appoint committee members and set their terms. The bill requires the commission, with the advice of the committee, to establish fees to cover the department's costs of administering programs and activities relating to the regulation of tax professionals. The bill continues the board in existence until March 1, 2010, for the sole purpose of transferring certain functions to the department and continues all rules of the board until superseded by a rule of the commission.

House Bill 2447 requires the comptroller of public accounts to enter into a memorandum of understanding with the department under which the comptroller is required to provide information relating to the educational needs of and opportunities for tax professionals; review and approve educational courses, examinations, and continuing education programs for registrants; supply copies of certain reports and other documents; and provide information and assistance regarding administrative proceedings conducted under the commission's rules or state laws. The bill establishes that a registration is valid for one year and authorizes the commission by rule to adopt a system under which registrations expire on various dates during the year. The bill sets out provisions for setting fees for continuing education courses and for the providers of such courses, which apply to continuing education that must be completed by a registrant on or after June 1, 2010. The bill establishes requirements for applying for an examination for certification and determining the content of the examination and guidelines for denying a registration or taking other disciplinary actions against a person who violates these provisions or a commission rule, imposing administrative penalties, and dismissing a complaint relating to an appraised value of a property. The bill requires the board, in cooperation with and at the direction of the department, to complete certain computer programming and other tasks in connection with the recording of transactions relating to the regulation of tax professionals and to request that the comptroller grant the department inquiry-only security access to certain statewide information systems.

House Bill 2447 amends the Government Code and the Tax Code to make conforming changes. The bill takes effect September 1, 2009, except for the provisions relating to the board's completion of computer programming tasks and the department's access to certain statewide information systems, which take effect June 19, 2009.

**House Bill 2509**

**Effective:** 9-1-09

**House Author:** Geren

**Senate Sponsor:** Wentworth

House Bill 2509 amends the Government Code to authorize the director of the lottery division of the Texas Lottery Commission to direct payment to a minor who is entitled to prize money on a winning ticket in an amount of \$600 or more by depositing the amount of the prize in any financial institution, rather than any bank, to the credit of an adult member of the minor's family or of the minor's guardian as custodian for the minor.

**House Bill 2546**

**Effective:** 9-1-09

**House Author:** Isett et al.

**Senate Sponsor:** Hinojosa

Previous law provided that the Texas Military Preparedness Commission was within the office of the governor, required to report to the governor or the governor's designee, and independently subject to sunset review and abolishment. House Bill 2546 amends the Government Code to transfer the commission to the Texas Economic Development and Tourism Office in the office of the governor and to require the commission to report to the executive director of the economic development office. The bill repeals a provision that specified a sunset date for the commission, resulting in the commission's sunset review taking place in conjunction with that of the economic development office. In addition to across-the-board sunset provisions relating to commission membership and training, the bill expands the commission's powers and duties to include advocating for the preservation and expansion of missions of reservists at Texas military installations.

House Bill 2546 transfers from the commission to the economic development office certain functions related to providing a loan of financial assistance to a defense community for a project to enhance the military value of a military facility in or near the community, for an economic development project to minimize the negative effects of certain defense base reductions on the community, or for a project to accommodate new or expanded military missions assigned to a military facility in or near the community. The bill transfers from the commission to the office the authorization to provide such a loan from the Texas military value revolving loan account and the requirement, if the commission determines that the project will produce the specified outcome, to analyze the creditworthiness of the defense community to determine the community's ability to repay the loan and to evaluate the feasibility of the project to ensure that the community has pledged sufficient revenue or taxes to repay the loan. The bill transfers other duties from the commission to the office, including notifying the Texas Public Finance Authority of certain loan information, requesting the authority to issue general obligation bonds, determining the amount and time of a bond issue, and assisting defense communities in obtaining financing for economic development projects that address future realignment or closure of a defense base in or near the community.

House Bill 2546 retains a requirement that the commission administer provisions relating to grant assistance for local areas affected by defense restructuring, but transfers the duty to monitor the implementation of such provisions from the commission to the office. The bill adds to the local governmental entities eligible for such a grant a political subdivision having the power of a defense base development authority and authorizes the office to assist a local governmental entity in applying for a grant. The bill adds the anticipated number of jobs to be retained in relation to the amount of the grant sought to the criteria used by the defense economic adjustment assistance panel in assigning an applicant a score to be used by the commission in determining whether to award a grant.

**House Bill 2548****Effective:** 9-1-09**House Author:** Kuempel**Senate Sponsor:** Williams

House Bill 2548 amends provisions of the Health and Safety Code and the Occupations Code relating to the membership of certain advisory bodies to the Texas Department of Licensing and Regulation (TDLR) by adding two public members to the board of boiler rules and the Auctioneer Education Advisory Board; one public member to the Property Tax Consultants Advisory Council, the air conditioning and refrigeration contractors advisory board, and the Towing and Storage Advisory Board; and one public member and one member who represents a licensed public secondary or postsecondary beauty culture school to the Advisory Board on Cosmetology. The bill requires the presiding officer of the Texas Commission on Licensing and Regulation to appoint the public members of these advisory bodies to the TDLR not later than December 1, 2009. In addition, the bill increases from four-fifths to six-sevenths the vote of the Auctioneer Education Advisory Board that is required to remove a member of that board who is a licensed auctioneer appointed by the commission's presiding officer.

**House Bill 2730****Effective:** See below**House Author:** Kolkhorst et al.**Senate Sponsor:** Hinojosa

House Bill 2730 amends provisions of the Agriculture Code, Code of Criminal Procedure, Education Code, Family Code, Government Code, Health and Safety Code, Labor Code, Occupations Code, Penal Code, Transportation Code, and Water Code relating to the continuation and functions of the Department of Public Safety (DPS) and the Texas Private Security Board. In addition to across-the-board sunset provisions, the bill continues DPS and the board until September 1, 2015, and sets forth provisions relating to the duties and operation of DPS and the board.

Article 1 of the bill makes changes to the vehicle inspection program by establishing that the program is managed by a program director, setting forth the director's duties, and requiring the advisory committee for the program to hold a meeting at least once each quarter.

Article 2 replaces the division of emergency management in the office of the governor with the Texas Division of Emergency Management. The bill establishes that the Texas Division of Emergency Management is a division of DPS, establishes additional responsibilities for the division, and provides that the division is managed by a chief appointed by the public safety director of DPS. The bill adds the speaker of the house of representatives or the speaker's designee and the lieutenant governor or the lieutenant governor's designee to the membership of the Homeland Security Council.

Article 3 changes the procedure for compelling the attendance of a breath test technician at a hearing relating to the administrative suspension of a driver's license for failure to pass a test for intoxication.

Article 4 amends the Private Security Act to allow the Texas Private Security Board to issue endorsements and requires the board to adopt rules necessary to comply with licensing provisions relating to the consequences of a criminal conviction. The bill amends provisions regarding the following activities regulated by the act: licensing, registration, and other fees; license classifications; application restrictions for a license, certificate of registration, endorsement, or security officer commission; and registration and endorsement requirements. The bill authorizes the board to develop and administer a jurisprudence examination to determine the knowledge of an endorsement applicant regarding the act, board rules, and other applicable state laws. The bill makes provisions of the act inapplicable to employees performing investigative services that would otherwise be subject to the act for entities regulated by certain state agencies. Article 4B sets forth provisions relating to an applicant for a security services contractor license, the form

of a license issued under the act, the termination of a manager of a license holder's business, the recordkeeping of a license holder, the concealment of a firearm applicable to a personal protection officer, requirements for applications regulated by the act, subpoena authority of DPS in a complaint investigation, and deceptive trade practices under the act. The bill provides for the inapplicability of certain criminal offenses to personal protection officers.

Article 5 requires the Public Safety Commission to establish the office of inspector general, in place of the office of internal affairs, to prevent, detect, and investigate serious breaches of departmental policy, fraud, and abuse of office.

Article 6 amends provisions relating to the voluntary donation of a DPS employee's accrued compensatory time or annual leave to a legislative leave pool, the disclosure by DPS of information regarding individuals licensed to carry concealed handguns and individuals certified as qualified handgun instructors, and the mandatory physical fitness programs for law enforcement officers that each law enforcement agency must adopt. The bill authorizes DPS to establish a driver record monitoring pilot program and to enter into a contract with an eligible person to provide driver record monitoring services and certain information from DPS's driver's license records to the person, and makes it a Class B misdemeanor for a contracted person to violate the terms of the contract. The bill creates the state jail felony offense of conspiring to manufacture a counterfeit driver's license or personal identification certificate, enhanced to a felony of the third degree if the actor is a public servant. The bill specifies the applicability of provisions relating to a criminal history record information review of certain school district contract employees.

Article 7 changes the name of the unsolved crimes investigation team to the unsolved crimes investigation program and makes employment in the program available only to a peace officer of the Texas Rangers of the rank of sergeant or higher. Article 8 requires the Texas Division of Emergency Management to coordinate with the Texas Department of Transportation to establish additional methods for disseminating emergency public service messages to motorists. Article 9 authorizes DPS to obtain and use criminal history record information maintained by the Federal Bureau of Investigation or DPS that relates to applicants for certain permits, certifications, or registrations issued under the Health and Safety Code or Transportation Code and provides restrictions on the release or disclosure of the information. Article 9A amends provisions relating to the disclosure of criminal history record information regarding public school employees obtained by the State Board for Educator Certification, Texas Education Agency (TEA), and local and regional educational entities.

Article 10 requires the bureau of identification and records to record data and maintain a state database for a computerized criminal history record system and computerized juvenile justice information system. The bill amends provisions relating to the DPS criminal history clearinghouse and specifies that criminal history record information obtained by certain state entities may be released or disclosed with the consent of the person who is the subject of the information.

Article 11 amends provisions regarding the licensing of persons to carry a concealed handgun. The bill modifies the offenses for which a person is considered convicted for purposes of license eligibility and modifies the documents required to be submitted to obtain a new, modified, or renewal license. The bill requires DPS to establish a procedure to indicate on a license a person's status as a qualified handgun instructor, provides an exemption to the requirement that DPS revoke a concealed handgun license in regard to a dishonored or reversed application fee, and requires rather than authorizes DPS and certain judicial entities to suspend a concealed handgun license under certain circumstances. The bill authorizes a qualified handgun instructor to submit to DPS a written recommendation for disapproval of the application for a concealed handgun

license, or renewal or modification of such a license, accompanied by an affidavit and requires DPS to ensure that certain applicants may renew a qualified handgun certification online. The bill repeals provisions requiring a concealed handgun license applicant to request application materials and requiring DPS to develop and issue handgun proficiency certificates.

Article 12 adds the Less Tears More Years Act. The bill requires a school district to consider offering a driver education and traffic safety course each school year and authorizes the district to conduct and charge a fee for the course or to contract with a licensed driver education school to conduct the course. The bill sets forth driver education course requirements regarding specified hours of behind-the-wheel instruction and observation instruction for students. The bill amends the Transportation Code to require DPS to collect and publish data regarding collisions of students taught by certain entities that offer driver education courses and to require DPS and TEA to enter into a memorandum of understanding under which DPS may access TEA's electronic enrollment records to verify a student's enrollment in a public school for license renewal purposes. The bill modifies provisions relating to the fees and expiration dates of a provisional license and instruction permit, and the time periods during which minors are prohibited from operating a motor vehicle, motorcycle, or moped.

Article 12A removes the failure to display a concealed handgun license as grounds for suspension of the license and the Class B misdemeanor offense for a person who fails to display a license after such a suspension.

Article 13 authorizes applicable persons who enter Texas as new residents to operate a motor vehicle in Texas for no more than 90 days, rather than 30 days, after the date on which they enter Texas. The bill requires DPS by rule to establish a system for identifying unique addresses that are submitted in driver's license or personal identification certificate applications in a frequency or number that casts doubt on whether the addresses are the actual addresses where the applicant resides and prohibits DPS from issuing a license or certificate to a person who has not established a domicile in Texas.

Article 13A requires DPS to establish a procedure for a federal judge, a state judge, or the spouse of a federal or state judge who holds a driver's license to omit the license holder's residence address on the license and to include, in lieu of that address, the street address of the courthouse in which the license holder or spouse serves.

Article 14 requires DPS to participate in an inmate identification verification pilot program for the purpose of issuing driver's licenses and personal identification certificates to inmates of the Texas Department of Criminal Justice and requires an inmate to provide supplemental verified documents with an offender identification card or similar form of identification as satisfactory proof of identity in regard to an application for an original or commercial driver's license.

Article 15 imposes additional requirements and restrictions on DPS regarding the notification and collection of driver's license surcharges, requires DPS to waive all applicable surcharges for a person who is indigent, and requires DPS to establish a procedure to provide for the deduction of driver's license surcharge points for each year that a person has not accumulated such points. Article 15A creates an exception to the presumption that a motor vehicle operator who does not exhibit evidence of financial responsibility is in violation of the financial responsibility requirement.

Article 16 includes the offense of driving while intoxicated with a child passenger among the offenses a conviction of which results in an automatic driver's license suspension, and it raises from \$50 to \$100 the reinstatement fee for a license suspended in relation to certain intoxication offenses. Article 17 requires earlier notification to DPS and other applicable persons of certain convictions, forfeitures of bail, or adjudications in regard to certain motor vehicle offenses or violations.

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Article 18 disqualifies a person from driving a commercial motor vehicle for life if the person uses a motor vehicle in the commission of certain federal offenses that involve the transportation, concealment, or harboring of an alien. The bill requires a juvenile court to order DPS to suspend or deny issuance of a child's driver's license or permit if the court finds that the child has engaged in conduct that violates a penal law of Texas or the United States involving a severe form of trafficking in persons.

Article 20 amends provisions relating to administrative fines and fees for parking violations in the Capitol Complex. Article 21 requires the commissioners court of certain counties to establish a local data advisory board that must prepare and submit to DPS a data reporting improvement plan concerning the improvement of the county's disposition completeness percentage. The bill adds additional recipients to those required to receive DPS's annual report regarding the level of reporting by local jurisdictions concerning the submission of arrest and disposition information and requires the report to contain a disposition completeness percentage for each county in Texas.

Article 22 adds provisions, set to expire September 1, 2011, requiring the director of DPS, the executive director of the Texas State Board of Pharmacy, and the executive director of the Texas Medical Board or those directors' designees to meet as an interagency council to develop a transition plan for the orderly transfer from DPS to the Texas State Board of Pharmacy of certain records and regulatory functions relating to dispensing controlled substances by prescription under the Texas Controlled Substances Act.

House Bill 2730 takes effect September 1, 2009, except for Articles 7, 9, 10, and 13, which take effect June 19, 2009, and Article 15, which takes effect September 1, 2011.

### **House Bill 2748**

**Effective:** 6-19-09

**House Author:** Chisum

**Senate Sponsor:** Duncan

House Bill 2748 abolishes the Texas Environmental Education Partnership Fund.

### **House Bill 3461**

**Effective:** 6-19-09

**House Author:** Orr

**Senate Sponsor:** Watson

House Bill 3461 amends the Natural Resources Code to revise the powers and duties of the School Land Board and the commissioner of the General Land Office, to subject the board to the Texas Sunset Act, and to provide for its abolition on September 1, 2017, unless continued. The bill authorizes the board to waive a special fee on land sales and mineral leases to any state agency, board, commission, political subdivision, or other governmental entity. The bill makes changes to the requirements of the board regarding the publication of a notice of sale, lease, or commitment to a contract for development of land. The bill facilitates the application process of a person seeking to purchase vacant land and requires the commissioner to investigate ownership interest of vacant land and the surrounding land, establishes a deadline for such a determination, and requires the commissioner to provide all documents submitted by the applicant and the results of the investigation to identify necessary parties to the attorney ad litem appointed to identify and locate all necessary parties. The bill establishes deadlines for the processing and decision notification of a vacancy application. The bill establishes provisions relating to a vacancy hearing and the preferential rights of a good-faith claimant.

### **House Bill 3756**

**Effective:** 9-1-09

**House Author:** Howard, Donna

**Senate Sponsor:** Ellis

House Bill 3756 amends the Government Code to update statutes related to the Texas State Library and Archives Commission by deleting obsolete provisions and modernizing definitions and terms to reflect current practices and standards related to the agency and its programs.



The bill enables the commission to expand the membership of the TexShare program and its advisory board and allows major and regional library systems to serve other types of libraries. The bill also broadens the definition of “state record” and the commission’s right of recovery of state records and archival state records, and applies these changes retroactively and to all state records regardless of when the records were removed from the custody of the state. The bill amends the Local Government Code to remove language regarding the certification of county librarians by the commission.

**House Bill 4110****Effective:** 9-1-09**House Author:** Martinez Fischer**Senate Sponsor:** Uresti

House Bill 4110 amends the Water Code to authorize the Texas Water Development Board to purchase, donate, sell, or contract for the sale of items to promote the programs of the board, including caps or other clothing, posters, banners, calendars, books, prints, and other items as determined by the board. The board may use its Internet website to advertise and sell such items. Money received from the sale of a promotional item is to be deposited in the general revenue fund and reserved for the exclusive use by the board to further its purposes and programs.

**Senate Bill 2 (1st C.S.)****Effective:** 7-10-09**Senate Author:** Hegar et al.**House Sponsor:** Isett

Senate Bill 2 amends provisions in various codes relating to governmental entities subject to the sunset review process. The bill changes the sunset date of the following entities to 2011: Equine Research Account Advisory Committee, office of public insurance counsel, Texas Department of Insurance, Texas Department of Transportation, Texas Racing Commission, Texas State Affordable Housing Corporation, Coastal Coordination Council, On-site Wastewater Treatment Research Council, Railroad Commission of Texas, State Board of Examiners for Speech-Language Pathology and Audiology, State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, State Soil and Water Conservation Board, and Texas Commission on Environmental Quality.

Senate Bill 2 changes the sunset date of the following entities to 2013: Department of Aging and Disability Services, Department of Assistive and Rehabilitative Services, Department of Family and Protective Services, Department of State Health Services, Governor’s Committee on People with Disabilities, Health and Human Services Commission, office of fire fighters’ pension commissioner, Texas Board of Criminal Justice, Texas Department of Criminal Justice, Texas Council for Developmental Disabilities, Texas Council on Purchasing from People with Disabilities, Texas Education Agency, Texas Emancipation Juneteenth Cultural and Historical Commission, Texas Health Services Authority, and Texas Lottery Commission.

Senate Bill 2 subjects the Texas Forest Service to the Texas Sunset Act and continues the service until September 1, 2011. The bill requires the Texas Water Development Board to be reviewed during the period in which state agencies that are abolished in 2011, rather than 2013, are reviewed, as well as every 12th year after that. The bill requires the Sunset Advisory Commission to present to the 83rd Legislature, rather than the 82nd Legislature, the commission’s report on its evaluation of the tax division of the State Office of Administrative Hearings, as well as the commission’s report on its evaluation of and recommendations in relation to the transfer of certain powers and duties from the Texas Facilities Commission to the comptroller of public accounts. Set to expire September 1, 2011, the bill requires the Sunset Advisory Commission, as part of its review of the Public Utility Commission of Texas for the 82nd Legislature, to conduct a special-purpose review of the Electric Reliability Council of Texas (ERCOT), the cost of which is to be paid by ERCOT.

Senate Bill 2 amends the Agriculture, Education, Government, Health and Safety, Human Resources, Insurance, Natural Resources, Occupations, Transportation, and Water Codes. The Revised Statutes, Vernon's Texas Civil Statutes, and the General Appropriations Act of the 81st Legislature, Regular Session, 2009, are also amended.

**Senate Bill 348**  
**Effective:** 6-19-09

**Senate Author:** Carona  
**House Sponsor:** Pickett

Senate Bill 348 amends the Transportation Code to authorize the Texas Transportation Commission to establish advisory committees on any of the matters under its jurisdiction. The bill requires the commission to determine the purpose, duties, and membership of each advisory committee.

**Senate Bill 482**  
**Effective:** 9-1-09

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

Senate Bill 482 amends the Government Code to establish the Texas Holocaust and Genocide Commission as an advisory body administratively attached to the Texas Historical Commission to provide advice and assistance to public and private primary and secondary schools and institutions of higher education in Texas regarding the implementation of Holocaust and genocide courses of study and awareness programs, cultivate resources and volunteers to further its mission, and coordinate events in Texas memorializing the Holocaust and genocide events. The bill includes provisions relating to the composition, operations, powers and duties, and funding of the commission and makes the commission subject to the Texas Sunset Act.

**Senate Bill 803**  
**Effective:** 9-1-09

**Senate Author:** Lucio  
**House Sponsor:** Rios Ybarra

Senate Bill 803 amends the Natural Resources Code to reduce the number of required meetings of the Coastal Coordination Council from once each calendar quarter to twice each calendar year as necessary to conduct the business of the council. The bill authorizes the commissioner of the General Land Office, as council chair, or any three members of the council to convene meetings at such times and places as they may determine necessary and appropriate.

**Senate Bill 1003**  
**Effective:** 9-1-09

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

Senate Bill 1003 amends the Government Code to continue the Office of State-Federal Relations (OSFR) until September 1, 2015, to administratively attach the OSFR to the office of the governor, and to fund the OSFR by appropriations made to the office of the governor. The bill transfers the powers and duties of the director of the OSFR to the office itself and establishes additional powers and duties, including the duty to coordinate with the Legislative Budget Board regarding the effects of federal funding on the state budget. The bill requires the annual report to the governor and legislature to include an evaluation of the OSFR based on performance measures developed by the OSFR policy board.

The bill prescribes written procedures that must be adopted if the OSFR elects to contract with a federal-level government relations consultant and establishes requirements for such a contract. Any agency or political subdivision of the state that contracts with a federal-level government relations consultant is required, with certain exceptions, to submit to the OSFR two reports detailing elements of the contract.

**Senate Bill 1441**  
**Effective:** 6-19-09

**Senate Author:** Watson  
**House Sponsor:** Hunter

Senate Bill 1441 amends the Government Code to provide that members of the Court Reporters Certification Board serve staggered six-year terms, rather than six-year terms, with the terms of two or three members expiring on December 31 of each year. The bill requires the Supreme Court of Texas to prescribe the method of transition to staggered terms.

**Senate Bill 1920**  
**Effective:** 9-1-09

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

Senate Bill 1920 amends the Occupations Code to increase from five to seven the number of members comprising the Advisory Board on Cosmetology and to add to the composition of the board one member who represents a licensed public secondary or postsecondary beauty culture school or program and one public member.

**Senate Bill 2169**  
**Effective:** Vetoed

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

Senate Bill 2169 amends the Government Code to establish the work group on smart growth policy, to be composed of representatives from various state or regional agencies enumerated in the bill, appointed by each agency's executive head, to collaborate and develop a comprehensive smart growth plan for Texas to prepare for projected state population growth. The bill requires the work group, in developing the plan, to make recommendations to the legislature for addressing the quality of community life; the design of municipalities, counties, and regions; economic, environmental, health, housing, and transportation issues; mixed land use; gentrification; predictable, fair, and cost-effective development decisions; and the encouragement of community and stakeholder collaboration in such decisions. The bill requires the work group to coordinate with councils of government, regional mobility organizations, metropolitan planning associations, and smart growth experts in the public and private sectors, including the United States Environmental Protection Agency and planning departments in other states, and to solicit and obtain input from relevant stakeholders. The bill requires the work group, not later than January 1 of each odd-numbered year, to submit a report to the legislature on the smart growth plan and policies developed by the work group. The provisions of the bill are set to expire August 31, 2013.

Reason Given for Veto: "Senate Bill No. 2169 would create a new governmental body that would centralize the decision-making process in Austin for the planning of communities through an interagency work group on 'smart growth' policy. Decisions about the growth of communities should be made by local governments closest to the people living and working in these areas. Local governments can already adopt 'smart growth' policies based on the desires of the community without a state-led effort that endorses such planning. This legislation would promote a one-size-fits-all approach to land use and planning that would not work across a state as large and diverse as Texas."

**Senate Bill 2325**  
**Effective:** Vetoed

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

Senate Bill 2325 amends the Government Code to provide that the discussions, thought processes, or individual votes of members of the State Commission on Judicial Conduct, the discussions or thought processes of employees of the commission, and the identity of a confidential complainant or informant are confidential and privileged, with certain exceptions.

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Reason Given for Veto: "Senate Bill No. 2325 would make 'confidential and privileged' all discussions, thought processes and individual votes of members of the State Commission on Judicial Conduct; discussions or thought processes of employees and special counsel of the commission; and identity of a confidential complainant or informant. As the protections the commission needs in order to perform its duties are already provided in law, I am vetoing Senate Bill No. 2325."

### **Senate Bill 2534**

**Effective:** 6-19-09

**Senate Author:** Wentworth

**House Sponsor:** Corte, Frank

Senate Bill 2534 amends the Government Code to create an interagency task force on economic growth and endangered species in order to establish a mechanism for state agencies to provide policy and technical assistance regarding effective and cost-efficient compliance with endangered species laws and regulations to local and regional governmental entities engaged in economic development activities. The bill specifies the composition, functions, and duties of the task force, requires it to work in coordination with other state and federal entities, and authorizes it to provide reports on specified topics. The comptroller of public account's office is required to provide administrative support to the task force and is authorized to create advisory committees to assist the task force with its work. The bill establishes economic development and Endangered Species Act compliance in the Camp Bullis area in Bexar County as an immediate charge for the task force and an assisting advisory committee.

## Commemorations

### **House Bill 1739**

**Effective:** 9-1-09

**House Author:** Howard, Donna

**Senate Sponsor:** Hegar

House Bill 1739 amends the Government Code to designate the third full week in October as Texas Native Plant Week to celebrate the native plants of Texas. The bill authorizes Texas Native Plant Week to be regularly observed in public schools and other places with programs to appreciate, explore, and study Texas native plants.

### **House Bill 4114**

**Effective:** 5-29-09

**House Author:** Martinez Fischer et al.

**Senate Sponsor:** Zaffirini et al.

House Bill 4114 amends the Government Code to require the State Preservation Board to establish a Tejano memorial monument on the historic south grounds of the Capitol and limits the placement of additional monuments on the historic south grounds.

### **House Bill 4767**

**Effective:** 6-19-09

**House Author:** Homer et al.

**Senate Sponsor:** Ellis

House Bill 4767 amends the Government Code to establish requirements relating to the legislature's practice of designating a culturally or historically significant day, week, or month for recognition. The bill also repeals the requirement for a resolution proposing a state symbol or a place designation to be referred to and reported by the appropriate committee in each house in the manner provided for bills.

### **Senate Bill 495**

**Effective:** 9-1-09

**Senate Author:** Hinojosa et al.

**House Sponsor:** Herrero et al.

Senate Bill 495 amends the Government Code to designate the third Wednesday of September as Dr. Hector P. Garcia Day and to authorize that day to be regularly observed by appropriate ceremonies and activities in the public schools and other places.

**Senate Bill 909**  
**Effective:** 6-19-09

**Senate Author:** Williams  
**House Sponsor:** Crownover

Senate Bill 909 amends the Government Code to designate the first seven days of October as Monarch Butterfly Week to encourage Texas residents and visitors to study, observe, and promote the life of the state insect, the monarch butterfly. The bill specifies that, through participation in the Texas Monarch Watch program sponsored by the Parks and Wildlife Department, Texas residents and visitors may help scientists answer research questions about monarch biology and migration.

## **Fiscal Management and Auditing**

**House Bill 464**  
**Effective:** 9-1-09

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

House Bill 464 amends the Government Code to require the Legislative Budget Board to prepare a dynamic fiscal impact statement for each legislative bill or joint resolution that changes the rate or amount of a tax or fee or that proposes an amendment to the Texas Constitution to do so, and for which a fiscal note indicates a positive or negative impact on revenue of at least \$75 million annually. Based on dynamic scoring principles, as articulated by the bill, the statement must project, for the five-year period beginning on the proposed effective date of the change, the estimated fiscal and economic impacts, including the impact on tax or fee receipts and the costs of the specific program, if any, that the tax or fee is designed to directly support. The bill requires the comptroller, on the fifth anniversary of the effective date of a bill that becomes law for which a dynamic fiscal impact statement was prepared, to submit to the presiding officer of each house of the legislature a report that assesses the accuracy of both the fiscal note and the dynamic fiscal impact statement.

**Senate Bill 638**  
**Effective:** 9-1-09

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

Senate Bill 638 amends the Government Code to require the comptroller of public accounts by rule to establish a program for centralized pooled collateralization of deposits of public funds and for monitoring collateral maintained by participating financial institutions. The bill requires the rules to provide that deposits of county funds are not eligible for collateralization under the program; requires the comptroller to provide a separate collateral pool for any single institution's deposits of public funds; and prohibits any combination, cross-collateralization, or aggregation of one institution's collateral pledged for public deposit with another institution's collateral pool for pledging purposes.

Senate Bill 638 sets forth eligibility requirements for a financial institution's participation in the pooled collateral program and requires each participating institution to secure its deposits of public funds with eligible securities having a specified minimum total value and to provide for the collateral securities to be held by a regulated and qualified custodian trustee, on the institution's behalf, in trust for the benefit of the pooled collateral program.

Senate Bill 638 provides for the monitoring of collateral in the program by requiring each participating institution to file daily, weekly, monthly, and annual electronic reports with the comptroller, requiring the comptroller to provide a daily report of the market value of the securities held in each pool, and requiring the comptroller to post each report on the comptroller's website.

Senate Bill 638 requires the comptroller to impose an annual assessment against each participating institution in an amount sufficient to pay the program's administrative costs. The bill authorizes the comptroller to impose an administrative penalty against an institution that fails to file a timely report for the purposes of monitoring collateral, fails to maintain collateral in an amount and in the manner provided, or fails to pay an assessment against it in the time provided, and it requires the comptroller by rule to adopt a formula, based on certain factors, for determining the amount of a penalty, provided that for each violation and for each day of a continuing violation, a penalty is at least \$100 per day and not more than \$1,000 per day. The bill establishes that a proceeding to impose a penalty is a contested case under the Administrative Procedure Act, and it authorizes the attorney general to sue to collect a penalty.

Senate Bill 638 authorizes a stay of enforcement of a penalty during the time the order is under judicial review if the participating institution pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty or if a participating institution that cannot afford to pay the penalty or file the bond files an affidavit in the manner required by the Texas Rules of Civil Procedure. The bill specifies that money collected as penalties may be appropriated only for administration of the pooled collateral program.

Senate Bill 638 requires the comptroller to adopt rules as necessary to implement the pooled collateral program so that the program begins operating not later than the first business day of April 2010.

**Senate Bill 2064**  
**Effective:** 6-19-09

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

Senate Bill 2064 amends Government Code provisions relating to the issuance of state and local government securities, the issuance of private activity bonds, and the powers and duties of the Bond Review Board. The bill changes the deadlines for the board's submittal of its biennial statistical report on state securities and local government-issued bonds and other debt obligations and for submittal of its annual study regarding the state's current debt burden, and it authorizes the board to enter into a contract for services related to the collection and maintenance of information necessary to prepare the biennial statistical report.

For purposes of reserving a portion of the state ceiling for private activity bond issues, the bill includes multiple facilities in the scope of a project financed by the issuance of bonds other than qualified residential rental project, mortgage, or student loan bonds; allows an application for financing of sewage, solid waste disposal, and qualified hazardous waste facilities to include multiple facilities in multiple jurisdictions; allows the number of facilities in an application to be reduced as needed without affecting their project status; and sets a nonrefundable application fee of \$500 per facility for a reservation or carryforward designation. The bill requires the board, if all applicants for a reservation have been offered a portion of the available state ceiling, to grant reservations in the order in which the applications are received.

Senate Bill 2064 increases the various population-based caps on the amount of the state ceiling that may be reserved before August 15 for the issuance of qualified mortgage bonds by housing finance corporations of different sizes, and it increases the cap on the amount of a qualified mortgage bond issue for which such a corporation may receive an allocation.

Senate Bill 2064 changes the range of utilization percentages used as a basis for determining a housing finance corporation's allocation of the state ceiling the next time it becomes eligible for a reservation by decreasing the upper limit and setting a floor on current utilization percentages so that the maximum amount of the state ceiling that may be reserved for a corporation whose utilization percentage is less than 25 percent is the amount to which it otherwise would be eligible multiplied by 25 percent. The bill prohibits a housing finance corporation from being penalized

in the program year if, in the preceding program year, 50 percent or less of the aggregate state ceiling available for reservations by issuers of qualified mortgage bonds has been used in connection with bond issues closed on or before that date or has had carryforward elections filed on or before that date. An issuer with carryforward available from the state ceiling created by the Housing and Economic Recovery Act of 2008 is not restricted by project limits for the state ceiling, and an issuer who uses the carryforward to issue qualified mortgage bonds or mortgage credit certificates is not subject to the utilization percentage calculation.

Senate Bill 2064 changes both the submission deadline for an application for a program year and the deadline for the board's granting of a reservation from December 1 to November 15 of that year, raises the cap on the amount of a reservation that may be granted for a single project before August 15 from \$25 million to \$40 million for an issuer of qualified mortgage bonds other than the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation, and revises the single-project reservation cap for issuers of qualified residential rental project bonds.

Senate Bill 2064 authorizes the board to establish and administer programs for the reservation, allocation, and carryforward designation of additional state ceiling in accordance with federal law and, on the last business day of the year, to assign as carryforward to state agencies any state ceiling that is not reserved or designated as carryforward and for which no application for carryforward is pending.

Senate Bill 2064 authorizes a federally designated state official or agency to designate bonds as entitled to a portion of a miscellaneous bond ceiling or to allocate a portion of such a ceiling to an issuer of bonds in accordance with the law establishing the federal subsidy for which the ceiling is established and to the extent consistent with the federal law as the official determines will achieve the subsidy's purpose under that federal law. The bill authorizes the board to administer programs established by the applicable official for the allocation of a miscellaneous bond ceiling or for the designation of bonds entitled to the federal subsidy limited by such a ceiling.

Senate Bill 2064 amends the conditions that allow consideration under the low income housing tax credit program of an otherwise ineligible applicant who proposes to replace in less than 15 years any private activity bond financing of the development described by the application. The bill validates all reservations, allocations, and carryforward designations by the board of additional state ceiling authorized by the Housing and Economic Recovery Act of 2008, and by applicable officials of miscellaneous bond ceiling authorized by the Heartland Disaster Tax Relief Act of 2008 or by the American Recovery and Reinvestment Act of 2009, before the bill's effective date. An issuer that has carryforward available from additional state ceiling authorized by the Housing and Economic Recovery Act of 2008 is not restricted by the statutory project limits for the state ceiling, and an issuer using the carryforward to issue qualified mortgage bonds or mortgage credit certificates is exempt from the utilization percentage calculation in determining the amount of the issuer's reservation request.

## **Public Lands**

### **House Bill 867**

**Effective:** 5-27-09

**House Author:** Aycock

**Senate Sponsor:** Fraser

House Bill 867 requires the Texas Department of Criminal Justice (TDCJ) to transfer to the City of Burnet a certain tract of real property to be used by the city only for a purpose that benefits the public interest of Texas. The bill sets forth the metes and bounds of the real

property to be transferred, requires the City of Burnet to pay any transaction fees resulting from the transfer, and provides for the automatic reversion of the property to TDCJ if the city uses the property for an unauthorized purpose.

**House Bill 2728**

**Effective:** 6-19-09

**House Author:** Howard, Charlie

**Senate Sponsor:** Hegar

House Bill 2728 requires the Department of Aging and Disability Services, not later than November 1, 2010, to transfer to the Veterans' Land Board certain real property of the state, provided that the board has determined that the property is suitable for its intended purpose. Consideration for the transfer is the requirement that the board use the property transferred only for a purpose that benefits the public interest of the state, and if the board no longer uses the property for that purpose, ownership automatically reverts to the department.

**House Bill 3202**

**Effective:** Vetoed

**House Author:** Bonnen

**Senate Sponsor:** Jackson, Mike

House Bill 3202 requires the Texas Department of Criminal Justice (TDCJ) to transfer to Brazoria County, by an appropriate instrument of transfer, approximately 332 acres of real property described in the bill not later than January 1, 2010. The bill requires TDCJ to transfer to the City of Houston, by an appropriate instrument, approximately 888 square feet of real property described in the bill not later than October 31, 2010. The bill requires consideration for the transfer to be in the form of an agreement between the parties that requires Brazoria County or the City of Houston, respectively, to use the property in a manner that primarily promotes a public purpose that benefits the public interest of the state. The bill specifies that if Brazoria County or the City of Houston, respectively, fails to use the property in the manner described by the agreement for more than 180 continuous days, ownership of the property automatically reverts to TDCJ.

Reason Given for Veto: "House Bill No. 3202 directs the Texas Department of Criminal Justice (TDCJ) to transfer approximately 332 acres of land to Brazoria County and a fraction of an acre to the City of Houston.

"House Bill No. 3202 is different from comparable legislation that transfers TDCJ land because it does not require the payment of fair market value for the land, does not exchange land for other real property and does not involve land that a local government had donated to the state for construction of a prison. In fact, House Bill No. 3202 transfers land that has been held by the state since 1918 to a county without providing any compensation to the state for the loss of the land. Because the public expects the state to be a good steward of its resources, I am vetoing House Bill No. 3202.

"I encourage the county to work with TDCJ to accomplish this transfer through existing mechanisms that establish the fair market value of the land and allow state taxpayers to realize a benefit from the transfer of the land."

**House Bill 3438**

**Effective:** 6-19-09

**House Author:** Hodge

**Senate Sponsor:** West

House Bill 3438 authorizes the Texas Board of Criminal Justice to convey certain real property to the City of Dallas if the city conveys to the board real property that is not more than 20 miles from the property line of the real property described in the bill and on which there is a facility the board determines is comparable to the Dawson State Jail Facility located on the described property. The bill requires the General Land Office to negotiate and close the transaction. The bill provides that certain requirements relating to real estate transactions authorized by the legislature and notice of sale or exchange of land by political subdivisions do not apply in this situation.



**House Bill 3632****Effective:** See below**House Author:** Geren**Senate Sponsor:** Averitt

House Bill 3632 amends the Natural Resources Code to provide the commissioner of the General Land Office with greater authority to acquire, sell, and exchange real property acquired by gift, to provide for the application of the proceeds of the sale of certain lands acquired by gift, and to amend certain provisions relating to development plans governing state lands. The bill authorizes the commissioner, if real property acquired by grant, gift, devise, or bequest is not held as part of the permanent school fund or possessed, administered, or used by a particular state agency, to manage that real property or sell or exchange the real property under terms and conditions the commissioner determines to be in the best interest of Texas. The bill clarifies the authority of the commissioner to accept transfer on behalf of Texas of the title of a site following completion of remedial action in accordance with federal law and authorizes the sale of any title or interest acquired by Texas through a transaction authorized by the legislature. The bill requires proceeds from the sale of real property, less any amount necessary for the management of real property, and proceeds from the sale of any title or interest to be deposited in the Texas farm and ranch lands conservation fund. The bill establishes deadlines for requested revisions to a development plan of real property belonging to the state. If the deadlines are not met, the revisions are governed by local development policies and procedures. The bill sets forth the composition of any special board of review called to consider revision to an order establishing a development plan for real property not part of the permanent school fund.

House Bill 3632 takes effect June 19, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**House Bill 4311****Effective:** 6-19-09**House Author:** Gallego**Senate Sponsor:** Uresti

House Bill 4311 amends the Transportation Code to designate the building in which the Texas Department of Transportation office of the area engineer for Val Verde County is located as the Honorable Hilary B. Doran Transportation Building and to require designation of the name of Loop 79 in that county to be made by the county commissioners court.

**House Bill 4541****Effective:** 6-19-09**House Author:** Raymond et al.**Senate Sponsor:** Zaffirini

House Bill 4541 requires the Department of Public Safety (DPS), not later than May 1, 2010, to transfer to Webb County certain tracts of real property and sets forth the metes and bounds of the tracts of land to be transferred. The bill requires Webb County to use the property transferred only for a purpose that benefits the public interest of the state; otherwise, ownership of the property automatically reverts back to DPS. The bill requires DPS to transfer the property by an appropriate instrument of transfer and requires Webb County to pay any transaction fees resulting from the transfer.

**House Joint Resolution 102****For Election:** 11-3-09**House Author:** Raymond et al.**Senate Sponsor:** Hinojosa

House Joint Resolution 102 proposes an amendment to the Texas Constitution to clarify that the public, individually and collectively, has an unrestricted right to use and a right of ingress to and egress from a public beach, and to establish that this right is dedicated as a permanent easement in favor of the public. The resolution authorizes the legislature to enact laws to protect the right of the public to access and use a public beach and to protect the public beach easement from interference and encroachments. The resolution establishes that its provisions do not create a private right of enforcement.

**Senate Bill 1149**

**Effective:** 5-12-09

**Senate Author:** Hegar et al.

**House Sponsor:** Howard, Charlie

Senate Bill 1149 amends the Government Code to require the Texas Board of Criminal Justice to authorize the sale of land, within 18 months of receiving the notice discussed below, located next to an active runway of a municipally owned airport directly to a municipality at fair market value without the requirement of a sealed bid sale if the municipality seeking to acquire the land notifies the Texas Department of Criminal Justice (TDCJ) in writing of the municipality's desire to acquire the land for municipal airport expansion and TDCJ uses the land primarily for guard housing. The bill requires the board, after it receives the notice, to obtain its own and the municipality's appraisal of the land, to determine whether a third appraisal is necessary to determine fair market value, and to finalize the sale of the land to the municipality at fair market value.

Senate Bill 1149 requires TDCJ, in determining the fair market value of land to be sold, to consider the necessary remediation that must be completed before the land can be used for airport expansion.

**Senate Bill 1652**

**Effective:** 6-19-09

**Senate Author:** Duncan

**House Sponsor:** Darby

Senate Bill 1652 requires the Texas Department of Criminal Justice (TDCJ) to transfer to Mitchell County a certain tract of real property to be used by the county only for a purpose that benefits the public interest of the state. The bill sets forth the metes and bounds of the real property to be transferred, requires Mitchell County to pay any transaction fees resulting from the transfer, and provides for the automatic reversion of the property to TDCJ if the county uses the property for an unauthorized purpose.

**Senate Bill 1670**

**Effective:** 6-19-09

**Senate Author:** Nichols

**House Sponsor:** Otto

Senate Bill 1670 requires, not later than September 30, 2009, the Texas Department of Transportation (TxDOT) to transfer to Polk County the real property described by the bill, and requires the county, on the effective date of the transfer, to reimburse TxDOT for TxDOT's actual costs to acquire the property or, if TxDOT cannot determine that amount, an amount as prescribed by the bill. The bill requires the money received by TxDOT to be deposited in the state highway fund and used in the TxDOT district in which the property is located. The bill requires the instrument of transfer to provide that Polk County may use the property only for a purpose that benefits the public interest of Texas, or, if the county uses the property for any other purpose, the county must pay to TxDOT an amount equal to the fair market value of the property on the date the county begins using the property for that other purpose, less the amount the county paid to TxDOT under the bill's provisions.

**Senate Bill 2228**

**Effective:** 6-19-09

**Senate Author:** Averitt

**House Sponsor:** Miller, Sid

Senate Bill 2228 requires the Texas Department of Criminal Justice (TDCJ) to transfer to Coryell County the real property described in detail by the bill not later than November 1, 2009. The bill requires Coryell County to use the transferred property only for a purpose that benefits the public interest of the state, and specifies that if Coryell County no longer uses the property for a purpose that benefits the public interest of the state, ownership of the property automatically reverts to TDCJ. The bill requires TDCJ to transfer the property by an appropriate instrument of transfer and provides requirements the instrument of transfer must meet. The bill

requires TDCJ to grant to Coryell County certain utility easements to the real property described by the bill's provisions and requires such easements to be mutually beneficial and agreed upon by TDCJ and Coryell County.

**Senate Bill 2307**  
**Effective:** 5-27-09

**Senate Author:** Williams  
**House Sponsor:** Geren

Under previous law, the authority for preservation and maintenance of the Governor's Mansion was given to the State Preservation Board in one provision and to the Texas Historical Commission in another provision. Senate Bill 2307 amends the Government Code to establish that the State Preservation Board is responsible for the preservation, maintenance, and protection of the historical and architectural integrity of the Governor's Mansion and grounds and requires the Texas Historical Commission to approve construction plans and monitor the work on the mansion to ensure the historical and architectural integrity of the mansion and grounds. The bill specifies that, with certain exceptions, a nonstructural decorative change in or to the private living and guest quarters on the second floor of the Governor's Mansion does not require the prior approval of the board or the commission. In addition, the bill includes necessary landscaping services among the items for which gifts, grants, devises, and bequests of money, other property, and services may be solicited and accepted.

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

House Bill 646 - Transportation  
Senate Bill 679 - Property Interests and Housing  
Senate Bill 1005 - Occupational Regulation  
Senate Bill 1009 - Corrections  
Senate Bill 1655 - Military Forces and Veterans  
Senate Bill 2038 - Courts



## Taxes and Tax Administration

This chapter covers legislation on issues relating to taxation, including the franchise, hotel occupancy, motor fuels, property, and sales and use taxes. It also contains legislation relating to the appraisal of real property and appraisal appeal. Related bills that are summarized in other chapters are listed at the end of this chapter.

### General

#### **House Bill 1205**

**Effective:** 1-1-10

**House Author:** Button et al.

**Senate Sponsor:** Carona

Previous law prohibited a tax collector who collects taxes for one taxing unit from making a refund of an overpayment or erroneous payment of property taxes without the approval of the governing body of the taxing unit if the amount of the refund exceeded \$2,500 for a refund to be paid by a county with a population of 1.5 million or more. House Bill 1205 amends the Tax Code to increase the threshold dollar amount to \$5,000 and the minimum population requirement to two million before approval of the governing body of a taxing unit in the county is required for the refund. The bill retains a provision requiring governing body approval of a refund that exceeds \$500 to be paid by any other taxing unit. In the case of a collector who collects taxes for more than one taxing unit, the governing body of the taxing unit must approve the refund if the amount of the refund exceeds \$5,000 for a refund to be paid by a county with a population of two million or more, or \$2,500 for a refund to be paid by any other taxing unit.

#### **House Bill 2654**

**Effective:** 9-1-09

**House Author:** Oliveira

**Senate Sponsor:** Averitt

House Bill 2654 amends the Tax Code to provide that the \$10 tax imposed on the recipient of a gift of a motor vehicle applies only if the recipient obtains the vehicle from a spouse, parent or stepparent, grandparent or grandchild, child or stepchild, sibling, guardian, or decedent's estate or if the recipient is a 501(c)(3) organization exempt from federal income taxation and the vehicle will be used for the purposes of the exempt organization. Any other transaction in which a motor vehicle is transferred from one person to another without payment of consideration is treated by the bill as a sale, and under other applicable code provisions is taxed at the motor vehicle sales tax rate of 6-1/4 percent, in which case the value of the vehicle is considered to be 80 percent of the standard presumptive value as determined by the Texas Department of Transportation based on a designated guidebook. The bill amends provisions relating to the joint statement filed in connection with a gift transfer to require the principal parties to make a joint statement describing the relationship between the parties and to require that such a statement be notarized.

#### **House Bill 4433**

**Effective:** 9-1-09

**House Author:** Rodriguez

**Senate Sponsor:** Seliger

House Bill 4433 amends the Tax Code to exempt oil and gas incidentally produced in association with the production of geothermal energy from the oil severance tax and the gas severance tax, respectively.

**House Bill 4611**

**Effective:** 1-1-10

House Bill 4611 amends the Tax Code to specify that if a lending institution categorizes a loan or security as “Securities Available for Sale” or as “Trading Securities” under Financial Accounting Standard No. 115 as it existed at the beginning of 2009, the gross proceeds of the sale of that loan or security are considered gross receipts for franchise tax purposes.

**House Author:** Oliveira et al.

**Senate Sponsor:** Williams

**House Bill 4765**

**Effective:** See below

House Bill 4765 amends the Tax Code to increase from \$300,000 to \$1 million the total revenue threshold for a taxable entity, adjusted for inflation or deflation, at or below which the entity is neither required to pay nor considered to owe any franchise tax for a particular period. That change expires December 31, 2011, and on January 1, 2012, the total revenue threshold becomes \$600,000 and related provisions of the bill make a conforming change to the law on franchise tax discounts. The bill takes effect January 1, 2010, except for those two provisions resetting the threshold at \$600,000 and revising the discounts, which each take effect January 1, 2012.

**House Author:** Oliveira et al.

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

**Senate Bill 254**

**Effective:** 7-1-09

Senate Bill 254 amends the Tax Code to provide an exemption from the gasoline tax and the diesel fuel tax on gasoline or diesel fuel sold to a volunteer fire department in Texas for its exclusive use. The bill entitles an exempt volunteer fire department that paid tax on the purchase of gasoline or diesel fuel to a refund of the tax paid and allows the volunteer fire department to file a refund claim with the comptroller of public accounts for that amount.

**Senate Author:** Estes et al.

**House Sponsor:** Pena

**Senate Bill 997**

**Effective:** 9-1-09

Senate Bill 997 amends the Tax Code to modify reporting requirements for a gas producer’s report and a gas first purchaser’s report. It changes the required filing deadline for those reports from on or before the last day of each calendar month to on or before the 20th day of the second month following the month in which gas was produced or purchased and conforms the period to be covered by the report to that change. The bill also amends a provision relating to the gas production tax to remove an exemption for certain hydrocarbon wells that derives from previously repealed provisions of the Natural Resources Code.

**Senate Author:** Duncan

**House Sponsor:** Oliveira

**Senate Bill 1495**

**Effective:** 9-1-09

Senate Bill 1495 amends the Tax Code to make various clarifying and technical changes, as well as substantive changes, relating to the administration and enforcement of the law on motor fuel taxes and the responsibilities of participants in the fuel marketing industry. Among other changes, the bill redefines “biodiesel fuel,” “blending,” “bulk transfer,” “diesel fuel,” “distributor,” “gasoline,” “gasoline blended fuel,” and “motor fuel.” It excludes licensed suppliers, licensed permissive suppliers, and licensed distributors from the definition of a “motor fuel transporter,” if they only transport specified fuels to which they retain title exempting such parties from the requirement of also having a motor fuel transporter’s license. A “shipping document,” as redefined, is a delivery document issued in conjunction with the sale, transfer, or transport of motor fuel. The bill removes provisions from the definition referring only to a

**Senate Author:** Williams

**House Sponsor:** Oliveira

document issued by a terminal or bulk plant operator. The new definition in effect requires a shipping document regardless of where the motor fuel is obtained. The bill revises the required contents of a shipping document.

The bill clarifies the tax liability of suppliers and permissive suppliers, distributors, importers, blenders, sellers, interstate truckers, and others, and specifies that a person required to receive or collect a tax under the motor fuels tax law is liable for and must pay the tax in the manner provided by that law. The bill requires that, for subsequent sales of gasoline or diesel fuel on which tax has been paid, the tax must be collected from the purchaser so that the tax ultimately is paid by the end user of the gasoline or diesel fuel. It requires that, except for a sale by a licensed dealer to a person who delivers the gasoline or diesel fuel at the dealer's place of business into a fuel supply tank or into a container having a capacity of not more than 10 gallons, the tax must be stated separately from the sales price on the invoice or receipt issued to a purchaser. The bill defines "bulk storage" as a container of more than 10 gallons. It eliminates the prerequisite of having a supplier's license or permissive supplier's license in order to conduct a tax-free transaction within the bulk transfer/terminal system. For tax-free dyed diesel fuel, the bill removes the 7,400-gallon single-delivery limitation on signed-statement purchases. Monthly limitations applicable to such purchases still apply.

Other revisions to the Tax Code address dyed diesel fuel procedures and, for both gasoline and diesel fuel, backup taxes, monthly returns by exporters, and tax credits for certain credit card transactions involving specified purchasers. The bill, in the portion of the motor fuels tax law relating to penalties and offenses, expands the set of provisions for which violations of three or more separate offenses committed pursuant to one scheme or continuous course of conduct may be considered as one offense and punished as a felony of the second degree. It provides that if a violation of a criminal offense provision of the motor fuels tax law constitutes another offense under other Texas law, the state may elect the offense for which it will seek prosecution. The bill abolishes the Study Commission on Transportation Financing. It includes conforming and technical amendments to the Code of Criminal Procedure, Transportation Code, and Water Code.

**Senate Bill 1782**  
**Effective:** 6-19-09

**Senate Author:** Hinojosa  
**House Sponsor:** Keffer

Senate Bill 1782 amends the Tax Code to require a supplier or permissive supplier, after requesting a gasoline or diesel fuel tax credit, to terminate the ability of a licensed distributor or licensed importer to defer the payment of gasoline or diesel fuel taxes. Previous law gave the supplier the right to take such action on notice to the comptroller of public accounts of the distributor's or importer's failure to remit such taxes. The bill prohibits the supplier or permissive supplier from reinstating the deferral right before the first anniversary of the request of the credit unless the comptroller determines that the credit that resulted in termination was erroneously requested or the failure to pay the taxes arose from circumstances that may have been outside the distributor's or importer's control. Previous law required reinstatement of the deferral right without delay on notice by the comptroller that the distributor or importer was in good standing for purposes of the applicable tax. The bill changes from 60 days to 15 days after a default the deadline for notifying the comptroller of a default on payment of gasoline or diesel fuel taxes in order for a supplier or permissive supplier to be eligible to take a credit for gasoline or diesel fuel taxes that were not remitted. Repealers in the bill remove a requirement that payments or credits in reduction of a customer's account be applied ratably between motor fuels and other goods sold to the customer, and remove a provision allowing and specifying the associated credit.

## Hotel Occupancy Taxes

### **House Bill 749**

**Effective:** 6-19-09

**House Author:** Darby

**Senate Sponsor:** Duncan

House Bill 749 amends the Tax Code to authorize the commissioners court of a county with a population of more than 16,000, bordered by Lake J. B. Thomas, to impose a hotel occupancy tax not to exceed two percent. The bill limits use of the revenue from the hotel occupancy tax to the operation and maintenance of a coliseum in the county.

### **House Bill 1275**

**Effective:** 6-19-09

**House Author:** Kolkhorst

**Senate Sponsor:** Hegar

House Bill 1275 amends the Tax Code to authorize the commissioners court of a county in which the Declaration of Independence of the Republic of Texas was signed in 1836 to impose a county hotel occupancy tax. The bill makes such a tax inapplicable to a hotel located in a municipality that imposes a municipal hotel occupancy tax applicable to the hotel.

### **House Bill 1324**

**Effective:** 6-19-09

**House Author:** Rios Ybarra

**Senate Sponsor:** Lucio

House Bill 1324 amends the Tax Code to increase, from no more than seven to no more than eight and one-half percent, the maximum rate of the municipal hotel occupancy tax in a municipality that borders on the Gulf of Mexico, is located wholly on a barrier island, and has boundaries within 30 miles of Mexico. The bill requires such a municipality to use at least the amount of revenue derived from the application of the tax at a rate of seven percent for the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both, and for advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity. If the municipality imposes the tax at a rate equal to or greater than seven and one-half percent, it must use at least the amount of revenue derived from the application of the tax at a rate of one-half of one percent for erosion response projects.

### **House Bill 1789**

**Effective:** 6-19-09

**House Author:** Maldonado et al.

**Senate Sponsor:** Ogden

House Bill 1789 amends the Tax Code to include the following municipalities among those municipalities authorized to use municipal hotel occupancy tax revenue to promote tourism by enhancing and upgrading existing sports facilities or fields: a municipality that has a population of at least 13,000 but less than 39,000 and is located in a county that has a population of at least 200,000; a municipality that has a population of at least 65,000 but less than 80,000 and no part of which is located in a county with a population greater than 150,000; and a municipality located in a county that is adjacent to the Texas-Mexico border, has a population of at least 500,000, and does not have a municipality with a population greater than 500,000. The bill further authorizes a municipality with a population of at least 65,000 but less than 80,000, and no part of which is located in a county with a population greater than 150,000, to use municipal hotel occupancy tax revenue for the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility.



**House Bill 2032**  
**Effective:** 5-30-09

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

Prior law required that revenue bonds issued by a municipality to fund municipal buildings, recreational facilities, hotels, and nearby parking be secured by a pledge of and be payable from all or a designated part of the revenue from the infrastructure for which the bonds are issued. House Bill 2032 amends the Government Code to allow such bonds to be secured from additional sources made available by the municipality for that purpose.

House Bill 2032 amends provisions of the Tax Code relating to the municipal hotel occupancy tax to redefine, as an eligible central municipality authorized to adopt a tax rate of up to nine percent, a municipality that has a population of more than 140,000 but less than 1.5 million, is located in a county with a population of one million or more, and has adopted a capital improvement plan for the expansion of an existing convention center facility. The bill lowers the minimum municipal population threshold to the specified 140,000 figure, compared to 440,000 under prior law, and in so doing applies to such a municipality, as redefined, other provisions relating to use of revenue from the tax.

House Bill 2032 amends Local Government Code provisions that allow a municipality that is below a specified maximum population threshold, is located in three counties, and acquires by purchase or lease with a term of not less than 20 years an interest in real property required to be maintained as park property to use hotel occupancy tax revenue for a convention center facility or related infrastructure. The bill changes the population threshold for the municipality from less than 120,000 to less than 130,000 and establishes that the population is to be determined from the 2000 federal decennial census.

House Bill 2032 also adds provisions to the Local Government Code that apply to a municipality that has a population of at least 176,000, borders the Rio Grande, and approved a sports and community venue project before 2009 or to a municipality located in a county adjacent to the Texas-Mexico border if the county has a population of at least 500,000, the county does not have a city located within it with a population of at least 500,000, and the municipality is the largest municipality in the county. The bill authorizes the municipality, on satisfaction of specified procedural prerequisites, to hold an election to authorize the municipality to pursue a convention center and related infrastructure as part of an existing or previously approved sports and community venue project, to impose a hotel occupancy tax at a rate not to exceed two percent, and to finance, operate, and maintain the venue project, including the convention center, using the revenue from taxes imposed by the municipality under code provisions relating to such projects.

**House Bill 2276**  
**Effective:** 7-1-09

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

House Bill 2276 amends the Tax Code to revise the eligibility criteria for a municipality to receive a share of revenue from state hotel occupancy taxes for purposes of erosion response projects and the cleaning and maintenance of public beaches. The bill includes as eligible for such funding a municipality that borders the Gulf of Mexico, that is located wholly or partly on a barrier island, and the boundaries of which include a national estuarine research reserve.

**House Bill 3098**  
**Effective:** 6-19-09

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

House Bill 3098 amends the Tax Code to add to the purposes for which the municipal hotel occupancy tax may be used the construction of a recreational venue in the immediate vicinity of area hotels in a general-law municipality with a population of not more than 900 that does not

impose a property tax if the following conditions apply: not more than \$100,000 of municipal hotel occupancy tax revenue is used for the construction of the venue, a majority of the hotels in the municipality request the municipality to construct the venue, the venue will be used primarily by hotel guests, and the municipality will pay for maintenance of the recreational venue from the municipality's general fund.

**House Bill 3136**

**Effective:** 9-1-09

**House Author:** Gallego

**Senate Sponsor:** Uresti

House Bill 3136 amends the Tax Code to require a county with a population of 28,000 or less that has no more than four municipalities and is located wholly in the Edwards Aquifer Authority to use 75 percent of the revenue from county hotel occupancy taxes for the promotion of tourism and lodging and to use 25 percent for the removal of trash and litter in the state-owned rivers and riverbeds located within the boundaries of the county and for the provision and maintenance of litter containers on or adjacent to state-owned rivers and riverbeds primarily used by lodging guests and located within the boundaries of the county.

**House Bill 3669**

**Effective:** 6-19-09

**House Author:** Hopson

**Senate Sponsor:** Ogden

House Bill 3669 amends the Tax Code to authorize the commissioners court of a county with a population of more than 20,000 that is bordered by the Neches and Trinity Rivers and that contains portions of the Davy Crockett National Forest to impose a county hotel occupancy tax at a rate not to exceed two percent. The bill removes provisions under which an identical tax authorization, applicable to a county with a population of 150,000 or more bordered by the Brazos and Navasota Rivers, was set to expire in 2015.

**House Bill 4661**

**Effective:** 6-19-09

**House Author:** Brown, Fred

**Senate Sponsor:** Ogden

House Bill 4661 amends the Tax Code to authorize the imposition of a hotel occupancy tax rate of up to 7.75 percent by a home-rule municipality that was originally chartered in or after 1938, is home to a major state university, and is located in a county bordered by the Brazos and Navasota Rivers. The bill requires the municipality to use all revenue derived from the application of the tax at a rate of more than seven percent for the construction of a convention center in the municipality, and prohibits the municipality from raising its rate above seven percent until it has executed a contract for construction of the convention center. The above provisions expire on the date the governing body of the municipality certifies that all debt relating to the convention center payable from the tax, including interest and any costs relating to the debt, has been paid in full or a deposit has been made and an escrow agreement in relation to the debt has been executed.

**House Bill 4781**

**Effective:** 6-19-09

**House Author:** Gallego

**Senate Sponsor:** Uresti

House Bill 4781 amends the Government Code to authorize a municipality with a population of 173,000 or more that is located within two counties to establish, acquire, lease as lessee or lessor, construct, improve, enlarge, equip, repair, operate, or maintain a hotel, as well as any ancillary facilities owned by or located on land owned by the municipality or by a nonprofit corporation acting on the municipality's behalf, that is within 1,000 feet of a municipally owned convention center. The bill authorizes the municipality to issue bonds or incur other obligations for such a hotel or facility. The bill amends the Tax Code to authorize the municipality to pledge municipal hotel occupancy tax revenue from a hotel project for the payment of bonds or other

obligations, but only before the earlier of the 20th anniversary of the date the municipality first pledged the revenue to the project or the date the revenue pledged to the project equals 40 percent of the project's total construction cost.

Other Tax Code changes establish that a county hotel occupancy tax imposed by a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres does not apply to a hotel located in a municipality that imposes a municipal hotel occupancy tax applicable to the hotel. The bill prohibits the county hotel occupancy tax rate in such a county from exceeding seven percent of the price paid for a room in a hotel. It removes language prohibiting the tax rate in a county that has a population of 35,000 or more and borders or contains a portion of Lake Fork Reservoir from exceeding three percent of the price paid for a room.

**Senate Bill 1207**

**Effective:** 9-1-09

**Senate Author:** Seliger

**House Sponsor:** Swinford

Senate Bill 1207 amends the Government Code to authorize a municipality with a population of 173,000 or more that is located within two counties to establish, acquire, lease as lessee or lessor, construct, improve, enlarge, equip, repair, operate, or maintain a hotel, as well as any ancillary facilities that are owned by or located on land owned by the municipality or by a nonprofit corporation acting on the municipality's behalf, that is located within 1,000 feet of a municipality-owned convention center. The bill authorizes the municipality to issue bonds or incur other obligations for such a hotel or facility.

Senate Bill 1207 amends the Tax Code to authorize the municipality to pledge the municipal hotel occupancy tax revenue from a hotel project for the payment of bonds or other obligations, but only before the earlier of the 20th anniversary of the date the municipality first pledged the revenue to the project or the date the revenue pledged to the project equals 40 percent of the project's total construction cost.

**Senate Bill 1247**

**Effective:** See below

**Senate Author:** Harris

**House Sponsor:** Pierson

State law, with certain exceptions, authorizes a municipal hotel occupancy tax of up to nine percent in a municipality that has adopted a capital improvement plan for the expansion of a convention center facility and that has a population of more than 440,000 but less than 1.5 million and is located in a county with a population of 1 million or more. The law authorizes such a municipality to establish, acquire, lease as lessee or lessor, construct, improve, equip, repair, operate, or maintain a hotel and ancillary facilities, including shops and parking facilities, on certain sites in the proximity of a convention center. It authorizes the municipality to pledge resultant hotel occupancy tax revenue for the payment of associated bonds and obligations and entitles the municipality to any refunds of state hotel occupancy taxes received by a hotel project that qualifies as an enterprise project. Senate Bill 1247 amends the Tax Code and the Government Code to apply the above authorizations, except for the authorization of a tax of up to nine percent, to a municipality fitting the other statutory specifications and having a population of more than 140,000 but less than 1.5 million. The bill amends the provisions relating to ancillary facilities to encompass restaurants and convention center entertainment-related facilities. It makes other changes modifying the proximity requirement, entitles the municipality to refunds, rebates, or payments of tax proceeds that are made to a hotel project under the Texas Enterprise Zone Act, and allows the municipality to pledge entitlement amounts to the payment of obligations. The above provisions take effect September 1, 2009. Other provisions of the bill, applicable to

municipalities generally, allow revenue from the municipal hotel occupancy tax to be used for signage directing the public to sights and attractions that are visited frequently by hotel guests in a municipality, and take effect June 19, 2009.

**Senate Bill 1638**

**Effective:** 9-1-09

**Senate Author:** Wentworth

**House Sponsor:** Miller, Doug

Senate Bill 1638 amends the Local Government Code to require a managing entity of a timeshare property in a county with frontage on the Guadalupe or Comal River to collect and remit to a park and recreation district, on a property owner's behalf, all district hotel occupancy taxes if the managing entity participates in the rental of the property by either advertising rental availability on behalf of the property owner or collecting rent on the property owner's behalf. A managing entity may certify to the district that it does not collect rent or advertise rental availability on behalf of its property owners. The certificate is final and binding as long as the certificate remains accurate. Senate Bill 1638 exempts from the district hotel occupancy tax an employee of the United States government conducting official business in the district or a person who is an evacuee due to an emergency during which the state has temporarily suspended collection of the state hotel occupancy tax. The bill prohibits the district from taxing a transaction between a person and an interest operated by the United States in the district or a state park in the district. The bill specifies that the annexation of any part of a park district by a political subdivision does not affect the district's boundaries.

## **Property Tax Appraisals and Protests**

**House Bill 8**

**Effective:** 1-1-10

**House Author:** Otto et al.

**Senate Sponsor:** Williams

House Bill 8 amends the Government Code to place the comptroller of public accounts' annual study of school district property values, for some school districts, on a biennial rather than an annual schedule. It requires the comptroller to conduct a study at least every two years in each school district for which the most recent study determined that the school district's local value was valid and to conduct a study each year in a school district for which the most recent study determined that the school district's local value was not valid. The bill includes new requirements establishing the means by which a determination is to be made and specifies that for any year in which the comptroller does not conduct a study, the school district's local value for that year is considered to be valid. The bill revises the statutory criteria under which certain school districts are eligible for a grace period—enabling their local values to be used for a limited time for state school funding allocation purposes—even when such values are determined to be invalid. It creates a Comptroller's Property Value Study Advisory Committee and requires the comptroller to consult with that committee before adopting rules governing the conduct of property value studies. The bill requires a school district, appraisal district, or other Texas governmental entity to promptly comply with an oral or written request from the comptroller for information to be used in conducting a property value study, even if the information is confidential under state law.

House Bill 8 amends the Tax Code to reduce from once a year to at least once every two years the frequency with which the comptroller is required to conduct a ratio study in each appraisal district to determine the degree of uniformity and the median level of appraisals by the appraisal district within each major category of property. It makes the same rescheduling changes with respect to the comptroller's review of the appraisal standards, procedures, and methodology used by each appraisal district. The bill expands the scope of that review to also

include an examination of the governance of and taxpayer assistance provided by an appraisal district and the operating standards, procedures, and methodology used by a district. It requires a review of all appraisal districts, removing a provision of former law that limited the review to appraisal districts involved in the appraisal of property for grace-period school districts. The bill authorizes the comptroller, following consultation with the advisory committee, to establish procedures and standards for scoring a review. A repealer eliminates a previous technical advisory committee that provided methodological and other expertise in support of the comptroller's property value studies and ratio studies.

The bill modifies the process that ensues if an appraisal district fails to comply with recommendations contained in the report the comptroller issues on completion of a review. In place of prior provisions requiring the comptroller to notify relevant district judges, leading to the appointment of a board of conservators, the bill requires the comptroller to notify the Board of Tax Professional Examiners or a successor entity and requires the board or entity to take action necessary to ensure that the recommendations in the report are implemented as soon as practicable. Such board or entity, with the assistance of the comptroller, must determine by a subsequent deadline whether the recommendations have been substantially implemented and notify the chief appraiser and the board of directors of the appraisal district of its determination. The bill prohibits taxing units from requesting a performance audit of an appraisal district by the comptroller during a year in which the comptroller is conducting a review of the appraisal district. Scoring of an appraisal district review, as authorized in the bill's changes to the Tax Code, affects school districts under its changes to the Government Code. A school district's compliance with the scoring requirement of the most recent review becomes part of the revised criteria defining whether a school district is eligible for a grace period.

The bill makes certain provisions relating to property value studies, ratio studies, and appraisal district reviews, including provisions changing the frequency of such reviews and studies, applicable to a study or review conducted for a year that begins on or after January 1, 2009.

**House Bill 986**  
**Effective:** 6-19-09

**House Author:** Villarreal  
**Senate Sponsor:** Hinojosa

House Bill 986 amends the Tax Code to increase, from 45 to 60 days, the allowable time period within which a party must file a petition for judicial review of a final order of an appraisal review board, after the party has received notice of that order. It clarifies that the petition may be filed at any time after the hearing but before the 60-day deadline. The bill requires the comptroller of public accounts to prescribe the form necessary to allow a property owner to designate the person to whom a refund, following a property tax appeal to the courts, must be sent. The bill establishes required form contents and mailing options. The bill requires a taxing unit to send a refund to the property owner unless either the final judgment in an appeal designates to whom and where a refund is to be sent or the prescribed form is filed with a taxing unit before the 21st day after the final determination of an appeal and designates a person and address different from the property owner. It prohibits a taxing unit from sending a refund before the earlier of that 21st day or the date the form is filed. It includes additional clarifications regarding refunds and the form and includes associated transition provisions.

**House Bill 1030**  
**Effective:** See below

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

House Bill 1030 amends the Tax Code to provide that if an individual who is exempt from registration as a property tax consultant files a protest with an appraisal review board (ARB)

on behalf of a property owner, the individual is entitled to all notices from the appraisal district regarding the property subject to the protest until authority to represent the owner is revoked. The bill amends provisions relating to postponement of an ARB hearing. It bases postponement on a showing of good cause by the owner or owner's agent, rather than a showing of reasonable cause as under prior law, and defines the elements of good cause. The bill entitles an owner who has not designated an agent, and who fails to appear at an ARB hearing, to a new hearing if the owner by a specified deadline requests a hearing and shows good cause for the failure to appear. It allows an owner who prevails in the judicial appeal of an ARB determination on a motion to correct an appraisal roll to be awarded attorney's fees and sets the range of such fee amounts.

House Bill 1030 provides that in a county with a population of 3.3 million or more or in an adjacent county with a population of 350,000 or more, ARB members are appointed by the local administrative district judge in the county in which the appraisal district is established, rather than by the appraisal district's board of directors. For such purposes the administrative district judge may enlist the assistance of a designated set of ARB commissioners to prepare a list of proposed ARB members. The bill requires an appraisal district established for a county with a population of 500,000 or more to implement a system allowing an owner of property with a residence homestead exemption for the current tax year to electronically accomplish specified functions. Such functions consist of filing a notice of protest with the ARB, reviewing and receiving comparable sales data and other evidence that the chief appraiser intends to use at the ARB hearing, receiving either a settlement offer from the appraisal district or a notice that a settlement offer will not be made, and accepting or rejecting a settlement offer. The appraisal district, however, is not required to make the system available to an owner who has designated an agent for protest purposes nor to an owner of a residence homestead in an area in which the facts affecting the market value of real property are unusually complex. The bill takes effect June 19, 2009, except for the provisions dependent on county population, which take effect January 1, 2010.

**House Bill 1038**  
**Effective:** 1-1-10

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

House Bill 1038 amends the Tax Code to prohibit a chief appraiser, in determining the market value of a residence homestead, from excluding from consideration the value of another residential property in the same neighborhood that would otherwise be considered in the appraisal because the other property was sold at a foreclosure sale in any of the three years preceding the tax year of the appraisal, and was comparable at the time to other residence homesteads in the neighborhood, or because the other property has a market value that has declined because of a declining economy.

**House Bill 1203**  
**Effective:** 5-26-09

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

House Bill 1203 amends Tax Code provisions relating to a property owner's designation of an agent for property tax purposes to require that the written authorization making the designation be on a form prescribed by the comptroller of public accounts. The bill excludes the designee from those who may sign the form on behalf of the owner. It provides that the designation does not take effect with respect to an appraisal district, or a taxing unit participating in the appraisal district, until a copy of the designation is filed with the district. The bill clarifies the requirement for timely filing of a motion or protest by an owner's agent, providing that if the

appraisal review board sets a time and place for a hearing appearance, the authorization of an agent is considered to be filed at or before the hearing if a copy of the authorization is filed at such time and place.

**House Bill 1309**

**Effective:** 1-1-10

**House Author:** Otto

**Senate Sponsor:** Williams

House Bill 1309 amends the Tax Code to change from August 1 to July 26 the date of the annual deadline by which the comptroller of public accounts must certify to the assessor-collector for each county in which a railroad operates the county's apportioned amount of the market value of each owner's rolling stock and the name and business address of each owner.

**House Bill 2317**

**Effective:** 9-1-09

**House Author:** Villarreal et al.

**Senate Sponsor:** Seliger

House Bill 2317 amends the Tax Code to require the comptroller of public accounts to make all materials for use in training and educating members of an appraisal review board (ARB) freely available online. It requires the comptroller to establish and maintain a toll-free telephone number that ARB members may call for technical help and to provide online technological assistance to improve the operations of ARBs and appraisal districts. The bill requires the comptroller to approve curricula and provide materials for use in a continuing education course for ARB members and specifies the required content of the curricula and materials. An ARB member, as soon as practicable after the beginning of the second year of his or her term of office, must successfully complete the continuing education course. Failure to do so on a timely basis disqualifies a person from reappointment to an additional term. The bill requires the member additionally to successfully complete the continuing education course in each year he or she continues to serve. It authorizes the comptroller to contract with service providers to assist with duties relating to the continuing education course, but prohibits such a course from being provided by an appraisal district or taxing unit. The comptroller may assess a fee to recover a portion of the associated costs. Other bill provisions require the board of directors of the appraisal district, rather than the ARB as under prior law, to select the ARB chairman and secretary. The bill encourages selection, as ARB chairman, of an ARB member, if any, who has a background in law and property appraisal.

**House Bill 3611**

**Effective:** See below

**House Author:** Otto et al.

**Senate Sponsor:** Williams

House Bill 3611 amends the Tax Code to specify that the provision establishing an appraisal review board for each appraisal district does not preclude the boards of directors of two or more adjoining appraisal districts from providing for the operation of a consolidated appraisal review board by interlocal contract. The bill establishes that when such consolidation occurs, a reference in the Tax Code to the appraisal district means the adjoining appraisal districts, a reference in the Tax Code to the appraisal district board of directors means the boards of directors of the adjoining appraisal districts, a provision of the Tax Code that applies to an appraisal review board also applies to the consolidated appraisal review board, and a reference in the Tax Code to the appraisal review board is to be construed to also refer to the consolidated appraisal review board.

House Bill 3611 takes effect January 1, 2010, contingent on voter approval of the constitutional amendment proposed by House Joint Resolution 36.

**House Bill 3612**

**Effective:** 1-1-10

**House Author:** Otto et al.

**Senate Sponsor:** Williams

House Bill 3612 adds temporary Government Code provisions, set to expire January 1, 2013, that require the State Office of Administrative Hearings (SOAH) to develop a pilot program under which a property owner in certain counties may appeal an appraisal review board (ARB) order to SOAH, as an election of remedies and an alternative to seeking judicial review in district court, if the ARB has determined the appraised or market value of the property at issue to be more than \$1 million. The bill limits the pilot program to Bexar, Cameron, El Paso, Harris, Tarrant, and Travis Counties and to real or personal property other than industrial property or minerals. SOAH is not required to determine more than 3,000 appeals and may develop a formula to allocate the number of appeals by county. The bill sets out related procedures and includes provisions to foster SOAH administrative law judges who are sufficiently knowledgeable in property tax matters. An appeal to SOAH is by trial de novo and the SOAH hearing of such an appeal is exempted from the provisions of the Administrative Procedure Act and the Texas Rules of Evidence. A pending appeal does not affect the delinquency date for taxes on the property involved in the appeal, and a property owner may not exercise the SOAH appeal option if taxes on the property are delinquent. The bill requires SOAH and the chief appraisers in the pilot program counties to submit a report on the program to the legislature not later than January 1, 2013.

**House Bill 4412**

**Effective:** 9-1-09

**House Author:** Taylor

**Senate Sponsor:** Patrick, Dan

House Bill 4412 amends the Tax Code to clarify that if a property owner requests binding arbitration to appeal appraisal review board orders involving two or more tracts of land that are contiguous to one another, a single arbitration deposit in the amount of \$500 suffices to satisfy the deposit requirement.

**House Joint Resolution 36**

**For Election:** 11-3-09

**House Author:** Otto et al.

**Senate Sponsor:** Williams et al.

House Joint Resolution 36 proposes three amendments to the state constitution, all related to property taxes, to be submitted as separate ballot propositions for consideration by Texas voters. The first amendment authorizes the legislature to provide for the taxation of a residence homestead solely on the basis of its value as a residence, regardless of whether residential use is considered the highest and best use of the property. The second amendment authorizes the legislature to allow for a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations. The third amendment removes a requirement that administrative and judicial enforcement of uniform standards and procedures for property appraisal originate in the county where a tax is imposed and instead gives the legislature full discretion to prescribe the manner of such enforcement by general law.

**Senate Bill 771**

**Effective:** 1-1-10

**Senate Author:** Williams

**House Sponsor:** Otto

Senate Bill 771 amends the Tax Code to require that the property tax appraisal of a property's market value take into account all available evidence that is specific to the property's value. It provides also that if the appraised value of a property has been lowered by an appraisal review board (ARB) or through binding arbitration or judicial review, the lowered value may not be increased in the following tax year unless the increase by the chief appraiser is reasonably supported by substantial evidence when all of the reliable and probative evidence is considered



as a whole. Elaboration on the evidentiary requirement places the burden of proof on the chief appraiser to support an increase in such circumstances. The bill, with respect to the market data comparison method of appraisal of real property, establishes when a sale of property is considered to be a comparable sale and adds specifications on how valuations based on comparable sales are to be made. For appraisals on the basis of rental income, the bill prohibits a chief appraiser from separately appraising or accounting for personal property that is already included in appraisal of real property valued as a portion of the rental income. The bill accommodates a temporary cessation of agricultural use, without loss of eligibility for open-space appraisal, in certain drought situations based on a drought declaration by the governor.

Provisions relating to ARBs increase, from a Class C to a Class A misdemeanor, the offense of ex parte communication by an ARB member with the chief appraiser or other employee of the appraisal district for which the ARB is established. The bill, however, provides that communication with those parties is not prohibited if it is confined to specified types of administrative, clerical, and logistical matters. Provisions relating to binding arbitration allow such arbitration as an option to judicial review if a property qualifies as the owner's residence homestead even if the appraised or market value as determined by ARB order is greater than \$1 million. The bill entitles a property owner to expedited arbitration, with a maximum of one hour each of argument and testimony on behalf of the owner and appraisal district, in certain situations. The required deposit for expedited arbitration is \$250, compared to \$500 for other arbitration under existing law. The bill revises the qualifications to serve as an arbitrator, creating one set of prerequisites for initial qualification and another set for qualification beyond two years. It provides that the parties to an arbitration may use representation other than themselves only at their own cost and allows representation by a certified public accountant.

**Senate Bill 801**

**Effective:** 1-1-10

**Senate Author:** Hegar et al.

**House Sponsor:** Homer

Existing law authorizes the open-space appraisal of land, based on its use for wildlife management, if the land was already subject to open-space appraisal, based on some other qualifying use, when the wildlife management began. Senate Bill 801 amends the Tax Code to authorize the open-space appraisal of land, based on its use for wildlife management, if, when the wildlife management use began, the land was subject to timber land appraisal. Previous law did not allow direct conversion from timber land appraisal to open-space appraisal based on wildlife management use, but rather required the intermediate step of first converting it to open-space appraisal based on a non-wildlife use. The bill allows such direct conversion, provided that the land meets the requisite criteria. It makes clarifying and conforming changes to associated code provisions.

**Senate Bill 873**

**Effective:** 1-1-11

**Senate Author:** Harris et al.

**House Sponsor:** Otto et al.

Senate Bill 873 amends the Tax Code to require conditionally that an appraisal district, if it had a publicly available website at the beginning of 2008 or if it establishes or has established such a website after that date, implement a system that allows the owner of a property that for the current tax year has been granted a residence homestead exemption to electronically accomplish specified functions. The system, if required, must enable the owner to file a notice of protest with the appraisal review board (ARB), to review and receive comparable sales data and other evidence that the chief appraiser intends to use at the ARB hearing, to receive either a settlement offer from the appraisal district or a notice that a settlement offer will not be made, and to accept or reject a settlement offer, if any. An appraisal district, however, is not required to make the system available to an owner in an area where the chief appraiser determines that the factors affecting the market value of real property are unusually complex, and an appraisal

district for a county with a population of 250,000 or less is not required to implement a system before January 1, 2013. The bill requires an appraisal district affected by the above provisions to include information and instructions regarding the system with the notice of appraised value the district sends to an eligible property owner, and it sets out requirements for electronically filing a notice of protest and procedural requirements that apply to an accepted or rejected settlement offer.

**Senate Bill 1359**  
**Effective:** 6-19-09

**Senate Author:** Seliger  
**House Sponsor:** Rose

Provisions of the Tax Code relating to judicial appeals of specified property tax matters require a property owner who files a motion for judicial review of an order of an appraisal review board or the comptroller of public accounts to pay taxes on the property as a prerequisite to the appeal, unless the owner is excused following the filing of an oath of inability to pay the taxes. Senate Bill 1359 requires a party who seeks a court hearing on an owner's compliance with related statutory requirements to mail notice of such hearing, by certified mail, return receipt requested, to the collector for each taxing unit that imposes taxes on the property not later than the 45th day before the date of the hearing. The bill authorizes a taxing unit that imposes taxes on the property to intervene in a judicial appeal and to participate in the proceedings for the limited purpose of determining whether a property owner has complied with those statutory requirements.

**Senate Bill 1813**  
**Effective:** 6-19-09

**Senate Author:** Duncan  
**House Sponsor:** Chisum

Legislation enacted in 2007 provided that certain property tax appraisal information received by the comptroller of public accounts or an appraisal district from a private entity, including real property sales prices, descriptions, and characteristics, was excepted from public disclosure under the state's open records law, but allowed a property owner or the owner's agent to obtain comparable sales data from a chief appraiser for purposes of an appraisal review board with the requirement that such data remain confidential and nondisclosable.

Senate Bill 1813 amends the Government Code to stipulate that such legislation applies only if the information or comparable sales data relates to real property that is located in a county having a population of 20,000 or more.

**Senate Bill 2148**  
**Effective:** 6-19-09

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

Senate Bill 2148 amends the Tax Code to require a chief appraiser, if requested by the emergency management authorities of a federal, state, or local government agency, to provide information and assistance pertinent to disaster mitigation or recovery, including assisting in the estimation of damage from an actual or potential disaster event.

## **Property Taxes**

**House Bill 770**  
**Effective:** 1-1-10

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

House Bill 770 amends the Tax Code to entitle a nonprofit community business organization as defined in the bill to a property tax exemption for certain buildings and tangible personal property that contribute to its primary functions or to beneficiaries of such organizations. It entitles the organization also to a tax exemption of no more than three years for real property

it owns consisting of an incomplete improvement under active construction or other physical preparation, if designed and intended to be used exclusively by such an organization, and for land on which the improvement is located that will be reasonably necessary for the use of the improvement. An organization, in order to qualify, must meet specified criteria and be engaged primarily in promoting the common economic interests of commercial enterprises, improving the business conditions of one or more types of business, or otherwise providing services to aid in economic development.

House Bill 770 allows the owner of a residential structure to continue to receive a residence homestead exemption, if the structure is rendered uninhabitable or unusable by a casualty or wind or water damage, while the owner replaces the structure and on the condition that the owner does not establish a different residence homestead. The bill sets a deadline for beginning construction of the replacement and limits the continuation of the exemption to two years. A tax lien attaches and taxes and interest must be paid if the property is sold before construction is completed, excluding a sale for right-of-way or to the state or a political subdivision for a public purpose. A school tax freeze applicable to the elderly or disabled, if any, remains in effect, as does a limitation, if any, on county, municipal, or junior college district tax increases. The bill specifies how improvements to the property are to be treated for appraisal purposes.

House Bill 770 amends the Natural Resources Code to prohibit a county attorney, district attorney, criminal district attorney, or the attorney general from filing suit for a temporary court order or injunction to remove a house from a public beach, if the line of vegetation establishing the boundary of the public beach moved as a result of a meteorological event occurring before 2009, the house was located landward of that vegetation before the event, a portion of the house remains landward of such line, and it is located on a peninsula in a county bordering the Gulf of Mexico with a population of more than 250,000 and less than 251,000. The bill allows the owner of such a house to repair or rebuild the house if it was damaged or destroyed by the event, but lifts the prohibition against filing of a suit if the owner fails to repair or rebuild before September 1, 2013.

**House Bill 1257**  
**Effective:** 6-19-09

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

House Bill 1257 amends provisions of the Tax Code relating to the property tax to allow the installment payment of taxes on real property that is located in a disaster area, has been damaged as a result of the disaster, and is owned or leased by a business entity that falls within specified gross receipts parameters for 2009 and subsequent property tax years. Gross receipts are determined from the most recent federal tax year or state franchise tax annual period, based on the applicable federal income tax return or state franchise tax report. For the 2009 property tax year, the limit on a business entity's gross receipts, in order to be eligible for installment payment, is \$5 million. Thereafter, the \$5 million limit is to be adjusted annually by the comptroller of public accounts for inflation. Installment payment provisions also apply to tangible personal property that the entity owns or leases.

House Bill 1257 allows the owner of a residential structure to continue to receive a residence homestead exemption, if the structure is rendered uninhabitable or unusable by a casualty or wind or water damage, while the owner replaces the structure and on the condition that the owner does not establish a different residence homestead. The bill sets a deadline for beginning construction of the replacement and limits the continuation to two years. A tax lien attaches and taxes and interest must be paid if the property is sold before construction is completed, excluding a sale for right-of-way or to the state or a political subdivision for a public purpose.

A school tax freeze applicable to the elderly or disabled, if any, remains in effect, as does a limitation, if any, on county, municipal, or junior college district tax increases. The bill specifies how improvements to the property are to be treated for appraisal purposes.

**House Bill 2071**

**Effective:** 9-1-09

**House Author:** Oliveira

**Senate Sponsor:** Patrick, Dan

House Bill 2071 amends provisions of the Tax Code relating to property taxation to require a dealer of motor vehicles, dealer of heavy equipment, dealer of vessels and outboard motors, or retailer of manufactured housing to complete each month an inventory tax statement, regardless of whether the dealer or retailer made any sales in the preceding month. It requires the dealer or retailer, on or before the 10th day of the month following a month in which no sales occurred, to file the statement with the appropriate tax assessor-collector, indicating the lack of any sales. The bill makes the failure to timely file a required inventory tax statement, or to timely file a required inventory declaration, subject to penalties. Prior law limited penalties to situations in which no filing occurred at all.

**House Bill 2291**

**Effective:** 6-19-09

**House Author:** Gattis et al.

**Senate Sponsor:** Ogden

House Bill 2291 amends the Tax Code to require the governing body of a taxing unit to include, in a motion to adopt an ordinance, resolution, or order setting a property tax rate that exceeds the effective rate, the percentage by which the proposed rate exceeds the effective rate. The bill requires the taxing unit to include, in the statement contained in an ordinance, resolution, or order that sets a maintenance and operations tax rate that exceeds the effective maintenance and operations rate, and on any Internet website operated by the unit, the percentage by which the proposed maintenance and operations rate exceeds the effective rate. The bill specifies that its provisions apply to a property tax rate beginning with the 2009 tax year, except that if a taxing unit adopted a property tax rate for the 2009 tax year before the effective date of the bill, the bill's provisions apply to that rate beginning with the 2010 tax year.

**House Bill 2555**

**Effective:** See below

**House Author:** Hilderbran et al.

**Senate Sponsor:** Ogden

House Bill 2555 amends the Tax Code to extend the period of a property tax exemption, applicable to real property that is owned by a charitable organization for the purpose of building or repairing housing on the property with volunteer labor and that is sold without profit to low-income individuals or families, from the third anniversary of the date the organization acquires the property to the fifth anniversary of that date.

The bill repeals a provision that makes the property tax exemption for an organization engaged primarily in performing charitable functions, for buildings and certain real property and tangible personal property, contingent on adoption of the amendment by the governing body or the voters of a taxing unit. The bill entitles a corporation that is not such a charitable organization to the exemption if the corporation is exempt from federal income taxation as a 501(c)(2) organization, if the corporation holds title to and collects income from the property for a charitable organization and conveys that income less expenses to the organization, and if the charitable organization would otherwise qualify for the exemption if it owned the property. The bill establishes requirements under which the charitable organization must first obtain a determination from the comptroller of public accounts that the corporation qualifies, and the corporation must apply to the comptroller for the exemption. In order for a corporation to

continue to receive such an exemption after the fifth tax year following the year the exemption is granted, the charitable organization must obtain a new determination and the corporation must reapply for the exemption.

Except for the repeal and provisions of the bill relating to the exemption for a qualified corporation or charitable organization, which take effect January 1, 2010, the bill takes effect June 19, 2009, but only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature.

**House Bill 2628**  
**Effective:** 1-1-10

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

State law provides a property tax exemption for certain property owned by a charitable organization engaged exclusively in performing specified charitable functions. House Bill 2628 amends the Tax Code to add, to the charitable functions that qualify such an organization for the exemption, the provision of housing and related services to individuals who are unaccompanied and homeless, have a disabling condition, and have been continuously homeless for a year or more or have had at least four episodes of homelessness in the preceding three years. The bill establishes that an exemption relating to such functions applies only to improvements that are owned by a charitable organization that has been in existence for at least 10 years, are used to provide housing and related services to the disabled homeless, and are located on a single campus owned by a municipality with a population of more than 600,000 and less than 700,000.

**House Bill 2814**  
**Effective:** 1-1-10

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

House Bill 2814 amends the Tax Code to establish that an exemption from property taxation of a motor vehicle owned by an individual that is used in the course of the individual's occupation or profession, and is also used for personal activities of the owner, does not need to be claimed in subsequent years, once allowed, and applies to the property until it changes ownership or the person's qualification for the exemption changes. The bill authorizes the chief appraiser, however, to require a person allowed an exemption in a prior year to file a new application to confirm the person's qualification for the exemption.

**House Bill 3206**  
**Effective:** 9-1-09

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

House Bill 3206 amends the Tax Code to specify that the standards and methods for making a determination regarding a property tax exemption for pollution control property, as established in rules adopted by the Texas Commission on Environmental Quality (TCEQ), apply uniformly to all applications for such determinations, including applications relating to facilities, devices, or methods for the control of air, water, or land pollution included on a list adopted by the TCEQ pursuant to state law. The bill requires the TCEQ to establish a permanent advisory committee consisting of representatives of industry, appraisal districts, taxing units, and environmental groups, as well as members who are not representatives of any of those entities but have substantial technical expertise in pollution control technology and environmental engineering, to advise the TCEQ regarding the implementation of the tax exemption for pollution control property.

**House Bill 3613**

**Effective:** See below

**House Author:** Otto et al.

**Senate Sponsor:** Williams et al.

House Bill 3613 amends provisions of the Tax Code relating to the property tax to require the market value of a residence homestead to be determined solely on the basis of the property's value as a residence homestead, regardless of whether the residential use by the owner is considered to be the highest and best use of the property. The statutory change imposing the requirement takes effect contingent on voter approval of the constitutional amendment on the subject proposed by House Joint Resolution 36. If voters approve that amendment, the statutory change takes effect January 1, 2010.

House Bill 3613 amends Tax Code provisions that allow a Texas-resident disabled veteran to designate a property the veteran owns and receive a property tax exemption on the property, the amount of which depends on the veteran's disability rating. It revises the disability rating schedule to increase the exemption for a veteran with certain disability ratings. For purposes of the separate residential homestead exemption, however, the bill entitles a disabled veteran who has a disability rating of 100 percent, and who receives 100 percent disability compensation due to a service-connected disability, to an exemption of the total appraised value of the residence homestead. Such an exemption, once allowed, need not be claimed in subsequent years and applies until the property changes ownership or the veteran's qualification for the exemption changes, although the chief appraiser may require a veteran to file a new exemption application to confirm such qualification. The bill amends the Government Code to remove residence homesteads owned by veterans with disability ratings of 100 percent from being included as taxable property in the comptroller of public accounts' annual determination of school district property values. Except as otherwise provided, the bill takes effect June 19, 2009.

**House Bill 3983**

**Effective:** Vetoed

**House Author:** Rodriguez

**Senate Sponsor:** Watson

House Bill 3983 amends the Local Government Code to change the share that a county pays into the tax increment fund for a homestead preservation reinvestment zone as part of its partnership with a municipality in supporting the purposes of the zone. Under the bill, the county pays the same percentage of its tax increment that the municipality pays, whereas under previous law the county paid the same dollar amount as the tax increment that the municipality paid under the county's order agreeing to creation of the zone. The bill includes provisions establishing the composition of the zone's board of directors. It confers on that board some of the same powers and duties as apply to the board of directors of a reinvestment zone under the Tax Increment Financing Act.

The bill requires the comptroller of public accounts to conduct a study of circuit breaker programs as a means of expanding and protecting the homestead interests of low-income and moderate-income families. It defines them as programs that limit the amount of property taxes that may be imposed on a residence homestead based on the owner's annual income. The bill requires the comptroller to establish an advisory committee to assist in conducting the study and sets out the required elements of the study and a resultant report that must be submitted to the governor, lieutenant governor, and speaker of the house not later than December 1, 2010. The bill's provisions relating to circuit breaker programs expire September 1, 2011.

Reason Given for Veto: "I am vetoing House Bill No. 3983 because I have serious concerns about language in the bill that requires the comptroller to conduct a study of 'circuit breaker' property tax programs used in other states.

“‘Circuit breaker’ programs are designed to provide property tax relief to certain individuals based upon their income. The cost of this type of program is usually borne by the state, while the local governments still receive their full share of the property tax. In some states, renters are also eligible for rebates despite the fact that they do not directly pay the property tax.

“These programs have several negative effects. One negative effect is that it breaks the link between what taxpayers pay and what they receive in local services. Under a ‘circuit breaker,’ some taxpayers will effectively pay no tax but receive the same services and amenities as other taxpayers who do not benefit from the program.

“Such a program would also have a significant cost to the state, since the purpose of the program is to allow local governments to enjoy the political benefits of a tax break without having to carry the cost. This allows them to avoid tough decisions about the level of taxation that the community can bear and what services the voters want them to provide.

“Finally, if such a program were to be adopted in Texas, it would make the distribution of the property tax burden less equitable by shifting it to middle-class property owners. This would make the property tax function more like a progressive income tax, in that the tax burden would slowly be pushed upwards until only the owners of the most valuable property paid any actual tax.

“Texas property owners could use additional tax relief, and I have worked hard to ensure that they receive relief; however, any solution must be one that makes all property owners better off. This study would undermine all the efforts made to ensure that the property tax has a low rate, is broad-based and is equitable for all Texans.”

**Senate Bill 562**  
**Effective:** 9-1-09

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

Senate Bill 562 amends the Tax Code to provide for the exterior of a property tax bill to contain “RETURN SERVICE REQUESTED” or a similar statement only if the tax assessor wants the U.S. Postal Service to return the tax bill if it is not deliverable as addressed and opts for such language or statement. Previous law required the specified language or another appropriate statement.

**Senate Bill 798**  
**Effective:** 1-1-10

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

Senate Bill 798 amends the Tax Code to require as a prerequisite for the refund of an overpayment or erroneous payment of property taxes, rather than a determination by the auditor for a taxing unit that a payment was excessive or erroneous, a determination of that nature by the collector for the taxing unit, with which the auditor agrees. The bill creates an exception to provisions that control the making of refunds by a collector who collects taxes for more than one taxing unit. It provides that, in the case of an overpayment or erroneous payment submitted to a collector who collects taxes for multiple taxing units, one of which is a county with a population of two million or more, a taxpayer is freed from the requirement to apply for a refund if the refund amount is between \$5 and \$5,000. The bill makes a conforming change requiring the collector to mail notice and a refund application form only if a payment exceeds by more than \$5,000 the amount of taxes owed, for a tax year, to a taxing unit for which the collector collects taxes. Additional conforming changes relate to certain refunds to a veteran’s organization that has made late application for a tax exemption.

**Senate Bill 1024**  
**Effective:** 9-1-09

**Senate Author:** Ogden  
**House Sponsor:** Brown, Fred

State law provides that if the governing body of a school district adopts a tax rate that exceeds the district’s rollback tax rate, district voters at an election must determine whether to approve the adopted tax rate. Senate Bill 1024 amends the Tax Code to establish procedures

that apply if voters do not approve that rate, resembling those that apply under current law in the case of another type of taxing unit whose tax rate has been defeated in a rollback election. The assessor for the school district, if voter disapproval occurs after tax bills for the district have been mailed, must prepare and mail corrected tax bills once a new tax rate is adopted by the district's governing body, and include with each new tax bill a brief explanation of the reason for and the effect of the correction. The legislation extends the date on which the taxes become delinquent by a period equal to the lag time between the sending of the original bills and the sending of the corrected bills. It establishes procedures, likewise resembling those for other types of taxing units under current law, governing refund situations that arise when a property owner pays taxes under the original rate and that rate is then defeated in the rollback election by school district voters.

**Senate Bill 2274**  
**Effective:** 6-19-09

**Senate Author:** Seliger  
**House Sponsor:** Chisum

Senate Bill 2274 amends the Tax Code to allow a school district to reduce the district's maintenance and operations (M&O) tax rate and subsequently raise it to its level prior to the decrease without triggering a rollback election. Specifically, the bill provides that if for the preceding tax year a district adopted an M&O rate that was less than its effective M&O rate for that preceding tax year, the rollback tax rate for the current year is calculated as if the district had adopted an M&O rate for the preceding year that was equal to its effective M&O rate for that preceding tax year. The bill authorizes a school district to levy taxes and collect related revenue to pay off bond debt early before the principal and interest become due. The bill's changes apply to the property tax rate of a school district beginning with the 2009 tax year, unless the school district adopted a property tax rate for the 2009 tax year before the bill's effective date, in which case the bill's changes apply to the tax rate beginning with the 2010 tax year.

**Senate Bill 2442**  
**Effective:** 1-1-10

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

Senate Bill 2442 amends the Tax Code to clarify that qualification for a property tax exemption by a charitable organization that provides support to the handicapped includes qualification through the provision to the handicapped of training and employment in the production of commodities or in the provision of services under the federal Javits-Wagner-O'Day Act relating to the blind and severely disabled. The bill allows a charitable organization to qualify for an exemption on the basis of its operation of a radio station that broadcasts educational, cultural, or other public interest programming and that in the previous five years has received or been selected to receive one or more grants from the Corporation for Public Broadcasting. The bill provides, with respect to a charitable organization generally, that real property owned by the organization and leased to an institution of higher education is exempt from taxation to the same extent as the property would be exempt if the property were owned by the institution.

## **Sales and Use Taxes**

**House Bill 236**  
**Effective:** 9-1-09

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

Current law provides that the motor vehicle sales and use tax does not apply to a vehicle that is driven by or used for the transportation of an orthopedically handicapped individual or that has been modified for such purposes or will be so modified within two years of the purchase date. House Bill 236 amends provisions of the Tax Code relating to that exemption to prohibit



the seller of a motor vehicle from collecting the tax if the purchaser signs at the time of the purchase an exemption certificate, on a form designated by the comptroller of public accounts and containing sufficient information for the comptroller to establish qualification for the exemption, and presents any other documentation or information the comptroller requires by rule. The bill establishes that the seller may rely on a properly executed and signed exemption certificate and does not have a duty to investigate the propriety of a certificate that is valid on the certificate's face. A seller who relies on such a certificate is released from liability for the payment of the tax that otherwise would be due. The bill requires the comptroller to adopt associated rules and designate the required form and make it available to motor vehicle dealers and the public not later than December 1, 2009. Provisions of the bill apply to the sale of a motor vehicle on or after January 1, 2010.

**House Bill 1801****Effective:** 7-1-09**House Author:** Bohac et al.**Senate Sponsor:** Shapiro et al.

Current law exempts a school backpack from the sales and use tax if purchased for use by a student in a public or private elementary or secondary school, for a sales price of less than \$100, during a period beginning at 12:01 a.m. on the third Friday in August and ending at 12 midnight on the following Sunday. House Bill 1801 amends the Tax Code to specify the types of backpacks that qualify and to exempt other school supplies, as defined by the interstate Streamlined Sales and Use Tax Agreement, when purchased within the same price range and time period.

**House Bill 3144****Effective:** 9-1-09**House Author:** Gonzalez Toureilles**Senate Sponsor:** Seliger

House Bill 3144 amends the Tax Code to establish a sales and use tax exemption for tangible personal property, including a tire, sold or used to be installed as a component part of a motor vehicle, machinery, or other equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of food for human consumption, grass, feed for animal life, or other agricultural products to be sold in the regular course of business. The bill also exempts machinery and equipment exclusively used in an agricultural aircraft operation as well as tangible personal property incorporated into a structure that is used for the disposal of poultry carcasses in accordance with state law.

**Senate Bill 636****Effective:** See below**Senate Author:** Seliger**House Sponsor:** Rose

Senate Bill 636 amends provisions of the Tax Code establishing where, for purposes of municipal and county sales and use taxes, a sale is considered to take place if a retailer has more than one place of business in Texas. It provides that, except in certain cases involving shipment or delivery of an item from a warehouse in relation to which there is an economic development agreement, a sale is consummated at the place of business where the retailer first receives the order, provided that the order is placed in person at that location. If such provision does not apply, the sale is consummated at the retailer's place of business where the customer takes possession of and removes the item, or, if the retailer ships or delivers the item to a location designated by the customer, at the place of business from which shipment or delivery occurs. If neither of the above provisions apply, the sale is consummated at the retailer's place of business where the order is received or, if the order is not received there, at the place of business from which the retailer's agent or employee who took the order operates. The bill requires municipalities or counties to send the comptroller of public accounts specified information relating to economic

development agreements and warehouses affected by such agreements. It clarifies that, for purposes of the local sales and use tax, a retailer's place of business does not include a kiosk, and defines "kiosk."

For purposes of sales and use taxes generally, the bill adds provisions relating to destination management services, meaning the contractual provision of transportation management, coordination of tours or recreational activities, meal coordination, booking and managing entertainers, event management, and event, meeting, or conference registration or staffing. The bill provides that a qualified destination management company is the consumer of taxable items under a destination management services contract and that the destination management services it provides are not taxable services. An amendment to franchise tax provisions requires a qualified destination management company, if it is a taxable entity, to exclude from its total revenue, for purposes of calculating tax liability, payments made to other parties in connection with the provision of destination management services.

Senate Bill 636 requires the comptroller to provide certain sales and use tax information to counties and other local governmental entities having such taxes, similar to the information the comptroller currently provides to municipalities. Among other provisions, it requires the comptroller on request to provide such counties and local governments information on aggregate monthly tax amounts paid to them by businesses that annually remit more than \$25,000 in state and local sales and use taxes. Information received by the taxing entity under the bill is confidential, is not open to public inspection, and may be used only for specified purposes relating to economic forecasting, internal auditing of taxes, and determinations of revenue sharing.

The provisions relating to the place of business of a sale, other than the kiosk provision, take effect June 19, 2009. The franchise tax provision takes effect January 1, 2010. The remainder of the bill takes effect September 1, 2009.

**Senate Bill 958**

**Effective:** 9-1-09

**Senate Author:** Hegar

**House Sponsor:** Heflin

Senate Bill 958 amends the Tax Code to establish a sales and use tax exemption for machinery and equipment used exclusively in an agricultural aircraft operation. It also exempts aircraft sold in Texas to a person if at least 95 percent of its use is for predator control, wildlife or livestock capture or survey, census counts of wildlife or livestock, animal or plant health inspection services, or crop dusting, pollinating, or seeding. The bill requires a person claiming the aircraft exemption to maintain, and make available to the comptroller of public accounts, flight records for all uses of the aircraft.

**Senate Bill 1199**

**Effective:** 9-1-09

**Senate Author:** Ogden

**House Sponsor:** Brown, Fred

Senate Bill 1199 amends the Tax Code to establish that a religious, educational, or public service organization, for purposes of obtaining a refund or claiming a credit for sales and use taxes on the basis of its exemption, is not considered exempted from such taxes before the earlier of the date it applied for the exemption with the comptroller of public accounts or the date of assessment of the organization's tax liability by the comptroller as a result of an audit, as applicable. The bill also entitles a seller to a credit or reimbursement equal to the amount of sales and use tax refunded to a purchaser when the purchaser receives a full or partial refund of the sales price of a returned taxable item.

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

House Bill 469 - Energy Resources  
House Bill 2154 - Health and Medical Occupations  
House Bill 2582 - Energy Resources  
House Bill 2941 - Open Government and Privacy  
House Bill 3544 - Open Government and Privacy  
House Bill 3676 - Economic Development  
Senate Bill 1620 - Business and Commerce



# Transportation

This chapter covers legislation on issues relating to transportation, including the finance, planning, and administration of transportation systems, driver's licenses, motor vehicles, rules of the road, and the state highway system. Bills about transportation districts and authorities or the transportation-related powers of other special districts are in the **Special Districts** chapter, and bills affecting vehicle storage and towing are in the **Occupational Regulation** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

## General

### House Bill 4465

**Effective:** 9-1-10

**House Author:** Gallego et al.

**Senate Sponsor:** Hinojosa

House Bill 4465 amends the Transportation Code to require the Texas Department of Transportation (TxDOT) to erect a "Welcome to Texas" sign to designate the state boundary on an interstate, United States, or state highway entering Texas and specifies required and authorized contents of such a sign. The bill also requires TxDOT to erect and maintain a Texas flag to designate the state boundary at an appropriate location at or near each interstate, United States, or state highway originating at an official port-of-entry along an international border and specifies visibility and size requirements for such a flag.

## Driver's Licenses and Driver Education

### House Bill 339

**Effective:** 9-1-09

**House Author:** Phillips et al.

**Senate Sponsor:** Carona

House Bill 339 amends the Education Code to require a school district to consider offering a driver education and traffic safety course each school year and authorizes a district to conduct the course and charge a fee comparable to the fee charged by a licensed driver education school or to contract with such a licensed driver education school to conduct the course. The bill authorizes the commissioner of education to charge a fee to each driver education school in an amount not to exceed the actual expense incurred in the regulation of such courses.

House Bill 339 requires the commissioner to establish or approve the curriculum and designate the textbooks for a driver education course for minors and adults, including a course conducted by a school district, driver education school, or parent or other individual, and it sets forth minimum requirements for the number of hours of the different types of instruction that a student must complete in the presence of a licensed instructor or authorized adult. The bill also requires the commissioner to establish the curriculum and designate the educational materials for an adult driver education course, establishes specific course content requirements, and authorizes its offering as an online course. The commissioner must require each curriculum to include information on the effect of using a wireless communication device or engaging in certain other activity on motor vehicle operation. The bill prohibits the commissioner from issuing or renewing an instructor license to a person with six or more points on the person's driver's license.

House Bill 339 amends the Transportation Code to lower from 25 to 21 the age below which an applicant for a driver's license must state on the application whether the applicant has completed a driver education course, and it prohibits the Department of Public Safety (DPS) from issuing a license to a person younger than 21 unless the person submits a certificate stating

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that the person has passed a driver education and traffic safety course approved by the Texas Education Agency (TEA) or a DPS-approved or TEA-approved driver education course. Under certain conditions, the bill provides a waiver from the requirement to take the highway sign and traffic law parts of the required examination for a person who has completed and passed a TEA-approved driver education course but prohibits the public safety director from waiving the required driving test for an applicant who is under 18 years of age.

The bill authorizes DPS to issue a driver's license to an applicant under 18 years of age if, among other requirements, the applicant has submitted written parental or guardian permission for DPS to access the applicant's school enrollment records, and it requires DPS and TEA to enter into a memorandum of understanding allowing DPS to access TEA's electronic enrollment records, but only to the extent necessary to verify an applicant's identity and enrollment and only with the written permission of the applicant's parent or guardian. The bill includes a person's foster parent among the adult relatives or guardians who may conduct a DPS-approved driver education course for that person and adds the condition that such an adult not have six or more points on the person's driver's license at the time the person begins conducting the course.

The bill requires DPS to collect data regarding collisions of students taught by the various schools and instructors offering driver education courses for which a certificate of completion is issued and to publish, not later than October 1 of each year, the collision rate for students taught by each of the above entities, noting the severity of collisions involving students of each entity and each type of course. The bill requires DPS to determine the number of minor students taught by each of the above who become licensed during the state fiscal year ending August 31, 2010, and to publish the first issue not later than October 31, 2010. The bill also requires DPS, not later than November 30, 2009, to appoint a task force to review and make recommendations on the effectiveness of TEA materials used in licensed or authorized courses.

The bill provides that a provisional license or instruction permit expires on the license or permit holder's 18th birthday, increases the fee for such a license or permit from \$5 to \$15, extends the duration of the nighttime driving restrictions on a person under 18 years of age and a person under 17 years of age who holds a restricted motorcycle or moped license, and allows such a driver to drive while using a wireless communications device in an emergency.

### **House Bill 598**

**Effective:** 9-1-09

**House Author:** Hughes et al.

**Senate Sponsor:** Whitmire

House Bill 598 amends provisions of the Government Code and Transportation Code relating to the information displayed on a driver's license or concealed handgun license of certain persons. The bill requires the Department of Public Safety (DPS) to establish a procedure for a federal judge, a state judge, or the spouse of a federal or state judge to omit the driver's license holder's residence address on the license and to include, in lieu of that address, the street address of the courthouse in which the driver's license holder or license holder's spouse serves as a federal judge or state judge. If a person's status is no longer that of a judge or spouse of such a judge, the person must apply for a duplicate license which must include the person's current residence address.

House Bill 598 requires DPS to establish a procedure for the concealed handgun license of a qualified handgun instructor to indicate the license holder's status as such an instructor and provides that the failure of a concealed handgun license holder to notify DPS of a status change is grounds for the suspension of a concealed handgun license.

**House Bill 3599****Effective:** 9-1-09**House Author:** Brown, Fred**Senate Sponsor:** Ellis

House Bill 3599 amends the Transportation Code to define the term “motorcycle” to include an enclosed three-wheeled passenger vehicle that meets certain criteria, and to specify that the law authorizing a driver’s license holder to operate certain vehicles other than a motorcycle does not prohibit a license holder from operating such a vehicle. The bill allows such a vehicle to be operated in a preferential lane that is not closed to all vehicular traffic. The bill specifies that the provision excluding a tractor or three-wheeled vehicle with certain equipment from the definition of “motorcycle” under the law relating to protective headgear for motorcycle operators and passengers also excludes a tractor or three-wheeled vehicle equipped with an occupant compartment, seat, and seat belt and designed to contain the operator in the occupant compartment.

**Senate Bill 652****Effective:** 9-1-09**Senate Author:** Zaffirini**House Sponsor:** Frost

Senate Bill 652 amends the Transportation Code to require the Department of Public Safety (DPS) to maintain a record of the name, address, and telephone number of each individual identified as an emergency contact by the holder of a driver’s license or personal identification certificate and a record of certain medical information provided to DPS in an application for an original driver’s license or certificate, and to provide for the confidentiality and disclosure of such records. The bill requires an application for an original, renewal, or duplicate driver’s license or personal identification certificate to be designed to allow, but not require, the applicant to provide such information; requires the application to include a statement that describes the confidential nature of the information; and requires DPS to establish and maintain on its website forms and procedures by which the holder of a driver’s license or personal identification certificate may request that DPS add, amend, or delete specific emergency contact or medical information. The bill requires DPS to implement the bill’s provisions not later than January 1, 2010, using existing personnel.

**Senate Bill 858****Effective:** 5-23-09**Senate Author:** Seliger**House Sponsor:** Jackson, Jim

Senate Bill 858 amends the Education Code to authorize a driver education school to teach all or part of the classroom portion of an approved driver education course by an alternative method of instruction that does not require students to be present in a classroom if the alternative method includes testing and security measures that the commissioner of education determines are at least as secure as the measures available in the usual classroom setting, if the course, with the use of the alternative method, satisfies any other requirement applicable to a course in which the classroom portion is taught to students in the usual classroom setting, and if the commissioner approves the alternative method. The commissioner may establish a fee for an application for approval to offer a driver education course by an alternative method of instruction.

**Senate Bill 1107****Effective:** 9-1-09**Senate Author:** Shapiro**House Sponsor:** Pickett

Senate Bill 1107 amends the Education Code to require the commissioner of education by rule to require that information relating to the effect of using a wireless communication device or engaging in other actions that may distract a driver from the safe or effective operation of a motor vehicle be included in the curriculum of each driver education course or driving safety

course. The bill requires the commissioner, in developing rules under these provisions, to consult with the Texas Department of Public Safety and to adopt such rules as soon as practicable after September 1, 2009.

**Senate Bill 1317**

**Effective:** 3-1-10

**Senate Author:** Wentworth et al.

**House Sponsor:** Smith, Todd

Senate Bill 1317 amends provisions of the Transportation Code and Education Code relating to education and examination requirements for the issuance of a driver's license to certain persons. The bill prohibits the Department of Public Safety (DPS) from issuing a driver's license to a person who is younger than 25 years of age unless the person submits an appropriate driver education certificate to DPS that states that the person has completed and passed a certain driver education or traffic safety course, or both, approved by the Texas Education Agency (TEA) or a driver education course approved by DPS. The bill provides an exemption from state law requirements for the highway sign and traffic law parts of an examination for a person who has completed and passed a TEA-approved adult driver education course.

Senate Bill 1317 requires the commissioner of education by rule to designate the educational materials, rather than the textbooks, to be used in a driver education course and sets forth the required content of the driver education course exclusively for adults, which may be offered online.

Senate Bill 1317 authorizes the commissioner to charge a fee to each driver education school for expenses incurred by TEA in the regulation of the adult driver education courses.

**Senate Bill 1967**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Chavez

Senate Bill 1967 amends provisions of the Transportation Code pertaining to the safe operation of motorcycles and other vehicles in Texas. The bill requires the Texas Department of Transportation to conduct a continuing public awareness campaign to promote motorcyclist safety and the concept of sharing the road with motorcyclists. The bill requires an applicant for a Class M license or a certain driver's license or learner's permit that includes an authorization to operate a motorcycle to furnish to the Department of Public Safety (DPS) satisfactory evidence that the applicant has successfully completed a basic motorcycle operator training course approved by DPS. The bill establishes penalties for failure by an operator of a vehicle to yield the right-of-way to another vehicle punishable by a fine, ranging from \$500 to \$4,000, if a person other than the operator suffers bodily injury.

Current law requires a person be covered with a minimum of \$10,000 in health insurance for injuries incurred in a motorcycle accident to be eligible for an exception for the offense of operating or riding a motorcycle without a helmet. The bill removes that minimum amount. The bill requires the Texas Department of Insurance to prescribe a standard proof of health insurance for issuance to persons who are at least 21 years of age and covered by an applicable health insurance plan.

The bill prohibits a peace officer from stopping or detaining a person who is the operator of or a passenger on a motorcycle for the sole purpose of determining whether the person has successfully completed a motorcycle operator training and safety course or is covered by a motorcycle health insurance plan and repeals provisions relating to a DPS-issued sticker required to be displayed on a motorcycle by a motorcycle owner.

Senate Bill 1967 amends the Education Code to require the Texas Education Agency to include certain motorcycle awareness information in the curriculum of any driver education course or driving safety course.



**Senate Bill 2041****Effective:** 9-1-09**Senate Author:** Ellis et al.**House Sponsor:** Driver

Senate Bill 2041 amends the Transportation Code to require an examination of driver's license applicants administered by the Department of Public Safety (DPS) to include, in addition to other requirements, a test of the applicant's knowledge of motorists' rights and responsibilities in relation to bicyclists and to require DPS to give each applicant the option of taking that part of the examination in writing in addition to or instead of through a mechanical, electronic, or other testing method. The bill specifies that a driver's license examination administered by DPS is not required to include a question testing the applicant's knowledge of motorists' rights and responsibilities in relation to bicyclists if the examination is administered before February 1, 2010.

**Finance, Planning, and Administration****House Bill 1 (1st C.S.)****Effective:** 7-10-09**House Author:** Pitts et al.**Senate Sponsor:** Carona

House Bill 1 amends the Transportation Code to authorize the Texas Transportation Commission to issue general obligation bonds in an aggregate principal amount not to exceed \$5 billion to pay all or part of the costs of highway improvement projects and the costs of administering projects authorized under the bill, the cost or expense of the issuance of the bonds, or all or part of a payment owed or to be owed under a credit agreement. The bill requires the bonds to be executed as prescribed by the commission and to mature not later than 30 years after their dates of issuance, subject to any refundings or renewals. The bill authorizes the bonds to be issued in multiple series and issues from time to time and to have the provisions the commission determines appropriate and in the interest of the state. The bill requires the bonds and any related credit agreements to be submitted to the attorney general for approval as to their legality. The bill prohibits proceeds from the issuance and sale of the bonds from being expended or used for the purposes authorized by the bill unless those proceeds have been appropriated by the legislature. House Bill 1 also authorizes bonds issued by a local toll project entity and the Texas Department of Transportation for a transportation project to mature not more than 40, rather than 30, years from their date of issuance.

House Bill 1 amends Rider 60 of the General Appropriations Act appropriations to the department to specify that amounts in the rider that must be used to capitalize the State Infrastructure Bank, if legislation creating a transportation revolving fund is not enacted, are for the purpose of making loans from the bank to public entities, provided that the money is not used to convert a nontolled road or highway to a tolled road or highway.

**House Bill 646****Effective:** 9-1-09**House Author:** Hughes et al.**Senate Sponsor:** Eltife

House Bill 646 amends the Transportation Code to authorize the governor to execute the Southern High-Speed Rail Compact with the states of Mississippi, Louisiana, and Alabama to implement Public Law 97-213, including the conduct of a study of the feasibility of rapid rail transit service between those states and Texas, and to establish a joint interstate commission to assist in this effort. The bill establishes the membership of the Southern High-Speed Rail Commission, with the governor or the governor's designee as Texas' representative along with a representative from the Texas Department of Transportation and five citizens appointed by the governor. The citizens appointed from Texas must reside in a federally designated high-speed rail corridor. The commission's powers and duties include conducting studies and surveys of

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the problems, benefits, and other matters associated with the provision of interstate rapid rail transit service. The compact authorizes the legislature of each party state at its discretion to make funds available to the commission for its establishment and operation. The contribution of each party state, if possible, is to be in equal amounts, and the compact is not to be construed to bind the legislature of a party state to make any particular appropriation to the commission. The compact becomes effective whenever the four party states, including Texas, ratify it and Congress gives consent to it. The bill authorizes a state that is contiguous with any party state to become a party to the compact subject to the approval of the legislature of each party state.

### **House Bill 768**

**Effective:** 6-19-09

**House Author:** Kolkhorst

**Senate Sponsor:** Hegar

House Bill 768 repeals provisions of the Transportation Code relating to the requirement that a new road ordered by the commissioners court of a county be laid out by a jury of view consisting of five property owners appointed by the commissioners court.

### **House Bill 2142**

**Effective:** Vetoed

**House Author:** McClendon et al.

**Senate Sponsor:** Carona

House Bill 2142 amends the Transportation Code to specify that the authority of the Texas Department of Transportation (TxDOT) to engage in marketing, advertising, or other activities is for providing information relating to the status of pending or ongoing toll projects, rather than for promoting the development and use of toll projects, and that the authority to enter into necessary contracts or agreements is for procuring marketing, advertising, or informational, rather than other promotional, services from outside service providers. The bill establishes that these provisions do not authorize TxDOT to engage in marketing, advertising, or other activities for the purpose of influencing public opinion about the use of toll roads or the use of tolls as a financial mechanism.

Reason Given for Veto: "House Bill No. 2142 limits the Texas Department of Transportation's ability to market or advertise the use of toll roads or tolling as a method of paying for highway projects, preventing the state from advertising resources such as toll tags. Marketing toll roads as a user-fee-based alternative to congested highways is important to relieving congestion on other state roads and keeping Texas moving."

### **House Bill 2314**

**Effective:** 9-1-09

**House Author:** Gattis

**Senate Sponsor:** Ogden

House Bill 2314 amends the Transportation Code to make provisions relating to the designation of the Texas Department of Transportation (TxDOT) as the agent of a local government in contracting and supervising an airport also applicable to the designation of TxDOT as the agent of an owner of an eligible airport. The bill defines "eligible airport" as an airport eligible to receive grant funds under the airport improvement program established under provisions of the United States Code.

### **House Bill 3139**

**Effective:** 9-1-09

**House Author:** Herrero et al.

**Senate Sponsor:** Van de Putte

House Bill 3139 amends the Transportation Code to authorize a toll project entity to establish a discount program for electronic toll collection customers. The bill requires the program to include free or discounted use of the entity's toll project by an electronic toll collection customer whose account relates to a vehicle registered under provisions governing specialty license plates for veterans with disabilities or for recipients of the Purple Heart, or by a person who has

received the Medal of Honor. The bill authorizes the legislature to appropriate funds from the general revenue fund to a toll project entity to defray the cost of providing free or discounted use of the entity's toll project under these provisions.

**Senate Bill 334**

**Effective:** 6-19-09

**Senate Author:** Carona

**House Sponsor:** Pickett

Senate Bill 334 amends the law to repeal provisions granting and vesting the Texas Department of Transportation the right, power, and authority to promulgate and administer economic rules and regulations over air carriers.

**Senate Bill 434**

**Effective:** Vetoed

**Senate Author:** Wentworth

**House Sponsor:** Bolton

Senate Bill 434 amends the Transportation Code to require the Texas Department of Transportation (TxDOT), in consultation with the Department of Public Safety and in conjunction with the appropriate mass transit authorities and the municipalities served by those authorities, to establish and operate a public transit motor-bus-only lane pilot program for highways in Bexar, Denton, El Paso, and Travis Counties that are part of the state highway system and have shoulders of sufficient width and structural integrity for use as described below. The bill establishes requirements for the program, including that it provide for the use by public transit motor buses of highway shoulders as a low-speed bypass of congested highway lanes when the speed of vehicles being operated on the main traveled part of the adjacent highways is 35 miles per hour or less. The bill establishes that the maximum speed limit for a public transit motor bus operating on the shoulder of a highway designated as a public transit motor-bus-only lane is 35 miles per hour. The bill requires TxDOT to initiate the public transit motor-bus-only lane pilot program as soon as practicable but not later than December 31, 2009, and prohibits TxDOT from establishing or operating a public transit motor-bus-only lane on a highway or toll facility maintained by a regional tollway authority without the authority's consent.

Reason Given for Veto: "Senate Bill No. 434 would create a pilot program that would allow transit buses to use highway shoulders during peak traffic times. Currently, shoulders may only be used by motorists in emergencies or by emergency vehicles. Allowing highway shoulders to be used by transit buses would leave no emergency lane, creating a danger to motorists, emergency personnel and passengers aboard transit buses."

**Senate Bill 448**

**Effective:** 6-19-09

**Senate Author:** Carona

**House Sponsor:** Pickett

Senate Bill 448 amends the Transportation Code to specify that the authority of the Texas Department of Transportation (TxDOT) to take certain actions to mitigate an adverse environmental impact if authorized by an applicable regulatory authority is for an impact that is a direct result of the construction, improvement, or maintenance of a state highway or the construction, improvement, or maintenance of a facility used in connection with the construction, maintenance, or operation of a state highway, rather than a direct result of a state highway improvement project. The actions TxDOT may take include transferring any interest in real property to an appropriate public agency or public entity, as authorized by the regulatory authority that requires the mitigation, with or without monetary consideration if the property is used or proposed to be used for mitigation purposes.

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### **Senate Bill 480**

**Effective:** 6-19-09

**Senate Author:** Carona

**House Sponsor:** Smith, Wayne

Senate Bill 480 amends the Transportation Code to authorize the Texas Transportation Commission to enter into an environmental covenant for the purpose of subjecting real property in which the Texas Department of Transportation has an ownership interest to a plan or the performance of work for environmental remediation. The bill sets forth certain requirements for the environmental covenant and the plan or performance of work, and it requires the commission to notify each owner of a property interest in the applicable property, each adjacent landowner, and each applicable local government of the proposal to enter into an environmental covenant at least 30 days before the commission considers an order to execute the covenant.

### **Senate Bill 883**

**Effective:** 6-19-09

**Senate Author:** Carona

**House Sponsor:** Pickett

Senate Bill 883 amends the Transportation Code to prohibit the Texas Department of Transportation from encumbering money in the state highway fund to guarantee a loan or insure bonds associated with a toll facility of a public or private entity and to make this provision inapplicable to specific projects.

### **Senate Bill 1382**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** McClendon

Senate Bill 1382 amends the Transportation Code to require the Texas Department of Transportation to coordinate activities regarding the planning, construction, operation, and maintenance of a statewide passenger rail system and to prepare and update annually a long-term plan for such a system. The plan must include:

- a description of existing and proposed passenger rail systems
- information regarding the status of passenger rail systems under construction
- an analysis of potential interconnectivity difficulties
- ridership projections for proposed passenger rail projects
- ridership statistics for existing passenger rail systems

### **Senate Bill 2380**

**Effective:** 9-1-09

**Senate Author:** Jackson, Mike

**House Sponsor:** Taylor

Senate Bill 2380 amends the Transportation Code to authorize the Texas Transportation Commission, on request by a political subdivision, to enter into a contract with a political subdivision to dispose of dredged material from the Highland Bayou Diversionary Canal on Placement Area 58 of the Gulf Coast Intracoastal Waterway. The bill prohibits the commission from charging a fee for such a disposal.

## **Motor Vehicles—General**

### **House Bill 715**

**Effective:** 12-31-10

**House Author:** King, Phil et al.

**Senate Sponsor:** Estes

House Bill 715 amends the Transportation Code to prohibit a Department of Public Safety rule that allows a qualified inspection station to perform a limited emissions inspection of a motor vehicle from restricting the station to fewer than 150 inspections per month. The bill defines “limited emissions inspection” to mean an emissions inspection of a motor vehicle conducted only by using the onboard diagnostic system of the vehicle.

**House Bill 2983****Effective:** 9-1-09**House Author:** Phillips**Senate Sponsor:** Hegar

House Bill 2983 amends the Transportation Code to add a second method to transmit motor vehicle rental information if the registered owner of a vehicle was a lessor of the vehicle when an event of nonpayment of tolls occurred. The bill allows, in addition to a copy of the contract document covering the vehicle, electronic data, other than a photocopy or scan of a rental or lease contract, to be provided to toll project entities, including the Texas Department of Transportation (TxDOT), a county acting under state law, a regional tollway authority, and a regional mobility authority. The bill specifies that electronic data provided to TxDOT must be in a format agreed on by TxDOT and the vehicle lessor. The bill establishes that such data is prima facie evidence that a defendant was the lessee of the vehicle when the event of nonpayment occurred.

**House Bill 3097****Effective:** See below**House Author:** McClendon et al.**Senate Sponsor:** Carona

House Bill 3097 amends the Transportation Code, as well as the Business & Commerce Code, Code of Criminal Procedure, Family Code, Finance Code, Government Code, Health and Safety Code, Human Resources Code, Local Government Code, Occupations Code, Penal Code, and Tax Code, to create the Texas Department of Motor Vehicles (DMV) and subject it to the Texas Sunset Act. The bill establishes that the DMV is abolished September 1, 2015, unless continued under the act. The bill provides for the DMV to be governed by a nine-member board appointed by the governor with the advice and consent of the senate, and it specifies the composition and terms of the board. The bill requires the governor to appoint board members not later than October 1, 2009. The bill requires the DMV to enforce certain laws, including laws relating to motor vehicle sales and leases, vehicle titles and registration, and motor carrier registration. In accordance with these provisions, the bill provides that the powers and duties of the Motor Vehicle Division, the Vehicle Titles and Registration Division, and the applicable portion of the Motor Carrier Division of the Texas Department of Transportation (TxDOT) are transferred to the DMV on November 1, 2009. The bill amends the Revised Statutes to provide for the transfer of the Automobile Burglary and Theft Prevention Authority from TxDOT to the DMV. The bill authorizes the board to consider and periodically report to the legislature potential statutory changes that would improve the operation of the DMV. The bill requires the DMV transition team established under the bill to report on and make recommendations to the board of the DMV, the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the senate and house committees with jurisdiction over transportation not later than October 1, 2009. In addition to across-the-board sunset provisions, the bill includes conforming changes relating to the transfer of duties and functions from TxDOT or the Texas Transportation Commission to the DMV or the board of the DMV.

House Bill 3097 amends the Occupations Code to add the Texas Used Automotive Parts Recycling Act administered by the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation (TDLR). The bill establishes a five-member advisory board to help TDLR administer and enforce the act. The bill requires the commission to adopt rules not later than January 1, 2010, for licensing used automotive parts recyclers and used automotive parts employees, to provide standards of conduct for license holders, and to establish certain license requirements. Effective September 1, 2010, the bill prohibits a person from owning or operating a used automotive parts recycling business or selling used automotive parts without a license. Also on or after that date, the bill prohibits a person employed by a used automotive parts recycler from acquiring a vehicle or used automotive parts in the scope of employment, and from selling used automotive parts, without a license. Other provisions

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that take effect September 1, 2010, relate to enforcement of the act. The bill makes it a Class C misdemeanor to violate the licensing requirements of the act, deal in used parts without a license, or employ an individual who does not hold the appropriate license. The bill also establishes certain additional duties of a used automotive parts recycler in connection with ownership of a salvage motor vehicle or motor vehicle component parts. Among other provisions, the bill requires a used automotive parts recycler to keep an accurate and legible record of each used component part purchased by or delivered to the recycler and specifies information that the record must include.

House Bill 3097 takes effect September 1, 2009, except as otherwise provided.

### **Senate Bill 375**

**Effective:** 6-19-09

**Senate Author:** Carona

**House Sponsor:** Smith, Todd

Senate Bill 375 amends the Transportation Code to authorize the Texas Department of Transportation (TxDOT) to release motor vehicle accident information compiled under provisions passed by the 80th Texas Legislature requiring TxDOT to tabulate and analyze the vehicle accident reports it receives and to release a vehicle identification number and specific accident information relating to that vehicle. The bill requires the amount that may be charged for the information to be calculated in the manner specified by the Public Information Act for public information provided by a governmental body. The bill prohibits TxDOT from releasing information that is personal as defined by the Motor Vehicle Records Disclosure Act or information that would allow a person to satisfy the requirements for the release of information for a specific motor vehicle accident. The bill sets forth specific items of information TxDOT is required to withhold or redact, including the name of any person listed in an accident report.

### **Senate Bill 589**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Phillips

Senate Bill 589 amends the Transportation Code to require a suncreening device that is placed on or attached to the windshield or a side or rear window of a motor vehicle to have a label that states that the light transmission of the device is consistent with requirements exempting a windshield or other window with a sunscreening device from a misdemeanor offense relating to restrictions on windows of a motor vehicle. The bill specifies that the exemption for a wing vent or window with a sunscreening device is for a wing vent or window that is to the left or right of the vehicle operator and adds an exemption for a side window that is to the rear of the vehicle operator. The bill makes it a misdemeanor punishable by a fine not to exceed \$1,000 if a person in the business of placing or attaching transparent material that alters the color or reduces the light transmission to a windshield or side or rear window fails to install the required label between the transparent material and the windshield or window of the vehicle.

### **Senate Bill 1218**

**Effective:** 9-1-09

**Senate Author:** Averitt

**House Sponsor:** Pitts

Senate Bill 1218 amends the Transportation Code to require the Texas Department of Transportation (TxDOT) to include information regarding the number of fatalities caused by a bridge collapse, as defined by the bill, in the statistical information derived from vehicle accident reports it receives and to require a medical examiner or justice of the peace to include information regarding the death of a person that was the result of a bridge collapse in a vehicle accident report submitted to TxDOT under state law.

**Senate Bill 1827****Effective:** 9-1-09**Senate Author:** Huffman**House Sponsor:** Elkins

Senate Bill 1827 amends the Transportation Code to set forth certain circumstances under which the sale of a used motor vehicle constitutes a private disposition for purposes of the Uniform Commercial Code—Secured Transactions chapter.

**Senate Bill 2019****Effective:** 5-30-09**Senate Author:** Watson**House Sponsor:** Farrar

Senate Bill 2019 amends the Transportation Code to create an exception to the prohibition against the use of any refrigerant that is flammable or toxic in motor vehicle air conditioning equipment if the refrigerant is included in the list published by the United States Environmental Protection Agency as a safe alternative motor vehicle air conditioning substitute for chlorofluorocarbon-12 in accordance with federal law.

**Motor Vehicles—Commercial****House Bill 782****Effective:** 9-1-09**House Author:** Pickett**Senate Sponsor:** Carona

House Bill 782 amends the Transportation Code to require a vehicle located in a border commercial zone to display a valid Texas registration if the vehicle is owned by a person who owns a leasing facility or a leasing terminal located in Texas and leases the vehicle to a foreign motor carrier. The bill establishes that a valid reciprocity agreement between Texas and a Canadian province that exempts currently registered vehicles owned by nonresidents is effective in a border commercial zone. The bill clarifies that the exemption for a foreign commercial motor vehicle operating in a border commercial zone from Texas vehicle registration laws applies if the vehicle is registered and licensed as required by the country in which the person that owns the vehicle is domiciled or is a citizen. The bill establishes that, for purposes of the law governing foreign commercial motor transportation, “foreign commercial motor vehicle” means a commercial motor vehicle under federal rules that is owned, rather than owned or controlled, by a person or entity that is domiciled in or a citizen of a country other than the United States.

**House Bill 2985****Effective:** 9-1-09**House Author:** Phillips et al.**Senate Sponsor:** Carona

House Bill 2985 amends the Transportation Code to require an application for a certificate of title filed by the owner or lessee of a foreign commercial motor vehicle to be accompanied by a copy of the applicable federal declaration form required by the Federal Motor Carrier Safety Administration (FMCSA) in connection with the importation of a motor vehicle or motor vehicle equipment subject to the federal motor vehicle safety, bumper, and theft prevention standards. The bill adds the submission of such a form to the requirements for a foreign commercial vehicle to obtain a temporary permit in lieu of registration, and it adds a valid identification number issued to the motor carrier by or under the authority of FMCSA to the items a motor carrier registration application must include. The bill requires the Texas Department of Transportation (TxDOT) to revoke or deny a motor carrier registration issued to a for-hire motor carrier of passengers if the motor carrier is required to register with FMCSA and the federal registration is denied, revoked, suspended, or otherwise terminated. The bill also authorizes TxDOT to issue a cease and desist order to prevent a violation of the motor carrier registration law and

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protect the public health and safety. In addition, House Bill 2985 requires TxDOT to adopt rules by March 1, 2010, to provide for the issuance of an identification number authorized by FMCSA to a motor carrier.

### **House Bill 3433**

**Effective:** 9-1-09

**House Author:** Menendez et al.

**Senate Sponsor:** Watson et al.

House Bill 3433 amends the Transportation Code to repeal provisions relating to consolidated registration of fleet vehicles and replace them with provisions relating to extended registration of commercial fleet vehicles. The bill requires the Texas Department of Transportation (TxDOT) to develop and implement a system of registration to allow a business entity that owns a commercial fleet of at least 25 nonapportioned motor vehicles to register the vehicles for an extended registration period of not less than one year or more than eight years, as determined by the owner. The bill sets out the required fees, including a one-time license plate manufacturing fee, and authorizes a license plate to include the name or logo of the business entity that owns the vehicle. The bill requires TxDOT, if a vehicle registered under these provisions has a gross weight in excess of 10,000 pounds, to also issue a registration card for the vehicle. The bill requires TxDOT to adopt rules, including rules on suspension from the program for failure to comply, not later than January 1, 2010, and requires TxDOT and the counties to consider, in their budgeting processes, any temporary increases and resulting decreases in revenue that will result from these provisions. House Bill 3433 also exempts a vehicle purchased by a commercial fleet buyer who is a full-service deputy assessor-collector as prescribed by the bill from the law requiring a vehicle dealer to apply for the registration and title of a vehicle sold by the dealer.

### **Senate Bill 481**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Veasey

Senate Bill 481 amends provisions of the Transportation Code that apply only to a contract carrier that transports an operating employee of a railroad on a road or highway of Texas in a vehicle designed to carry 15 or fewer passengers. The bill requires Department of Public Safety (DPS) rules regulating the operation of such a contract carrier to require the contract carrier to perform alcohol and drug testing of vehicle operators on employment, on suspicion of alcohol or drug abuse, and periodically as determined by DPS and to require the contract carrier, at a minimum, to maintain liability insurance in the amount of \$1.5 million for each vehicle. The bill requires DPS to inform contract carriers and railroad companies that employ contract carriers of the requirements of Texas statutes applicable to contract carriers.

### **Senate Bill 969**

**Effective:** 9-1-09

**Senate Author:** Seliger

**House Sponsor:** Jones

Senate Bill 969 amends a provision of the Transportation Code that exempts from specified length limitations a vehicle or combination of vehicles used to transport a combine that is used in farm custom harvesting operations to limit the current exemption, applicable if the overall length of the vehicle or combination is not longer than 75 feet, to a vehicle traveling on a highway that is part of the national system of interstate and defense highways or the federal aid primary highway system. If the vehicle is not traveling on a highway that is part of such a system, the bill extends the applicable exemption to a vehicle or combination of vehicles the overall length of which is not longer than 81-1/2 feet.



**Senate Bill 1093****Effective:** 9-1-09**Senate Author:** Carona**House Sponsor:** Pickett

Senate Bill 1093 amends the Transportation Code to redefine “commercial motor vehicle” for purposes of the law governing commercial driver’s licenses as a motor vehicle or combination of motor vehicles used to transport passengers or property that, in addition to having a gross combination weight rating or gross vehicle weight rating of 26,001 or more pounds, has a gross combination weight or gross vehicle weight of that poundage. The bill makes the prohibition against stopping, standing, or parking a vehicle on the main traveled part of a highway outside a business or residence district unless certain conditions are met inapplicable to a vehicle used exclusively to transport solid, semisolid, or liquid waste operated at the time in connection with the removal or transportation of solid, semisolid, or liquid waste from a location adjacent to the highway.

**Senate Bill 1759****Effective:** 9-1-09**Senate Author:** Watson**House Sponsor:** Pickett

Senate Bill 1759 amends the Transportation Code to require the Texas Department of Transportation (TxDOT) to develop and implement a system of registration to allow an owner of a commercial fleet of at least 25 nonapportioned motor vehicles to register the vehicles for an extended registration period of not less than one year or more than eight years, as determined by the owner. The bill sets forth the required fees, including a one-time license plate manufacturing fee, and authorizes a license plate to include the name or logo of the business entity that owns the vehicle. The bill requires TxDOT, if a vehicle registered under these provisions has a gross weight in excess of 10,000 pounds, to also issue a registration card for the vehicle. The bill requires TxDOT to adopt rules and implement the system of registration not later than January 1, 2010, and it requires TxDOT and the counties to consider any temporary increases and resulting decreases in revenue that will result from the implementation. The bill also exempts a vehicle purchased by a commercial fleet buyer who is a full-service deputy assessor-collector as prescribed by the bill from the law requiring a vehicle dealer to apply for the registration and title of a vehicle sold by the dealer.

Senate Bill 1759 amends the Health and Safety Code to require the Texas Commission on Environmental Quality (TCEQ) to establish and administer the Texas clean fleet program financed by five percent of money in the Texas emissions reduction plan fund that is set aside for the diesel emissions reduction incentive program. The bill provides that an entity that places 25 or more qualifying vehicles in service for use entirely in Texas during a calendar year is eligible to participate in the program, and establishes characteristics that do and do not qualify a vehicle for participation. The bill authorizes an entity operating in Texas that operates a fleet of at least 100 vehicles to apply for and receive a grant under the program, and authorizes TCEQ to adopt guidelines to allow a regional planning agency or a private nonprofit organization to also apply for and receive a grant. The bill establishes eligibility criteria for a project to receive a grant and requires TCEQ to adopt rules to establish criteria for prioritizing eligible projects as soon as practicable after the effective date of the bill. The bill also establishes standards for determining grant amounts and authorizes TCEQ to revise the standards to reflect changes to federal emission standards and decisions on pollutants of concern. The bill provides that the Texas clean fleet program expires August 31, 2017.

Senate Bill 1759 adds a temporary provision, set to expire August 31, 2011, requiring TCEQ to conduct an alternative fueling facilities study to assess the correlation between the installation of fueling facilities in nonattainment areas and the deployment of fleet vehicles that use alternative fuels and to determine the emissions reductions achieved from replacing

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a diesel-powered engine with an engine utilizing alternative fuels. The bill requires TCEQ to use the findings of the study in discussions with the United States Environmental Protection Agency regarding credit for emissions reductions in the state implementation plan which can be achieved as a result of the installation of alternative fuel fueling facilities and to include the findings and the status of the discussions in the agency's biennial report to the legislature.

### **Motor Vehicles—Registration and Titling**

#### **House Bill 1286**

**Effective:** 9-1-09

**House Author:** Eiland

**Senate Sponsor:** Huffman

House Bill 1286 amends the Transportation Code to require the Texas Department of Transportation (TxDOT) to issue Save Our Beaches specialty license plates to fund the cleaning, maintaining, nourishing, and protecting of Texas beaches.

#### **House Bill 1749**

**Effective:** 9-1-09

**House Author:** Bonnen

**Senate Sponsor:** Hegar

House Bill 1749 amends the Transportation Code to direct revenue from the issuance of marine conservation specialty license plates, after deduction of the Texas Department of Transportation's administrative costs, to an account in the state treasury to be used by the Texas Parks and Wildlife Department (TPWD) to support the activities of Coastal Conservation Association Texas in the conservation of marine resources. The bill requires TPWD to establish reporting and other mechanisms necessary to ensure that the money is spent for purposes for which it is dedicated.

#### **House Bill 2530**

**Effective:** 5-30-09

**House Author:** Harless

**Senate Sponsor:** Davis, Wendy

House Bill 2530 amends the Transportation Code to specify that the authority of a county assessor-collector or the Texas Department of Transportation to refuse to register a motor vehicle whose owner is alleged to have an outstanding payment due for a red light camera violation does not apply to the registration of a motor vehicle by a vehicle dealer.

#### **House Bill 2553**

**Effective:** See below

**House Author:** Hilderbran

**Senate Sponsor:** Davis, Wendy

House Bill 2553 amends the Transportation Code to authorize a recreational off-highway vehicle registered by the state, a county, or a municipality to be operated on a public or private beach in the same manner as a golf cart if the operator of the vehicle has a driver's license in the operator's possession. The bill prohibits the Texas Department of Transportation (TxDOT) from registering a golf cart for operation on a public highway, provides for the limited operation of a golf cart, and authorizes TxDOT or a county or municipality to prohibit the operation of a golf cart on a public highway if the prohibition is necessary in the interest of safety. The bill makes provisions relating to all-terrain vehicles also apply to recreational off-highway vehicles. The bill amends the Parks and Wildlife Code to add seat belts, if the vehicle is equipped with seat belts, to the safety equipment that must be worn by a person operating, riding, or being carried on an off-highway vehicle on public property and specifies that the safety equipment requirement does not apply to a motor vehicle that is registered by TxDOT for use on a public highway unless the vehicle is an all-terrain vehicle. The bill makes the provisions described in this paragraph take effect September 1, 2009.

House Bill 2553 makes the fee for registration of a motorcycle also apply to the registration of a moped and establishes registration fees for passenger cars, buses, commercial motor vehicles, truck-tractors, and trailers based on the vehicle's gross weight over, at, or under 6,000 pounds, rather than the vehicle's model year or gross weight and tire equipment. The bill establishes separate provisions for the issuance of replacement license plates and replacement registration insignia and sets the fee for both at \$6, plus an additional fee of \$1 for services related to the titling of vehicles. The bill authorizes a person to use license plates that were issued in Texas in the same year as the model year of a classic motor vehicle if the plates are approved for the vehicle before January 1, 2011. The bill establishes that there is no fee, rather than a specified fee, for issuance of specialty license plates for classic motor vehicles, travel trailers, cotton vehicles, forestry vehicles, tow trucks, and vehicles carrying mobile amateur radio equipment, and reduces the fee for issuance of license plates for golf carts. The bill authorizes TxDOT to require a nonrefundable design fee for the redesign of an existing specialty license plate at the request of a sponsor. The bill makes the provisions described in this paragraph take effect September 1, 2011.

**House Bill 2854**  
**Effective:** 6-19-09

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

House Bill 2854 amends the Transportation Code to authorize the issuance of professional firefighter license plates to qualified firefighters and to provide for fees from the sale of the plates, after deduction of the Texas Department of Transportation's administrative costs, to be used to support the activities of an organization of professional firefighters located in Texas that provides emergency relief and college scholarship funds to the professional firefighters and their dependents.

**House Bill 3517**  
**Effective:** 6-19-09

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

House Bill 3517 amends the Transportation Code to repeal provisions relating to the Texas Department of Transportation requiring the provision of a social security number by an applicant for a motor vehicle certificate of title.

**House Bill 4064**  
**Effective:** 9-1-09

**House Author:** Gonzalez Toureilles  
**Senate Sponsor:** Hinojosa

House Bill 4064 amends the Transportation Code to require the Texas Department of Transportation (TxDOT) to issue specialty license plates to raise awareness of cancer of unknown primary origin. The bill requires the license plates to include the words "A Fine Cause for Unknown Cancer" and to be designed in consultation with the Orange Grove Family Career and Community Leaders of America. The bill requires fee revenue, after deduction of TxDOT's administrative costs, to be deposited to the credit of the cancer prevention and research fund established by state law.

**Senate Bill 161**  
**Effective:** 5-27-09

**Senate Author:** Ellis  
**House Sponsor:** Harper-Brown

Senate Bill 161 amends the Transportation Code to add provisions to the law requiring the Texas Department of Transportation (TxDOT) to issue specialty license plates that include the words "God Bless Texas" and "God Bless America." The bill requires the remainder of the fee for the license plates, after deduction of TxDOT's administrative costs, to be deposited to the credit of the share the road account in the state treasury, rather than the state highway fund, to only be used by the Texas Education Agency (TEA) to support the Safe Routes to School Program

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of a certain designated statewide nonprofit organization. The bill authorizes up to 25 percent of the remainder of the fee to be used to support the activities of the nonprofit organization in marketing and promoting the Safe Routes to School Program and the “God Bless Texas” and “God Bless America” license plates. The bill authorizes TEA to use the money received from the license plates to secure funds available under federal matching programs for safe routes to school and obesity prevention.

### **Senate Bill 1235**

**Effective:** 9-1-09

**Senate Author:** Davis, Wendy

**House Sponsor:** Veasey

Senate Bill 1235 amends the Transportation Code to remove references to a cardboard tag in provisions relating to the issuance and use of temporary tags on vehicles in the Certificate of Title Act, dealer’s and manufacturer’s vehicle license plates law, and the Motor Vehicle Safety Responsibility Act. The bill establishes that a dealer’s authority to issue a temporary tag for use on an unregistered vehicle only for certain purposes does not prohibit a dealer from permitting a customer to operate a vehicle temporarily while the customer’s vehicle is being repaired. The bill makes a buyer’s temporary tag expire on the earlier of the date on which the vehicle is registered or the 60th, rather than 21st, day after the date of purchase. The bill amends the Tax Code to require the seller of a motor vehicle sold in a seller-financed sale to apply for the registration of, and a Texas certificate of title for, the motor vehicle in the name of the purchaser to the appropriate county tax assessor-collector not later than the 45th day after the date the motor vehicle is delivered to the purchaser.

### **Senate Bill 1356**

**Effective:** 9-1-09

**Senate Author:** Lucio

**House Sponsor:** Oliveira

Senate Bill 1356 amends the Transportation Code to authorize a county or municipal law enforcement agency to impose a fee of \$40 if the auto theft unit of the agency conducts an inspection required by the Texas Department of Transportation (TxDOT) in connection with the assignment of a vehicle identification number by TxDOT. The bill requires the county or municipal treasurer to credit the fee to the general fund of the county or municipality, as applicable, to defray the agency’s costs associated with the inspection. The bill requires the fee to be waived by TxDOT or the agency imposing the fee if the person applying for an assigned vehicle number is the current registered owner of the vehicle.

### **Senate Bill 1367**

**Effective:** 9-1-09

**Senate Author:** Carona

**House Sponsor:** Pickett

Senate Bill 1367 amends the Transportation Code to authorize the written statement or written prescription, as applicable, that must accompany an initial application for disabled license plates or a disabled parking placard to be issued by a person licensed to engage in the practice of optometry or the practice of therapeutic optometry in Texas or a state adjacent to Texas if the applicant has a mobility problem caused by an impairment of vision.

### **Senate Bill 1616**

**Effective:** 9-1-09

**Senate Author:** Wentworth

**House Sponsor:** Phillips

Senate Bill 1616 amends the Transportation Code to specify that the statutory fee for a souvenir license plate or a new specialty license plate created by the Texas Department of Transportation (TxDOT) is for such a license plate issued before September 1, 2009, and that the fee for such a license plate issued on or after that date is the amount that the Texas Transportation Commission establishes by rule. The bill authorizes the sponsor of a specialty license plate authorized for general distribution before September 1, 2009, to contract with the

private vendor under contract with TxDOT by law for the marketing and sale of the license plate, and establishes that the fee for issuance of the license plate is the amount that the commission establishes by rule, rather than \$30. The bill provides for the fee to be distributed to TxDOT, to the account designated by law, and to the private vendor. The bill also authorizes the sponsor of a specialty license plate created by TxDOT before September 1, 2009, to contract with the private vendor for the marketing and sale of the license plate. The bill provides for the fee to be established by commission rule and to be distributed in the same way as the fee for new specialty license plates created by TxDOT, except that fee revenue is deposited to the credit of the general revenue fund, rather than the state highway fund, if the sponsor did not nominate a state agency to receive the funds or if there is no sponsor.

The bill prohibits TxDOT from issuing specialty, personalized, or souvenir license plates with background colors other than white unless the plates are marketed and sold by the private vendor. The bill specifies that provisions requiring the commission by rule to establish fees for the issuance or renewal of personalized license plates that are marketed and sold by the private vendor do not apply to the sale at auction of a specialty plate or personalized specialty plate that is not used on a motor vehicle. The bill requires TxDOT to issue specialty license plates for fire protection personnel, as that term is defined by law, and sets the fee for issuance of the license plates. The bill also requires TxDOT to issue specialty license plates to support victims of sexual assault, and requires fee revenue, after deduction of TxDOT's administrative costs, to be deposited to the credit of the sexual assault program fund established by law.

Senate Bill 1616 adds provisions that apply to all personalized license plates issued before September 1, 2009, that are marketed and sold by the private vendor. The bill specifies that the fee for issuance of such plates is \$40 unless the executive director of TxDOT adopts by rule a higher fee. The bill authorizes a person who is issued the plates to submit an application and pay the required fee for each subsequent registration period or purchase through the private vendor a license to display the alphanumeric pattern on a license plate for any term allowed by law. The bill prohibits TxDOT from issuing a replacement set of plates to the same person before the sixth anniversary of the date of issuance unless the person pays an additional fee of \$30. The bill requires \$1.25 of each fee for the plates to be used to defray administrative costs and the remainder to be deposited to the credit of the general revenue fund. Senate Bill 1616 also authorizes a private vendor to sell at auction a license to display a unique alphanumeric pattern on a license plate, and authorizes only a license to display an alphanumeric pattern purchased at auction or a license to display an alphanumeric pattern sold by the private vendor to be transferred to another person. The bill entitles the transferee to the same rights and privileges as the transferor, and requires the transferee to notify TxDOT of the transfer. The bill authorizes TxDOT to set a fee to be paid by the transferee for the transfer. The bill also repeals provisions requiring TxDOT to issue personalized license plates, and makes a conforming change to provisions authorizing any specialty license plate to be personalized.

**Senate Bill 1617**

**Effective:** 9-1-09

**Senate Author:** Wentworth

**House Sponsor:** Smith, Wayne

Senate Bill 1617 amends the Transportation Code to require a certificate of title for a motor vehicle that has been the subject of an ordered repurchase or replacement to include a notice sufficient to inform a purchaser of the vehicle's status. The bill provides that a transferor of a used motor vehicle who files the appropriate form with the Texas Department of Transportation (TxDOT) has no vicarious civil or criminal liability arising out of the use, operation, or abandonment of the vehicle by another person and establishes that provisions relating to a county

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assessor-collector's or TxDOT's authority to refuse to register a motor vehicle if the owner has certain outstanding traffic violations do not apply to the registration of a motor vehicle by a dealer.

**Senate Bill 1984**  
**Effective:** 6-19-09

**Senate Author:** Uresti et al.  
**House Sponsor:** King, Tracy

Senate Bill 1984 amends the Transportation Code to authorize the notarized written statement or written prescription that must accompany the first application for a disabled parking placard to be issued by an advanced practice nurse or physician assistant if the applicant resides in a county with a population of 125,000 or less.

## Motor Vehicles—Rules of the Road

**House Bill 55**  
**Effective:** 9-1-09

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

House Bill 55 amends the Transportation Code to prohibit the operator of a motor vehicle from using a wireless communication device within a school crossing zone unless the vehicle is stopped or the wireless communication device is used with a hands-free device. The bill requires a municipality, county, or other political subdivision that enforces the prohibition to post a sign to inform vehicle operators of the prohibition and requires the Texas Department of Transportation to adopt standards for the sign as prescribed by the bill. The bill provides that it is an affirmative defense to prosecution of an offense that the required sign was not posted or that the wireless communication device was used to make an emergency call to an emergency response service, hospital, fire or police department, health clinic, medical doctor's office, or an individual to administer first aid treatment. The bill makes its provisions inapplicable to an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity or a vehicle operator who is licensed by the Federal Communications Commission to operate a radio frequency device other than a wireless communication device. The bill specifies that its provisions preempt all local ordinances, rules, or regulations relating to the use of a wireless communication device by the operator of a motor vehicle.

**House Bill 400**  
**Effective:** 9-1-09

**House Author:** Herrero  
**Senate Sponsor:** Hinojosa

House Bill 400 amends the Transportation Code to require a court to dismiss a charge of unlawfully parking a vehicle in a space designated specifically for persons with disabilities if the vehicle displayed a disabled parking placard that was not valid as expired; the defendant remedies the defect by renewing the expired disabled parking placard within 20 working days from the date of the offense or before the defendant's first court appearance date, whichever is later; and the disabled parking placard has not been expired for more than 60 days. The bill requires the court to assess an administrative fee not to exceed \$20 when the charge has been remedied. A court is authorized to dismiss the charge if at the time of the offense the defendant's vehicle displays a disabled parking placard that has been expired for more than 60 days.

**House Bill 537**  
**Effective:** 9-1-09

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

House Bill 537 amends the Transportation Code to expand the definition of "passenger vehicle" for purposes of the law creating an offense for operating a passenger vehicle without securing a child in a child passenger safety seat system to include a passenger van designed

to transport 15 or fewer passengers, including the driver. The bill makes that law applicable to third-party transport service providers when transporting clients pursuant to a contract to provide nonemergency Medicaid transportation. The bill makes it an offense to allow a child who is younger than 17 years of age and who is not required to be secured in a child passenger safety seat system under that law to ride in a passenger van designed to transport 15 or fewer passengers, including the driver, without securing the child individually by a safety belt, if the child is occupying a seat that is equipped with a safety belt. The bill makes the offense of not wearing a safety belt if a person at least 15 years of age is occupying a seat that is equipped with a safety belt apply if the person is riding in any seat of a passenger vehicle, rather than the front seat.

House Bill 537 makes it an offense punishable by a fine of not less than \$100 or more than \$200 to carry another person on a motorcycle unless the other person is at least five years of age. The bill provides a defense to prosecution that the motorcycle was being operated in an emergency or for a law enforcement purpose, and it specifies that it is not an offense to carry on a motorcycle a person younger than five years of age who is seated in a sidecar attached to the motorcycle.

**House Bill 586**  
**Effective:** 9-1-09

**House Author:** Naishtat  
**Senate Sponsor:** Carona

House Bill 586 amends provisions of the Transportation Code relating to the evidence of financial responsibility required for the release of a motor vehicle after impoundment of the vehicle for failure to maintain such evidence to require the court, by order, to permit a defendant to provide evidence of insurability in increments of a period of not less than six months during the two-year period immediately following the date the defendant applies for release of the vehicle.

**House Bill 1343**  
**Effective:** 9-1-09

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

House Bill 1343 amends the Transportation Code to make the offense of failing to yield the right-of-way to a pedestrian crossing a roadway in a crosswalk, if it is shown at trial that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a blind, visually impaired, or disabled person, a misdemeanor punishable by a fine of not more than \$500 and 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons. The bill requires the community service to be completed in not less than six months and not more than one year and requires a portion of the community service to include sensitivity training. The bill also allows the offense to be prosecuted under another section of the Transportation Code or the Penal Code, as applicable, or under both sections.

**House Bill 2012**  
**Effective:** 9-1-09

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

House Bill 2012 amends the Transportation Code to enhance the penalty for the offense of operating a motor vehicle without a valid driver's license from a Class C misdemeanor to a Class B misdemeanor if it is shown at trial that the person was operating the motor vehicle in violation of the motor vehicle liability insurance requirement, and to a Class A misdemeanor if it is shown at trial that the person was operating the motor vehicle in violation of that requirement and caused or was at fault in a motor vehicle accident that resulted in serious bodily injury to or the death of another person.

**House Bill 3095**

**Effective:** 9-1-09

**House Author:** Harless

**Senate Sponsor:** Watson

House Bill 3095 amends the Transportation Code to establish that a white-on-blue-shield disabled parking placard is issued to a person with a permanent disability, rather than a mobility disability described by law, and a white-on-red-shield disabled parking placard is issued to a person with a temporary disability, rather than any other permanent or temporary disability. The bill specifies that the law requiring an application for a disabled parking placard to be accompanied by a fee of \$5 applies if the application is for a temporary placard. The bill establishes that parking spaces or areas designated for the exclusive use of vehicles transporting persons with disabilities may be used by vehicles displaying a white-on-blue-shield disabled parking placard, license plates issued to persons with disabilities, or a white-on-red-shield disabled parking placard and removes requirements for assigning designated parking for the exclusive use of vehicles displaying those placards or license plates on certain property. The bill removes the offense of standing a vehicle displaying a white-on-red-shield disabled parking placard in a space designated for the exclusive use of vehicles displaying a white-on-blue-shield placard.

House Bill 3095 enhances the penalty for an offense relating to misuse of parking spaces or placards for persons with disabilities as follows:

- first offense—a fine of not less than \$500 or more than \$750
- second offense—a fine of not less than \$550 or more than \$800 and 10 hours of community service
- third offense—a fine of not less than \$550 or more than \$800 and not less than 20 or more than 30 hours of community service
- fourth offense—a fine of not less than \$800 or more than \$1,100 and 50 hours of community service
- fifth offense—a fine of \$1,250 and 50 hours of community service

**House Bill 3638**

**Effective:** 9-1-09

**House Author:** Hughes

**Senate Sponsor:** Davis, Wendy

House Bill 3638 amends the Transportation Code to add as a defense to prosecution of an offense relating to the use of safety belts that the person is the operator of or passenger in a vehicle used exclusively to transport solid waste and performing duties that require frequent entry into and exit from the vehicle.

**House Bill 4594**

**Effective:** 6-19-09

**House Author:** Eiland

**Senate Sponsor:** Williams

House Bill 4594 amends the Transportation Code to revise and specify the designation of certain roads in Chambers County for the transport of cargo under a permit issued by that county for an oversize or overweight vehicle in that county.

**Senate Bill 52**

**Effective:** 9-1-09

**Senate Author:** Zaffirini et al.

**House Sponsor:** Coleman

Senate Bill 52 amends the Transportation Code to enhance the penalty for a subsequent offense relating to misuse of parking spaces or placards for persons with disabilities as follows:

- first offense—same as current law.
- second offense—a fine of not less than \$500 or more than \$800 and 10 hours of community service.



- third offense—a fine of not less than \$550 or more than \$800 and 20 hours of community service.
- fourth offense—a fine of not less than \$800 or more than \$1,100 and 30 hours of community service.
- fifth offense—a fine of \$1,250 and 50 hours of community service.

Senate Bill 52 authorizes a peace officer to seize a disabled parking placard if the peace officer determines that the placard does not contain the first four digits of the driver's license number or personal identification certificate number and the initials of the person operating the vehicle or a person being transported by the vehicle. A peace officer is required to submit each seized parking placard to the Texas Department of Transportation not later than the fifth day after the seizure.

**Senate Bill 61**

**Effective:** 9-1-09

**Senate Author:** Zaffirini et al.

**House Sponsor:** Vaught

Under previous law, a person committed an offense by operating a passenger vehicle while transporting a child younger than five years of age and less than 36 inches in height who was not appropriately secured in a child passenger safety seat system. Senate Bill 61 amends the Transportation Code to specify that a person commits such an offense if the person transports a child who is younger than eight years of age, unless the child is taller than four feet, nine inches. The bill makes such an offense punishable by a fine of not more than \$25 for the first offense and not more than \$250 for a second or subsequent offense, rather than not less than \$100 or more than \$200. The bill adds a 15-cent court cost on conviction of an offense of failing to secure a child passenger in a motor vehicle and sets forth provisions relating to the collection, deposit, and uses of the court cost. The bill amends the Government Code to make conforming changes.

**Senate Bill 129**

**Effective:** 9-1-09

**Senate Author:** Ellis

**House Sponsor:** Coleman

Senate Bill 129 amends the Transportation Code to prohibit a neighborhood electric vehicle from being operated on a street or highway at a speed that exceeds the lesser of the posted speed limit or 35 miles per hour. The bill increases from 35 to 45 miles per hour the maximum posted speed limit for a street or highway on which a neighborhood electric vehicle may be operated and that is the minimum posted speed limit for a road or street such a vehicle may cross at an intersection. The bill defines "motorcycle" in provisions relating to driver's licenses to include an enclosed three-wheeled passenger vehicle that meets certain requirements and specifies that the law does not prohibit a license holder from operating such a vehicle. The bill also authorizes such a vehicle to be operated in a preferential lane that is not closed to all vehicular traffic. The bill clarifies in provisions relating to protective headgear for motorcycle operators and passengers that the definition of "motorcycle" does not include a three-wheeled vehicle equipped with an occupant compartment, seat, and seat belt and designed to contain the operator in the occupant compartment.

**Senate Bill 488**

**Effective:** Vetoed

**Senate Author:** Ellis et al.

**House Sponsor:** Harper-Brown

Senate Bill 488 amends the Transportation Code to make it an offense to operate a motor vehicle in the vicinity of a vulnerable road user as defined by the bill. The bill requires an operator of a motor vehicle passing a vulnerable road user operating on a highway or street to vacate the lane in which the vulnerable road user is located or pass the vulnerable road user

## Transportation

at a prescribed distance. The bill requires an operator making a left turn at an intersection to yield the right-of-way to a vulnerable road user who is approaching from the opposite direction and is in the intersection or in such proximity to the intersection as to be an immediate hazard. The bill prohibits an operator from overtaking a vulnerable road user traveling in the same direction and subsequently making a right-hand turn in front of the vulnerable road user unless the operator is safely clear of the vulnerable road user. The bill also prohibits the operator from maneuvering the vehicle in a manner that is intended to cause intimidation or harassment to a vulnerable road user or that threatens a vulnerable road user. The bill requires an operator of a motor vehicle to exercise due care to avoid colliding with any vulnerable road user on a roadway or in an intersection of roadways.

Senate Bill 488 establishes that a violation is punishable under the general penalty provision of the law governing rules of the road, except that if the violation results in property damage, the violation is a misdemeanor punishable by a fine not to exceed \$500, or if the violation results in bodily injury, the violation is a Class B misdemeanor. The bill provides a defense to prosecution that at the time of the offense the vulnerable road user was acting in violation of the law. The bill provides that if conduct constituting an offense under the bill's provisions also constitutes an offense under another law, the actor may be prosecuted under either law or both laws.

Reason Given for Veto: "Senate Bill No. 488 would create a new class of users of roadways, called 'vulnerable road users,' which would require specific actions by operators of motor vehicles. These vulnerable road users would include pedestrians; highway construction and maintenance workers; tow truck operators; stranded motorists or passengers; people on horseback; bicyclists; motorcyclists; moped riders; and other similar road users.

"Many road users placed into the category of vulnerable road users already have operation regulations and restrictions in statute. For example, a person operating a vehicle being drawn by an animal is subject to the same duties as a motor vehicle, and a pedestrian is required to yield the right of way to a motor vehicle, unless he or she is at an intersection or crosswalk.

"While I am in favor of measures that make our roads safer for everyone, this bill contradicts much of the current statute and places the liability and responsibility on the operator of a motor vehicle when encountering one of these vulnerable road users. In addition, an operator of a motor vehicle is already subject to penalties when he or she is at fault for causing a collision or operating recklessly, whether it is against a 'vulnerable user' or not."

**Senate Bill 926**  
**Effective:** 9-1-09

**Senate Author:** Huffman  
**House Sponsor:** Fletcher

Senate Bill 926 amends the Transportation Code to prohibit a county, municipality, or other local entity authorized to enact traffic laws from imposing or attempting to impose a civil penalty on the owner of an authorized emergency vehicle for a failure to stop at a red light recorded by a photographic traffic signal enforcement system. The bill provides that an employer is not prohibited from taking disciplinary action against an employee who operated the vehicle in violation of a rule or policy of the employer.

## State Highway System—Designations

**House Bill 471**  
**Effective:** 9-1-09

**House Author:** Hilderbran  
**Senate Sponsor:** Duncan

House Bill 471 amends the Transportation Code to designate State Highway 158 between Farm Road 2887 and Ranch Road 2111 in Runnels County as the Army Specialist William Justin Byler Memorial Highway.

**House Bill 1272****Effective:** 6-19-09**House Author:** Phillips**Senate Sponsor:** Estes

House Bill 1272 amends the Transportation Code to designate State Highway 289 as the Preston Trail Highway.

**House Bill 2201****Effective:** 6-19-09**House Author:** Hughes**Senate Sponsor:** Eltife

House Bill 2201 amends the Transportation Code to designate the structure on U.S. Highway 259 that passes over State Highway 155 in Upshur County as the Trooper Todd Dylan Holmes Memorial Overpass.

**House Bill 2642****Effective:** 9-1-09**House Author:** Kent et al.**Senate Sponsor:** Carona

House Bill 2642 amends the Government Code to provide for the establishment of a program for the designation of Texas historic roads and highways by the Texas Historical Commission and the Texas Department of Transportation. The bill specifies that a historic designation of a road or highway under such a program is not a historic designation under federal law, allows the commission and department to pursue federal funds for the program, and establishes that the department is not required to construct or erect a marker for a designation unless a grant or donation of funds is made to cover the cost.

**House Bill 2644****Effective:** 9-1-09**House Author:** Kent et al.**Senate Sponsor:** Deuell

House Bill 2644 amends the Government Code to provide for the designation of the Bankhead Highway as a historic highway by the Texas Historical Commission and the Texas Department of Transportation. The bill allows the commission and department to pursue federal funds for this purpose, specifies that the historic designation of the Bankhead Highway is not a historic designation under federal law, and establishes that the department is not required to construct or erect a marker unless a grant or donation of funds is made to cover the cost.

**House Bill 3800****Effective:** 9-1-09**House Author:** Frost**Senate Sponsor:** Eltife

House Bill 3800 amends the Transportation Code to designate U.S. Highway 59 between the northern corporate limits of the City of Jefferson and the southern corporate limits of the City of Linden as the Trooper Scott Burns Memorial Highway.

**House Bill 3844****Effective:** 6-19-09**House Author:** Smith, Wayne**Senate Sponsor:** Williams

House Bill 3844 amends the Transportation Code to establish that the Texas Department of Transportation (TxDOT) is not required to design, construct, or erect a marker to designate the Veterans Memorial Highway unless a grant or donation of public funds, private funds, or both, rather than only private funds, is made to TxDOT to cover the cost of the marker.

**Senate Bill 337****Effective:** 9-1-09**Senate Author:** Deuell**House Sponsor:** Flynn

Senate Bill 337 amends the Transportation Code to designate the part of Interstate Highway 30 in the corporate limits of the city of Greenville, in Hunt County, as the Martin Luther King, Jr., Freeway.

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### **Senate Bill 1997**

**Effective:** 6-19-09

**Senate Author:** Lucio et al.

**House Sponsor:** Martinez, “Mando”

Senate Bill 1997 amends the Transportation Code to designate Farm-to-Market Road 1015 between U.S. Highway 83 and the Progreso International Bridge in Hidalgo County as the Bill Summers International Boulevard.

## **State Highway System—General**

### **House Bill 875**

**Effective:** 5-20-09

**House Author:** Eissler et al.

**Senate Sponsor:** Carona

House Bill 875 amends the Texas Highway Beautification Act in the Transportation Code to authorize a district or county attorney or a municipal attorney to recover reasonable attorney’s fees incurred in an action brought for the unauthorized placement of an outdoor sign on the right-of-way of a public road.

### **House Bill 2682**

**Effective:** 6-19-09

**House Author:** Alvarado et al.

**Senate Sponsor:** Wentworth

House Bill 2682 amends the Transportation Code to remove, in relation to a municipality’s authority to declare a speed limit of not less than 25 miles per hour for a highway or part of a highway in the municipality that is not a part of the state highway system, the condition that the highway be 35 feet or less in width and a highway along which vehicular parking is not prohibited on one or both sides of the highway. The bill specifies that the authority applies only to a two-lane, undivided highway or part of a highway. The bill also establishes certain reporting and publication requirements for the governing body of a municipality that declares a lower speed limit on such a highway.

### **Senate Bill 521**

**Effective:** 9-1-09

**Senate Author:** Averitt

**House Sponsor:** Keffer

Senate Bill 521 amends the Transportation Code to provide that a sign posted under the Texas Department of Transportation’s memorial sign program may include the names of more than one victim so long as the total length of the names does not exceed one line of text.

### **Senate Bill 1609**

**Effective:** 6-19-09

**Senate Author:** Hegar

**House Sponsor:** Callegari

Senate Bill 1609 amends the Transportation Code to set forth rulemaking requirements for the Texas Transportation Commission in the exercise of its authority to manage access to or from a controlled access highway. The requirements relate to a decision by a Texas Department of Transportation district office denying a request for access to a specific location on a controlled access highway, procedures for appealing a denial, access management standards for access points to or from a controlled access highway that are located on undeveloped property, a proposed highway construction project that will permanently alter permitted access to or from a controlled access highway, criteria for determining when a variance to access management standards may be granted, and the application of new access management standards to the remodeling or demolition and rebuilding of a business.

**Senate Bill 2028****Effective:** 9-1-09**Senate Author:** Watson**House Sponsor:** Rodriguez

Senate Bill 2028 amends the Transportation Code to require the Texas Transportation Commission by rule to authorize memorial markers along state highway right-of-way honoring peace officers killed in the line of duty who are not Department of Public Safety (DPS) troopers. The bill requires the program for memorial markers honoring such peace officers to be identical to the commission's existing program for memorial markers honoring DPS troopers.

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

House Bill 548 - Law Enforcement  
House Bill 1213 - Environment  
House Bill 2161 - Corrections  
House Bill 2219 - State Government  
House Bill 2346 - Local Government  
House Bill 2462 - Local Government  
House Bill 2571 - Occupational Regulation  
House Bill 3082 - Local Government  
Senate Bill 316 - Local Government  
Senate Bill 348 - State Government  
Senate Bill 376 - Local Government  
Senate Bill 581 - Special Districts  
Senate Bill 970 - Public Officials and Employees  
Senate Bill 1059 - Local Government  
Senate Bill 2052 - Economic Development



## Utilities

This chapter covers legislation relating to electric, natural gas, and telecommunications utilities, except for bills relating to the use of coal and biomass in power plants, which are in the **Energy Resources** chapter. Bills relating to natural gas production, gathering, and pipeline transmission are also in the **Energy Resources** chapter, and those relating to water supply utilities are in the **Water** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

### **House Bill 1783**

**Effective:** 9-1-09

**House Author:** Solomons et al.

**Senate Sponsor:** Fraser

House Bill 1783 amends the Utilities Code to require the Public Utility Commission of Texas (PUC) to make publicly accessible, without charge, live Internet video of all its public hearings and meetings for viewing on its Internet website. The PUC may recover the costs of administration by imposing an assessment against a public utility, a power generation company that owns more than 5,000 megawatts of installed capacity in Texas, a retail electric provider that serves more than 250,000 customers, or a nonprofit corporation, created by and acting on behalf of a river authority, that sells electricity exclusively at wholesale and not to ultimate customers. The bill also requires the PUC to ensure that an independent organization certified by it makes publicly accessible, without charge, live video of all the organization's public meetings for viewing from an Internet website.

### **House Bill 1799**

**Effective:** 9-1-09

**House Author:** Bohac et al.

**Senate Sponsor:** Eltife

House Bill 1799 amends the Utilities Code to require a retail electric provider to include on each residential customer's bill, in at least 12-point type on the front of the first page, a statement that reads: "For more information about residential electric service please visit [www.powertochoose.com](http://www.powertochoose.com)." The requirement to include a notice regarding customer choice information expires September 1, 2011.

### **House Bill 1822**

**Effective:** 9-1-09

**House Author:** Solomons et al.

**Senate Sponsor:** Fraser

House Bill 1822 amends the Utilities Code to require rules of the Public Utility Commission of Texas (PUC) relating to customer awareness to include a list of defined terms common to the telecommunications and electricity industries. The rules must require that applicable terms be labeled uniformly on each retail bill sent to a customer by a certificated telecommunications utility, retail electric provider, or electric utility to facilitate consumer understanding of relevant billing elements. The bill makes conforming changes to provisions regarding rules on customer choice and sets a December 1, 2009, deadline for rules adoption. The bill entitles all buyers of telecommunications and retail electric services to bills that use the defined terms. It authorizes a service provider, retail electric provider, or billing agent to submit charges for a new product or service to be billed on a customer's telephone or retail electric bill only if, in addition to other requirements, the provider or agent uses defined terms on the customer's bill as required.

House Bill 1822 requires a retail electric provider to provide a residential customer who has a fixed rate product with at least one written notice of the date the fixed rate product will expire and sets requirements for that notice. The bill requires such a provider to include on each billing statement the end date of the fixed rate product.

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### **House Bill 1883**

**Effective:** 9-1-09

**House Author:** Farabee

**Senate Sponsor:** Averitt

House Bill 1883 amends the Utilities Code to authorize the Railroad Commission of Texas to review a certification made by a person claiming to be exempt from being considered a gas utility because the person transports gas in, or in the vicinity of, the field or fields where the gas is produced. The railroad commission is required to invite a person whose certification is being reviewed to an informal meeting to resolve the person's status. If a person's status remains unresolved after the informal meeting and there is sufficient reason to move forward, the railroad commission must provide notice and an opportunity for hearing, after which the railroad commission will make a determination on the exemption claim.

### **House Bill 2052**

**Effective:** 6-19-09

**House Author:** Hilderbran

**Senate Sponsor:** Eltife

Previous law required the Public Utility Commission of Texas (PUC) to take appropriate enforcement action against an electric utility or transmission and distribution utility if any feeder with 10 or more customers appeared on the utility's list of worst 10 percent performing feeders for any two consecutive years or had a system-average interruption duration index (SAIDI) or system-average interruption frequency index (SAIFI) average that was more than 300 percent greater than the system average of all feeders during any two-year period, beginning in 2000. House Bill 2052 authorizes the PUC to take appropriate enforcement action against an electric utility or transmission and distribution utility if any of the utility's feeders with 10 or more customers has had a high SAIDI or SAIFI average, as described above. The bill requires the PUC, in determining the appropriate enforcement action, to consider the feeder's operating and maintenance history, the cause of each interruption in the feeder's service, any action taken by a utility to address the feeder's performance, the estimated cost and benefit of remediating a feeder's performance, and any other relevant factor as determined by the PUC.

### **House Bill 3309**

**Effective:** 6-19-09

**House Author:** Gattis

**Senate Sponsor:** Ogden

House Bill 3309 amends provisions of the Utilities Code relating to the electric power industry, and to associated certificates of convenience and necessity (CCNs), to require the Public Utility Commission of Texas (PUC) to consolidate CCN application proceedings for the construction of electric transmission lines if it is apparent that transmission lines that are the subject of separate proceedings share a common point of interconnection. It authorizes a CCN to be granted for a facility used as part of the transmission system serving the Electric Reliability Council of Texas (ERCOT) power region solely for the transmission of electricity and allows the PUC to consider a CCN application of that nature if filed by an individual, partnership, mutual or cooperative association, or corporation that is not currently certificated as an electric utility. The bill establishes criteria for the PUC's grant of an ERCOT transmission CCN. A conforming change expands the prohibition against providing electric service to the public, absent a CCN, to apply the prohibition to all individuals, partnerships, mutual or cooperative associations, and corporations. Previous law applied the prohibition to such entities only if they owned or operated for compensation in Texas equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in Texas and were not otherwise excepted from the prohibition. Another conforming change exempts the holder of an ERCOT transmission CCN from retail service requirements applicable to other CCN holders.



**House Bill 3346**  
**Effective:** Vetoed

**House Author:** Farabee  
**Senate Sponsor:** Averitt

House Bill 3346 amends provisions of the Utilities Code and Natural Resources Code relating to gas utilities and gas storage facilities. The bill redefines “gas utility” as it relates to the regulation and use of gas pipelines to include as an exercise of eminent domain the representation to a property owner that the person has the right to acquire by eminent domain the pipeline right-of-way. In provisions relating to the powers and duties of utilities, the bill clarifies that a gas utility includes a person or business that is under the jurisdiction of the Railroad Commission of Texas and engaged in the transporting or distribution of gas. The bill excludes from regulation as a gas utility an electric cooperative or its subsidiary that sells electricity at wholesale and offers storage services to the public for hire if the gas storage facility is primarily used to support the integration of renewable resources. Such a gas storage facility is prohibited from having a working gas capacity of greater than five billion cubic feet.

Reason Given for Veto: “House Bill No. 3346 was a well-intended effort to protect landowners from abuses of eminent domain authority. However, two provisions added late in the session are problematic.

“One provision nullifies the original intent of the legislation by removing added protections for landowners. Another provision conflicts with House Bill No. 2572 – which was signed on June 19, 2009 – by requiring the state to pay for the relocation of all gas utility pipelines in certain state rights of way, a requirement that could cost taxpayers millions of dollars.

“Although I support provisions in this bill that offer higher safety requirements for pipelines located in rights of way, these requirements are already covered by provisions in House Bill No. 2572.”

**Senate Bill 547**  
**Effective:** 9-1-09

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

Senate Bill 547 adds provisions to the Utilities Code relating to the transition to retail electric competition for certain areas outside of the Electric Reliability Council of Texas (ERCOT). It makes such provisions applicable to an investor-owned electric utility that is operating solely outside of ERCOT in areas of Texas included in the Southwest Power Pool on January 1, 2008, that was not affiliated with the Southeastern Electric Reliability Council on January 1, 2008, and to which provisions for certain other non-ERCOT utilities do not apply. The bill delays the introduction of retail competition for such an electric utility until fair competition and reliable service are available to all retail customer classes in the area served by the utility. It establishes a sequence of required events, in five prescribed stages, to be followed to introduce retail competition in the utility’s service area. The bill authorizes the Public Utility Commission of Texas (PUC) to modify the sequence of such events, but prohibits the PUC from modifying the substance of the requirements. Until the date the electric utility is authorized by the PUC to implement retail customer choice, its rates are subject to regulation under the law on electric rates, and until the date the utility implements customer choice, statutory provisions relating to the restructuring of the electric utility industry, other than those of the bill and those relating to goals for renewable energy and energy efficiency, do not apply to the utility.

**Senate Bill 769**  
**Effective:** 4-16-09

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

Senate Bill 769 amends the Utilities Code to enable an electric utility, by means of securitization or surcharges, to achieve a timely recovery of system restoration costs following outages caused by a tropical storm or hurricane, ice or snow storm, flood, or other weather-related event or natural disaster occurring in calendar year 2008 or thereafter. The bill establishes various details, including the relation of such cost recovery to subsequent rate proceedings,

and requires that insurance proceeds, governmental grants, or any other sources of funding that compensate a utility for its system restoration costs, to the extent that a utility receives them, be used to reduce the costs recoverable from customers. A financing order by the Public Utility Commission of Texas (PUC) to authorize the recovery of eligible system restoration costs does not require a rate proceeding. It is not subject to rehearing and may be reviewed by appeal only to a Travis County district court by a party to the proceeding. A utility is entitled to recover system restoration costs consistent with the bill's provisions, notwithstanding a rate freeze or limitation on rate charges, and a previous PUC determination does not preclude a utility from requesting the recovery of additional system restoration costs that are eligible for recovery but have not been previously authorized by the PUC.

**Senate Bill 1492**  
**Effective:** 6-19-09

**Senate Author:** Williams  
**House Sponsor:** Ritter

In 2005, the legislature delayed retail electric deregulation in a portion of southeast Texas operating outside the territory of the Electric Reliability Council of Texas (ERCOT) and included in the neighboring Southeastern Electric Reliability Council (SERC). However, associated provisions require an electric utility operating solely in the SERC area to propose a competitive generation tariff to allow eligible customers to contract for competitive electricity generation from sources other than the utility. Senate Bill 1492 amends the Utilities Code to require the Public Utility Commission of Texas (PUC) to approve, reject, or modify the proposed tariff not later than September 1, 2010. The bill provides that, pursuant to such a tariff, the utility must purchase competitive generation service selected by the customer, provide it at retail to the customer, and provide and price retail transmission service to a customer receiving the tariff at a rate that is unbundled from the utility's cost of service. In awarding a certificate of convenience and necessity or allowing cost recovery for purchased power by the utility, the PUC must ensure that environmental integrity factors, as well as factors regarding probable improvement of service or consumer cost reduction, are met and that the generating facility or the purchased power agreement satisfies the identified reliability needs of the utility. The PUC must ensure also that tariff implementation does not harm manufacturers that do not opt for competitive generation. The bill prohibits any PUC decision that is contrary to an applicable decision, rule, or policy statement of a federal regulatory authority.

An electric utility operating solely in the SERC area must cease all activities relating to the transition to competition if the PUC has not approved a transition to competition plan as of January 1, 2009. The bill sets related deadlines for plan withdrawal and the required cessation. It establishes procedures under which the PUC may initiate actions reviving such transition plans, potentially leading to plan approval.

Senate Bill 1492 authorizes the PUC, on a declaration of a natural disaster or other emergency by the governor, to require an electric utility, municipally owned utility, electric cooperative, qualifying facility, power generation company, exempt wholesale generator, or power marketer to sell electricity to an electric utility, municipally owned utility, or electric cooperative that is unable to supply power to meet customer demand due to the disaster or emergency. The bill authorizes the PUC to order an electric utility, municipally owned utility, or electric cooperative to provide interconnection service to another electric utility, municipally owned utility, or electric cooperative to facilitate a sale of electricity to address such a situation. The bill requires the PUC, if it does not order the sale of electricity during a declared emergency, to promptly submit to the legislature a report describing why not. The receiving entity must reimburse the supplying entity for the actual cost of providing the electricity. The bill authorizes an entity that pays for such electricity and is regulated by the PUC to fully recover the cost of the electricity by

including the cost in its fuel cost or imposing a surcharge. The bill requires the PUC, not later than November 1, 2009, to conduct and complete a related study of locations in Texas that are most likely to experience a natural disaster or other emergency.

**Senate Bill 2565**

**Effective:** 9-1-09

**Senate Author:** Averitt

**House Sponsor:** Hilderbran

Senate Bill 2565 amends the Utilities Code to repeal the provision requiring the Public Utility Commission of Texas (PUC), on its own motion or on the petition of a telecommunications utility, to provide for the adjustment of the utility's billing to reflect an increase or decrease in the utility's tax liability if the increase or decrease results from a certain state law and is attributable to an activity subject to the PUC's jurisdiction.

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

House Bill 783 - Civil Remedies and Procedures

House Bill 4031 - Energy Resources

Senate Bill 686 - Energy Resources

Senate Bill 1826 - Energy Resources



## Water

This chapter covers legislation relating to water planning, development, conservation, finance, and use and relating to water and sewer supply service. Bills on water quality protection are in the **Environment** chapter, and those relating to water districts are in the **Special Districts** chapter.

### **House Bill 1174**

**Effective:** 6-19-09

**House Author:** Hartnett

**Senate Sponsor:** Watson

House Bill 1174 amends the Local Government Code to authorize a municipality or a river authority, other than the Trinity River Authority, the San Jacinto River Authority, the Sabine River Authority, or the Lower Neches Valley River Authority, to pay actual property damages caused by the backup of the municipality's or authority's sanitary sewer system regardless of whether the municipality or authority would be liable for the damages under the Texas Tort Claims Act. The bill clarifies that its provisions do not waive governmental immunity from suit or liability and apply to damages caused by the backup of a sanitary sewer system on or after March 1, 2007.

### **House Bill 1295**

**Effective:** 9-1-09

**House Author:** Aycock et al.

**Senate Sponsor:** Averitt

House Bill 1295 amends the Water Code to require the notice for an application for a certificate of public convenience and necessity for water or sewer service or for an amendment to a certificate to be given to each county and groundwater conservation district that is wholly or partly included in the area proposed to be certified.

### **House Bill 1922**

**Effective:** 6-19-09

**House Author:** Martinez Fischer

**Senate Sponsor:** Uresti

House Bill 1922 amends the Water Code to add provisions that apply only to a wastewater treatment facility operated by an agency of a home-rule municipality with a population of one million or more. The bill authorizes the Texas Commission on Environmental Quality (TCEQ) to authorize, at the request of an applicant, a wastewater treatment facility to contribute treated domestic wastewater produced by the facility as reclaimed water to a reuse water system, to contribute reclaimed water into a reuse water system operated by the agency, and to discharge reclaimed water contributed to a reuse water system at any outfall under certain conditions.

The bill requires TCEQ, for an effluent limitation violation occurring at an outfall permitted for reuse water system discharges by more than one wastewater treatment facility, to attribute the violation to the wastewater treatment facility contributing the reclaimed water causing the violation. If a violation is not directly attributable to a specific wastewater treatment facility, the violation is attributed to the wastewater treatment facility contributing the greatest volume of reclaimed water to the reuse water system on the date of the violation.

### **House Bill 2374**

**Effective:** 9-1-09

**House Author:** Guillen et al.

**Senate Sponsor:** Lucio

House Bill 2374 amends the Water Code to authorize a political subdivision to use financial assistance from the economically distressed areas account to pay the costs of connecting a residence to a public water supply system or sanitary sewer system constructed with financial assistance, the costs of installing yard water service connections, the costs of installing indoor plumbing facilities and fixtures, necessary connection and permit fees, and necessary costs related

to the design of plumbing improvements. The bill allows assistance to be provided only to residents who demonstrate an inability to pay for improvements. It authorizes the Texas Water Development Board to seek reimbursement if the board determines that an ineligible resident has received assistance.

**House Bill 2667**  
**Effective:** 9-1-09

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

House Bill 2667 amends the Health and Safety Code to revise the water saving performance standards for plumbing fixtures sold in, distributed in, or imported into Texas. The bill sets out revised performance standards for a sink or lavatory faucet or a faucet aerator, a shower head, a urinal and the associated flush valve, if any, and a toilet. The bill specifies different water saving performance standards for a urinal and its flush valve and a toilet based on whether the fixture is sold, offered for sale, or distributed in Texas before January 1, 2014, or on or after January 1, 2014.

The bill requires a manufacturer to supply to the Texas Commission on Environmental Quality (TCEQ) certified test results from a laboratory accredited by the American National Standards Institute verifying that a plumbing fixture meets certain water saving performance standards in order to have the fixture included on TCEQ's list of fixtures that are certified as meeting such standards. The bill makes the above-described performance standards and certification requirements inapplicable to a nonwater-supplied urinal and a plumbing fixture that has been certified by the U.S. Environmental Protection Agency under the WaterSense Program.

The bill authorizes the governing body of a municipality or county to allow the sale of a urinal or toilet that does not comply with those standards that are only applicable on or after January 1, 2014, if a greater amount of water is required to flush a public sewer system in a manner consistent with public health. The bill sets out a phase-in schedule of water saving performance standards for urinals and toilets. The bill prohibits a person from selling, offering for sale, or distributing in Texas a nonwater-supplied urinal for use in this state unless the nonwater-supplied urinal meets certain performance, testing, labeling, and installation requirements set out in the bill. The bill redefines "plumbing fixture" and "toilet," rescinds TCEQ's rulemaking authority for the marking or labeling of plumbing fixtures, and makes conforming changes to the Water Code.

**House Bill 3661**  
**Effective:** 9-1-09

**House Author:** Turner, Sylvester  
**Senate Sponsor:** Gallegos

House Bill 3661 amends the Health and Safety Code to require the regulatory authority for a water and sewer utility to adopt standards for installing fire hydrants adequate to protect public safety in residential areas in a municipality with a population of 1,000,000 or more.

**House Bill 3861**  
**Effective:** 6-19-09

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

House Bill 3861 authorizes the Texas Water Development Board, in making any statutory finding on the reasonable expectation that the state will recover its investment for completing the financing of the Lake Columbia reservoir project, to take into account any revenue reasonably expected to be received from a political subdivision not currently under contract with the Angelina and Neches River Authority to participate in paying the costs of the site acquisition stage of the project, or a political subdivision not currently under contract to purchase a portion of the water to be supplied by the project. The board is not required to identify a political subdivision from which revenue is reasonably expected to be received at the time the board makes such a finding.

**House Bill 4043**  
**Effective:** 6-19-09

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

The Water Code requires a prospective seller or conveyer of real property, if the property is located in the certificated service area of a retail water or sewer service utility, to give the purchaser notice of potential associated costs and other water and sewer service considerations. The provision is inapplicable to retail utilities that are water districts, which are subject to separate statutory notice requirements, and previous law also provided that it was inapplicable to a transfer of title to a property located within the corporate limits of a municipality. House Bill 4043 amends the Water Code to make the provision inapplicable to such a transfer of title only if the municipality is served by a municipally owned utility.

**House Bill 4231**  
**Effective:** 6-19-09

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

House Bill 4231 amends the Water Code to authorize specified persons or entities that supply water imported from a source located wholly outside the boundaries of Texas, except water imported from a source located in the United Mexican States, to use, with prior authorization from the Texas Commission on Environmental Quality, the bed and banks of any flowing natural stream in Texas to convey water for use in Texas. The bill requires the authorization to allow the diversion of only the amount of water put into a watercourse or stream, less carriage losses, and to include special conditions adequate to prevent a significant impact to the water quality in Texas. The bill makes certain provisions relating to interbasin transfers inapplicable to such a transfer.

**Senate Bill 1253**  
**Effective:** 9-1-09

**Senate Author:** Seliger  
**House Sponsor:** Smithee

Senate Bill 1253 amends the Water Code to repeal the law that authorized certain types of districts or a water supply corporation to allow others to use right-of-way easements for certain energy-related purposes.

**Senate Bill 1299**  
**Effective:** 6-19-09

**Senate Author:** Watson  
**House Sponsor:** Rodriguez

Senate Bill 1299 amends the Local Government Code to authorize a county with a population of 800,000 or more that contains a portion of the Edwards Aquifer to regulate stormwater management.

**Senate Bill 1360**  
**Effective:** 5-23-09

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

Senate Bill 1360 sets forth a legislative finding, among other findings, that the Texas Water Development Board has obtained a right and interest in the permit for the proposed Lake Columbia rural water project, and that the deadlines provided by the permit for commencement and completion of construction of the project should be stricken from the permit. The bill requires the Texas Commission on Environmental Quality to issue without notice or hearing an amendment to the permit striking the deadlines for commencement and completion of construction of the project.

**Senate Bill 1711**  
**Effective:** 5-19-09

**Senate Author:** Hegar  
**House Sponsor:** Frost

Current law authorizes a person to construct or maintain, without a water rights permit, a reservoir for the sole purpose of sediment control as part of a surface coal mining operation

under the Texas Surface Coal Mining and Reclamation Act. Senate Bill 1711 amends the Natural Resources Code to authorize a person to construct or maintain such a reservoir also for fire or dust suppression.

**Senate Bill 2306**  
**Effective:** 6-19-09

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

Senate Bill 2306 amends provisions of the Water Code relating to rates and methods of depreciation applied to a retired class of property for regulated water utilities. Current law requires the Texas Commission on Environmental Quality to fix proper and adequate rates and methods of depreciation, amortization, or depletion of several classes of property of each utility and to carry a proper and adequate depreciation account. Senate Bill 2306 requires the commission to require the book cost less net salvage of depreciable utility plant retired to be charged in its entirety to the accumulated depreciation account in a manner consistent with accounting treatment of regulated electric and gas utilities in the state.

**Senate Bill 2312**  
**Effective:** 9-1-09

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

Senate Bill 2312 amends the Water Code to update the definition of “eligible political subdivision” for purposes of the water infrastructure fund under the Texas water assistance program.

**Senate Bill 2314**  
**Effective:** 6-19-09

**Senate Author:** Averitt  
**House Sponsor:** Callegari

Senate Bill 2314 amends the Water Code to add provisions relating to supplemental funding resulting from federal economic recovery legislation. The bill authorizes the Texas Water Development Board to adopt rules that specify the manner in which any special capitalization grant under the state water pollution control revolving fund, the safe drinking water revolving fund, or any additional state revolving fund received as a result of federal economic recovery legislation may be used to provide financial assistance to an eligible applicant for public works. The rules must require financial assistance to be provided for the purposes and on the terms authorized by the federal legislation or agency program under which the additional state revolving fund was established or the special capitalization grant was awarded.



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