

Summary of Enactments 78th Legislature

Regular Session
1st, 2nd, and 3rd Called Sessions
2003

Prepared by the Research Division
of the
Texas Legislative Council

Published by the
Texas Legislative Council
P.O. Box 12128
Austin, Texas 78711-2128



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November 2003

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Foreword

The Summary of Enactments of the 78th Legislature provides synopses of all bills enacted and all joint resolutions proposing amendments to the Texas Constitution passed by the legislature during the 2003 Regular Session and 1st, 2nd, and 3rd Called Sessions. 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. A chapter on changes made by this legislation to statutory state agencies, governing boards, and interagency and advisory panels is also included in the publication.

This publication is intended to be a convenient reference for the main features of enacted measures within particular subject areas. 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 on-line version of this publication, with links to enacted bill text, is available at www.tlc.state.tx.us/research/pubs.htm. On-line 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.capitol.state.tx.us and to the legislative community through the legislative intranet at <http://tlis>. Other sources of information include:

Sunset bills (list) — www.sunset.state.tx.us/legislation03.htm

Vetoed bills (list) — www.lrl.state.tx.us/legis/vetoes

Proposed constitutional amendments

(list) — www.lrl.state.tx.us/legis/constamends/lrlhome.cfm

(analyses) — www.tlc.state.tx.us/research/pubs.htm

Paper copies of enrolled bills and resolutions from the 78th Legislature, regular and called sessions, may be obtained from house and senate document distribution offices until October 2004. 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 78th Legislature convened on January 14, 2003, and adjourned *sine die* on June 2, 2003. Of the 1,383 bills enacted during the session, 48 bills, as well as several items of appropriation in the General Appropriations Act and one item of appropriation in House Bill 2425, were subsequently vetoed by Governor Rick Perry. Lawmakers also passed 21 joint resolutions proposing 22 amendments to the Texas Constitution, which were submitted to Texas voters for approval in a September 13, 2003, election.

Following *sine die* adjournment of the Regular Session, the 78th Legislature met in three called sessions to consider congressional redistricting and various funding and government reorganization issues.

		Filed	Passed	Vetoed*	Defeated by Voters
Bills	Regular	5,592	1,383	48	—
	1st C.S.	181	1	0	—
	2nd C.S.	60	0	0	—
	3rd C.S.	113	11	—	—
Joint Resolutions	Regular	161	21	0	0
	1st C.S.	7	0	0	—
	2nd C.S.	2	0	0	—
	3rd C.S.	6	0	0	—

* The governor also vetoed several items of appropriation in House Bill 1, the General Appropriations Act, and one item of appropriation in House Bill 2425.

Enactments of the 78th Legislature

Agriculture

This chapter covers legislation on farming, ranching, various programs of the Texas Department of Agriculture, and state and local soil and water conservation programs. It includes bills on livestock, poultry, and cultivated plants. Issues involving water district irrigation services or regulation are in the **Water Districts** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 151

Effective: 9-1-03

House Author: Farabee et al.

Senate Sponsor: Estes

House Bill 151 amends Health and Safety Code provisions relating to dogs that are a danger to other animals. The bill authorizes the killing of a dog or coyote that attacks livestock, domestic animals, or fowls. Such a killing does not require a hunting license and may be done by a witness to an attack or by the attacked animal's owner or a person acting on the owner's behalf if the owner or person has knowledge of the attack. The bill allows someone who discovers and detains or impounds such a dog or coyote on his or her property to deliver it to the local animal control authority. The owner of a dog or coyote that is accustomed to running, worrying, or attacking other animals may not allow the dog or coyote to run at large, and in the event of an attack is liable for costs involved in the capture and care of the dog or coyote. If a dog or coyote is known to have precipitated an attack, the owner must control it in a manner approved by the local animal control authority. The bill replaces and augments previous laws that pertained only to dogs or that applied only in counties which, by referendum, adopted a control ordinance. It repeals certain statutory provisions relating to the muzzling of dogs and the placement of poison on the premises of threatened animals.

House Bill 240

Effective: 9-1-03

House Author: Miller et al.

Senate Sponsor: Fraser

House Bill 240 amends the Penal Code to establish, as a first-degree felony, criminal mischief involving intentional or knowing damage to livestock through the introduction of specified animal diseases. The diseases covered by the bill include mad cow disease, foot-and-mouth disease, anthrax, rabies, hog cholera, tuberculosis, Malta fever, equine infectious anemia, glanders, hemorrhagic septicemia, infectious abortion, and other diseases recognized as communicable by the veterinary profession. Covered livestock include cattle, horses, mules, asses, hogs, sheep, and goats.

House Bill 1046

Effective: 6-20-03

House Author: Swinford

Senate Sponsor: Duncan

House Bill 1046 amends the Agriculture Code to delete a requirement that a commercial fertilizer registration applicant who has a home office or principal place of business outside Texas submit with the application a written instrument appointing a resident agent for service of legal process.

Agriculture

House Bill 1078

Effective: 6-20-03

House Author: Chisum

Senate Sponsor: Estes

Previous law required the directors of a soil and water conservation district to act during July of each year to set the date, time, and place for the district's yearly election of directors. House Bill 1078 amends the Agriculture Code to allow the directors to take this action any time prior to July 15.

House Bill 1398

Effective: 9-1-03

House Author: Swinford

Senate Sponsor: Duncan

The Agriculture Code requires that a purchaser of seed designed for planting must submit a claim regarding seed performance failure to arbitration by the State Seed and Plant Board as a prerequisite to pursuit of a court case. House Bill 1398 amends the code to require that claims be submitted to the board not later than the 10th day after the date on which the purchaser discovered or reasonably should have discovered the seed defect. The board may dismiss a claim if submission falls outside this deadline. The bill removes language authorizing a court to consider an untimely submission but proceed to hear the lawsuit.

House Bill 1836

Effective: 9-1-03

House Author: Hardcastle et al.

Senate Sponsor: Duncan

House Bill 1836 amends the Agriculture Code to adopt a uniform definition of "livestock" for most of the code. The definition, which includes cattle, horses, mules, asses, hogs, sheep, and goats, does not apply to code provisions relating to tick eradication, animal feed liens, and livestock grading, which retain their current definitions of "livestock."

House Bill 2012

Effective: 6-21-03

House Author: Hardcastle

Senate Sponsor: Estes

House Bill 2012 rewrites the Agriculture Code subchapter relating to organic farming standards, certification, and registration to conform to regulations adopted by the U.S. Department of Agriculture in 2001. Programs of the Texas Department of Agriculture must be consistent with the national one, although the department may adopt standards other than the national standards to the extent consistent with federal law. The bill directs the department to adopt procedures relating to the assessment of administrative penalties and increases maximum civil penalties from \$500 to \$10,000 for violations of the subchapter or departmental rules.

House Bill 2133

Effective: 9-1-03

House Author: Campbell

Senate Sponsor: Estes

House Bill 2133 makes changes to the Agriculture Code relating to programs administered by the Texas Department of Agriculture. The bill allows the department by rule to waive licensing, registration, certification, or inspection fees. It revises and clarifies casualty insurance requirements applicable to public grain warehouses. Other provisions relate to agricultural production process certification, inspection certificates for imported nursery products and florist items, and complaints against license holders involving perishable commodities.

House Bill 2320

Effective: 6-20-03

House Author: Flores

Senate Sponsor: Lucio

House Bill 2320 amends the Agriculture Code to require the Texas Department of Agriculture (TDA), whenever it adopts a quarantine, to notify the governor's division of emergency management and cooperate thereafter with the division to safeguard the state's agricultural

resources. The bill authorizes the TDA by rule to establish treatment and handling requirements for a quarantined article found within a quarantined area. If a person in possession or control of such an article fails to comply with a TDA rule or order, the TDA, at the expense of that person or of the owner of the article, may seek an injunction to order compliance or surrender of possession or may seize the article and isolate, treat, or destroy it. The bill authorizes the TDA to seek enforcement assistance from the Department of Public Safety or from any law enforcement officer of the county in which the quarantined article is located. It entitles the attorney general to court costs and reasonable attorney's fees in any related suit brought on behalf of the TDA.

House Bill 2328**Effective:** 6-20-03**House Author:** McReynolds et al.**Senate Sponsor:** Staples

House Bill 2328 amends the Agriculture Code to require a seller, distributor, or transporter of live domestic or exotic fowl in Texas to register with the Texas Animal Health Commission. The commission may exempt from registration a participant in a recognized disease surveillance program. The bill provides for an annual registration fee. It requires the commission, not later than January 1, 2004, to adopt associated rules, including rules relating to testing, identification, transportation, inspection, sanitation, and disinfection of fowl. The bill creates a Class B misdemeanor offense for a knowing violation or knowing failure to comply with an order or rule under the new law. A repeat offense is a Class C misdemeanor.

House Bill 2558**Effective:** 9-1-03**House Author:** Swinford**Senate Sponsor:** Duncan

House Bill 2558 amends the Agriculture Code to revise the schedule for reporting commercial fertilizer tonnage and paying accompanying inspection fees. The bill retains the present quarterly schedule for annual fees totaling \$100 or more but provides for annual reporting and payment on or before October 1 for fees totaling less than that amount. It also revises deadlines for paying penalties for late report filing or fee payment. Penalties are due before the 61st day following the last day of the quarter for the quarterly schedule or before October 31 for the annual schedule. The bill provides that a stop-sale order issued by the Texas Feed and Fertilizer Control Service because illegal distribution is suspected expires at the end of the 30th, rather than the 10th, day following the day it was affixed, unless, by that time, the service has initiated proceedings to condemn the fertilizer.

House Bill 3061**Effective:** 9-1-03**House Author:** Flores**Senate Sponsor:** Hinojosa

House Bill 3061 amends the Agriculture Code and Occupations Code to prohibit the Texas Commission on Environmental Quality from adopting a rule relating to the disposal of diseased livestock carcasses, the slaughter and disposal of livestock that has been exposed to or infected with disease, or the disposal of animal remains by a veterinarian unless the rule is developed in cooperation with and is approved by the Texas Animal Health Commission.

House Bill 3383**Effective:** 9-1-03**House Author:** Swinford**Senate Sponsor:** Estes

House Bill 3383 amends the Agricultural Development District Act to provide that uniform election dates under the Election Code do not apply to elections to create an agricultural development district if the proposed district contains 25 or fewer registered voters. The bill requires a district approved by voters to file an information form with the Texas Department of

Agriculture

Agriculture and the county clerk in each county in which all or part of the district is located. Required contents of the information form include the district's name, the date of its confirmation election, a legal description of its boundaries, a statement of district functions, the most recent rate of any district assessments, and the total amount of any bonds that voters have approved, excluding refunding bonds and bonds or bond portions payable solely from revenues received under a contract with a governmental entity. The form must be accompanied by a map or plat showing the district boundaries and by a copy of the notice that sellers must provide to purchasers of real property in the district and must be filed not later than 48 hours after certification of the election results creating a district. Any change in the information, map, or plat must be filed not later than the seventh day after the date of the change. A district that is dissolved, annexed, or consolidated must file a statement of such action and its effective date. The bill provides that a seller is not required to give a purchaser notice that the property being purchased is in an agricultural development district if the seller is obligated under written contract to furnish a title insurance commitment before the contract closing or if the purchaser is entitled under the contract to terminate the contract because the real property is located in a district.

Senate Bill 854

Effective: 9-1-03

Senate Author: Madla

House Sponsor: Hardcastle

Senate Bill 854 amends the Agriculture Code to require the Texas Department of Agriculture (TDA) to publish a list of noxious plant species that have serious potential to cause economic or ecological harm to the state. Lists organized by region are permissible, and in preparing or amending a list certain consultations, consideration of scientific data and economic impact information, and the use of standard departmental criteria are required. The bill creates a Class C misdemeanor offense for selling, distributing, or importing into Texas a listed noxious plant species.

Senate Bill 970

Effective: Vetoed

Senate Author: Shapleigh

House Sponsor: Puente

Senate Bill 970 adds an Agriculture Code chapter to require anyone who grows or harvests for sale a desert plant from a set of listed genera to register with the Texas Department of Agriculture (TDA). Covered by the bill are yucca, agave, ferocactus, echinocactus, echinocereus, ariocarpus, fouquieria, mammillaria, and opuntia. Registration information must ensure that the plants will be harvested from the registrant's own property or from the property of a landowner who has granted the seller authority to harvest them. A desert plant may not be sold, offered for sale, or transported out of state unless a registrant has met specified documentation requirements certifying the sale or transport. The bill gives the TDA the power to issue and enforce an order stopping a sale or shipment of desert plants that is unaccompanied by the requisite documentation. Also, it authorizes the TDA to seize plants or shipments that are intended for transfer out of Texas and are not accompanied by such documentation. The bill creates an offense and related criminal penalties, including possible imprisonment, for the sale, sale offer, or advertisement of a desert plant or shipment without documentation. It also provides for administrative penalties.

Reason Given for Veto: "Senate Bill No. 970 would establish new fees and regulations for those who produce and harvest various cactus plants. As a result, the practice of xeriscaping would face artificial barriers in the marketplace at a time when government should be encouraging efforts to conserve water. Increasing administrative costs on the nursery industry is not an appropriate way to enforce current statutes."

Senate Bill 1389**Effective:** 9-1-03**Senate Author:** Duncan**House Sponsor:** Hardcastle

Senate Bill 1389 amends the Agriculture Code to authorize identification of cattle, hogs, sheep, or goats by tattoos or electronic devices as an alternative to traditional branding or ear-marking. The tattoos and electronic devices must be recorded with and recorded by the county clerk in the same manner as brands and earmarks. The bill requires a county clerk, not later than the 30th day after the date of receiving a record or updated record of a brand, earmark, tattoo, or electronic device, to forward a copy to the association that is authorized to inspect livestock under federal law. The bill repeals numerous laws and penalties relating to county brands, hide inspection, the driving and shipping of animals, and other matters.

Senate Bill 1413**Effective:** 9-1-03**Senate Author:** Deuell**House Sponsor:** Hardcastle

Senate Bill 1413 amends the Agriculture Code to repeal provisions that are obsolete or duplicative. The repealed provisions addressed livestock grading, grain sampling and grading, agriculture and livestock pools, shared foreign sales corporations, state-level marketing orders, city and county weights and measures sealers, and other matters. The bill abolishes the farm and ranch loan security fund. It eliminates a requirement that a county commissioners court obtain approval of a fire ant eradication method from the Texas Department of Agriculture (TDA). The bill modifies TDA duties and authority relating to quarantines and makes changes relating to TDA holding facilities for internationally traded animal commodities. It also makes minor changes to the Agricultural Development District Act in addition to those made by House Bill 3383.

Senate Bill 1828**Effective:** 9-1-03**Senate Author:** Averitt**House Sponsor:** Swinford

Senate Bill 1828 amends the Agriculture Code to increase the size of the State Soil and Water Conservation Board from five to seven members by adding two gubernatorial appointees. Both appointees must be actively engaged in farming, animal husbandry, or another agricultural business and own or lease land used for that business. Neither appointee may be a conservation district board member. Several provisions relate to the state brush control program. The board must rank, rather than designate, areas in need of a brush control program. The bill adds the consideration of certain water issues to the criteria by which the board ranks areas and approves brush control methods. The board must consult with the Texas Water Development Board regarding the program's effects on water quantity, must consult with the Texas Department of Agriculture regarding its effects on agriculture, and must consult with and be assisted by local districts in adopting rules and administering the program. The bill revises cost-sharing provisions, setting new percentage maximums for the state's contribution under different scenarios. It requires a semiannual report to the governor and legislative presiding officers on the status of the budget areas of responsibility assigned to the board. The bill also requires, not later than March 1, 2004, a management audit and report to the same recipients.

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

HB 25 (3rd C.S.) - Appropriations

HB 641 - Parks and Wildlife

HB 1452 - Open Government and Privacy

HB 2470 - Parks and Wildlife

SB 1700 - State Government

Alcoholic Beverages

This chapter covers legislation relating to the regulation of individuals and establishments that sell, serve, manufacture, distribute, or transport alcoholic beverages. The chapter also includes bills relating to local-option elections on the sale of alcoholic beverages and to the functions and operations of the Texas Alcoholic Beverage Commission.

House Bill 295

Effective: 9-1-03

House Author: T. Smith

Senate Sponsor: Wentworth

House Bill 295 amends the Alcoholic Beverage Code to exempt any person, rather than solely an officer of a county or incorporated city or town, who contests an application for a license to distribute, manufacture, or sell beer at retail from being required to pay security for the costs relating to that contest if the case is decided in favor of the applicant.

House Bill 671

Effective: 6-20-03

House Author: Lewis

Senate Sponsor: Brimer

House Bill 671 amends the Alcoholic Beverage Code to provide for an exception to the requirement that a restaurant have separate free toilets for males and females in order to obtain a beer retailer's on-premise license or to avoid the suspension or cancellation of an existing beer retail dealer's on- or off-premise license. The bill requires a restaurant that derives less than 50 percent of its gross revenue from the sale of alcohol, is 2,500 square feet or less, and has an occupancy rating of 50 persons or less to have at least one toilet, properly identified, on the premises.

House Bill 724

Effective: 9-1-03

House Author: Hochberg

Senate Sponsor: Jackson

Under the Alcoholic Beverage Code, a provider of alcoholic beverages is liable for the actions of a customer, member, or guest who is or becomes intoxicated. House Bill 724 adds employees to the list of individuals for whose actions a provider is liable.

House Bill 941

Effective: 9-1-03

House Author: Chisum

Senate Sponsor: Estes

House Bill 941 amends the Alcoholic Beverage Code to allow the holder of any class of beer distributor's license or liquor wholesaler's permit to receive, store, transport, and deliver certain beer, ale, and malt liquor products that are intended for export to another state where the distributor or wholesaler has been assigned a territory for those products, even if they cannot legally be sold in Texas due to alcohol content, containers, packaging, or labels. The bills exempts the license or permit holder from liability for any state tax on beer, ale, or malt liquor for export.

House Bill 1056

Effective: 9-1-03

House Author: Hamilton

Senate Sponsor: Williams

House Bill 1056 amends the Alcoholic Beverage Code to allow a person under 18 years of age to work as a cashier in a restaurant that has a permit or license for on-premises consumption of alcoholic beverages if the alcoholic beverages are served by a person who is at least 18 years of age.

Alcoholic Beverages

House Bill 1114

Effective: 9-1-03

House Author: J. Moreno

Senate Sponsor: Gallegos

House Bill 1114 amends the Alcoholic Beverage Code to provide that a person commits an offense if the person with criminal negligence, rather than knowingly, sells an alcoholic beverage to an habitual drunkard or to an intoxicated or insane person.

House Bill 1199

Effective: 9-1-03

House Author: Krusee et al.

Senate Sponsor: Whitmire

House Bill 1199 amends provisions of the Alcoholic Beverage Code relating to local-option elections on the sale of certain alcoholic beverages. The bill revises the procedures relating to petitions to call for such an election and establishes that a person who misrepresents the purpose or effect of a petition commits a Class B misdemeanor. Within five days after a petition is issued, the county clerk must notify the Texas Alcoholic Beverage Commission and the secretary of state of its issuance. The bill allows an election to be contested by an action brought in a district court of any county in which the city or town of the election is located. The bill specifies that after an alcoholic beverage permit or license is issued the certification that a specific location or address is in a wet area may not be changed until after a subsequent local-option election prohibits the sale of alcoholic beverages. The bill eliminates provisions that limit local-option elections to the sale of certain alcoholic beverages and restrictions on the cities and towns authorized to hold local-option elections.

House Bill 1232

Effective: Vetoed

House Author: Geren

Senate Sponsor: Brimer

House Bill 1232 amends the Alcoholic Beverage Code to require the Texas Alcoholic Beverage Commission to provide an expiration date for certain renewed licenses and permits that is two years after the date on which they would otherwise expire and to increase the license and permit fees proportionately.

Reason Given for Veto: "House Bill No. 1232 is unnecessary. I believe the current licensing system at the Texas Alcoholic Beverage Commission is sufficient."

House Bill 1264

Effective: 9-1-03

House Author: R. Cook

Senate Sponsor: Ogden

House Bill 1264 amends the Alcoholic Beverage Code to remove provisions that restrict to certain locations the authority of wineries to sell or dispense wine to ultimate consumers for consumption on or off the winery premises.

House Bill 1510

Effective: 9-1-03

House Author: Flores

Senate Sponsor: Van de Putte

House Bill 1510 amends Alcoholic Beverage Code provisions that allow product tastings at a licensed package store. Written notice of the tasting must be posted on the store premises at least 48 hours before the event, rather than submitted by letter to the Texas Alcoholic Beverage Commission at least 72 hours before the event as required by prior law. The bill replaces the provision limiting a tasting to no more than two of the three categories of distilled spirits, wine, or beer and coolers with one limiting a tasting to no more than 20 different products at any one time. The bill allows the permit holder to store empty or open alcoholic beverage containers used in the tasting in a locked and secure area on the store premises as an alternative to removing the containers from the premises. The bill adds electronic mail and the permit holder's Internet website to the permissible means of advertising a tasting event.

House Bill 1625
Effective: 9-1-03

House Author: Deshotel
Senate Sponsor: Williams

House Bill 1625 amends the Alcoholic Beverage Code to allow a temporary beer and wine retailer's permit holder to sell beer, wine, and certain malt liquors in a county outside the county for which the permit is issued as long as the permit holder purchases the beverages from a licensed distributor or wholesaler authorized to do business in that outside county. The bill further requires the permit holder to report to the Texas Alcoholic Beverage Commission the amount and type of beverages bought and sold in the outside county.

House Bill 2005
Effective: 9-1-03

House Author: J. Moreno
Senate Sponsor: Gallegos

Under previous law, the Texas Alcoholic Beverage Commission or a county judge may refuse to issue or renew various alcoholic beverage licenses and permits if three, or in some cases two, years have not elapsed since a conviction or completion of sentence relating to a felony or certain other offenses. House Bill 2005 amends the Alcoholic Beverage Code to change the required elapsed time for all of these circumstances to five years.

House Bill 2112
Effective: 9-1-03

House Author: Homer
Senate Sponsor: Brimer

House Bill 2112 amends the Alcoholic Beverage Code to provide that the sale, service, dispensing, or delivery of an alcoholic beverage by an employee of a private club to a nonmember on the club premises or the consumption of an alcoholic beverage by a nonmember on the club premises cannot be attributed to the employer if the employer requires all employees to attend a commission-approved training program on the responsible service of alcoholic beverages, if the employee has attended such a program, and if the employer has not directly or indirectly encouraged the employee to provide an alcoholic beverage to a nonmember.

House Bill 2156
Effective: 9-1-03

House Author: Goolsby
Senate Sponsor: Carona

House Bill 2156 amends the Alcoholic Beverage Code to provide that 20 milliliters, rather than 1.6 fluid ounces, is the minimum allowable capacity of a liquor container that may be imported, sold, or possessed with intent to sell by an individual licensed in Texas.

House Bill 2579
Effective: 9-1-03

House Author: Goolsby
Senate Sponsor: Carona

House Bill 2579 amends Alcoholic Beverage Code provisions relating to the sale of mixed beverages and beer between midnight and 2 a.m. to make those applicable in a county with a population of at least 500,000 also applicable in a city with a population of at least 500,000. The bill makes the provisions applicable in a county with a population of less than 500,000 also applicable in a city with a population of less than 500,000.

House Bill 2593
Effective: See below

House Author: Homer
Senate Sponsor: Estes

House Bill 2593 amends the Alcoholic Beverage Code to allow the holder of a winery permit to buy wine from a permit holder who is authorized to purchase and sell wine in Texas. The bill also authorizes a winery to sell wine to ultimate consumers for consumption on the winery premises or in unbroken packages for off-premises consumption in an amount that does not exceed 35,000 gallons annually, rather than 25,000 gallons annually as provided under

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previous law. The bill authorizes the Texas Alcoholic Beverage Commission to issue a winery permit in an area in which such sale has not been authorized by a local option election. A permit holder in such an area may sell or dispense wine only if the wine is manufactured in Texas and is at least 75 percent by volume fermented juice of grapes or other fruit grown in this state. The bill repeals provisions that placed other restrictions on the sale of wine in a dry area and that authorized only licensed wineries in certain cities and counties to sell wine or dispense free wine to ultimate consumers for consumption on or off the winery premises.

This bill takes effect contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 85.

House Bill 3305

Effective: 6-18-03

House Author: Berman

Senate Sponsor: Whitmire

House Bill 3305 amends the Alcoholic Beverage Code to delete the requirement that the Texas Alcoholic Beverage Commission set surcharges at a level so that the anticipated total of all fees and surcharges collected for a fiscal year equal the legislative appropriation to the commission for the regulation of alcoholic beverages.

House Joint Resolution 85

For Election: 9-13-03

House Author: Homer et al.

Senate Sponsor: Estes

House Joint Resolution 85 proposes a state constitutional amendment to authorize the legislature to enact laws and to direct the Texas Alcoholic Beverage Commission or its successor to set policies for all wineries in Texas, including those located in areas in which the sale of wine has not been authorized by local option election, relating to the manufacture of wine, the on-premises sale of wine to the ultimate consumer for consumption on or off winery premises, the sale or purchase of wine by persons licensed to buy and sell wine in Texas, the dispensing of wine without charge for on-premises tasting, and the promotion of the wine industry in the state.

Senate Bill 855

Effective: 9-1-03

Senate Author: Madla et al.

House Sponsor: Swinford

Senate Bill 855 amends the Texas Alcoholic Beverage Code to require the Texas Alcoholic Beverage Commission to transfer \$250,000 annually from its appropriations to the Texas Department of Agriculture, which will use the funds to implement the Texas Wine Marketing Assistance Program. The bill authorizes the commission to recover the transferred amount by imposing an annual surcharge on licenses and permits it issues or renews, excluding an agent's permit or an agent's beer license. The bill requires the commission to calculate the surcharge by dividing the transferred amount by the number of licenses and permits the commission expects to issue or renew during that year. The bill prohibits the governing body of an incorporated city or town or the commissioners court of a county from levying and collecting a fee based on the surcharge.

Senate Bill 935

Effective: 9-1-03

Senate Author: Jackson

House Sponsor: W. Smith

Senate Bill 935 amends Alcoholic Beverage Code provisions relating to a private club registration permit to expand the definition of "fraternal organization" to include a chapter or other local unit of an American national fraternal organization that promotes the welfare of merchant seafarers. The bill requires such an organization to have operated an establishment for fraternal purposes for at least one year, to be active in at least 12 states, and to have at least four local units in Texas, one of which has been active continuously for at least 15 years.

Senate Bill 1251

Effective: 9-1-03

Senate Author: Armbrister

House Sponsor: Flores

Senate Bill 1251 amends the Alcoholic Beverage Code to authorize the Texas Alcoholic Beverage Commission to enter into an agreement with another state agency to issue original or renewal licenses or permits using electronic methods, including use of the Internet, to facilitate the licensing process. The bill further authorizes the commission or other agency to charge an applicant a reasonable fee for using such service and prohibits charging a service fee to an applicant who chooses not to use the electronic method.

Senate Bill 1273

Effective: 9-1-03

Senate Author: Armbrister

House Sponsor: Flores

Senate Bill 1273 amends the Alcoholic Beverage Code to require the Texas Alcoholic Beverage Commission or its administrator, when determining the length of a suspension or the amount of a civil penalty for a violation by a permittee or licensee, to consider the type of license or permit held, the type of violation committed, any aggravating or ameliorating circumstances, and the permittee's or licensee's previous violations, but it prohibits consideration of the volume of alcoholic beverages sold, the receipts of the business, the taxes paid, or the financial condition of the permittee or licensee. The bill eliminates a provision that allows the commission or administrator to consider the suspension's economic impact on the permittee or licensee and prohibits a civil penalty from being imposed on the basis of a criminal prosecution that did not result in a conviction. The bill authorizes the commission or administrator to reinstate a suspended license or permit at any time during the suspension period if the permittee or licensee has demonstrated good faith by attempting to rectify the consequences of the violation and to deter future violations.

Senate Bill 1380

Effective: 9-1-03

Senate Author: Armbrister

House Sponsor: Driver et al.

Senate Bill 1380 amends the Alcoholic Beverage Code to enact the Industry Public Entertainment Facilities Act authorizing certain alcoholic beverage distillers, manufacturers, distributors, and wholesalers to promote and sponsor events and to advertise alcoholic beverage brands and products at a public entertainment facility if the alcoholic beverages are furnished by an independent concessionaire. The bill establishes rules and regulations relating to advertising and promotion in a public entertainment facility that apply to a member of a distiller, manufacturing, distributor, or wholesaler operation, and owner or operator of a public entertainment facility, and an independent concessionaire. The bill provides an exception to the act for a wholesaler whose revenue from the sale of alcoholic beverages is predominantly obtained from the sale of distilled spirits and wine, prohibiting it from entering into advertising, sponsorship, or promotional agreements.

Appropriations

This chapter includes the General Appropriations Act for the state fiscal biennium beginning September 1, 2003, and legislation on supplemental appropriations from the Economic Stabilization Fund and the authority of regulatory agencies to reduce or eliminate expenditures to balance the budget. It also includes legislation on expenditures, fees, and other financial matters relating to the natural resources agencies funded under Article VI of the General Appropriations Act and relating to public education. House Bill 11 from the 1st Called Session is summarized in this chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 1

Effective: 9-1-03

House Author: Heflin

Senate Sponsor: Bivins

House Bill 1, the General Appropriations Act, appropriates almost \$117.1 billion for the FY2004-FY2005 state fiscal biennium beginning September 1, 2003. That amount includes all funding sources, except interagency contracts, and reflects the \$281.1 million reduction in spending achieved by the governor's line-item vetoes in House Bill 1 and the vetoes of House Bill 2425 and House Bill 3175. Of the biennial appropriations, \$63.3 billion, or 54 percent, is derived from general revenue, both dedicated and nondedicated, another \$39.2 billion, or 33.5 percent, comes from federal funding, and \$14.6 billion, or 12.5 percent, is funded from other funds. The \$117.1 billion budgetary total for FY2004-FY2005 reflects an increase of 1.3 percent over the FY2002-FY2003 budget.

Appropriations for all government functions and services for FY2004-FY2005 compared with appropriations for the preceding fiscal biennium are as follows: General government receives \$2.7 billion, an increase of 5.4 percent. Total funding for health and human services is \$39.8 billion, an increase of 2.8 percent. Education is funded at \$50.1 billion, an increase of 2.7 percent. The judiciary is appropriated \$421.5 million, a decrease of 0.3 percent. Total funding for public safety and criminal justice is \$8 billion, a decrease of 4.0 percent. Natural resources is funded at \$2 billion, a decrease of 6.4 percent. Business and economic development, which includes transportation, receives \$14.1 billion, an increase of 1.7 percent. Regulatory is appropriated \$765 million, an increase of 7.3 percent. The legislature is funded at \$269 million, a decrease of 9.4 percent.

The General Appropriations Act is subject to four constitutional or statutory limitations on expenditures. The "pay-as-you-go" constitutional limit requires the comptroller to certify that certain budgeted expenditures, including appropriations from outside the General Appropriations Act, are within the amount of revenue estimated to be available for the fiscal biennium; the comptroller has certified the budget for FY2004-FY2005. House Bill 1 also satisfies the constitutional limit on the rate of growth of appropriations from state tax revenue to the rate of growth of the state economy. The other two spending limits, relating to welfare spending and debt service payable from general revenue, are also met by House Bill 1.

House Bill 7

Effective: See below

House Author: Heflin

Senate Sponsor: Bivins

For the state fiscal year ending August 31, 2003, House Bill 7 makes approximately \$1 billion in supplemental appropriations out of the Economic Stabilization Fund to the Health and Human Services Commission for the Medicaid acute care program and the Children's Health Insurance Program, the Department of Health for the Texas Health Steps program and

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the Medical Transportation Program, the Department of Human Services for disaster assistance payments, and the Teacher Retirement System for the TRS-Care retiree health insurance program. The bill appropriates \$142.4 million in supplemental appropriations out of the Telecommunications Infrastructure Fund to the Department of Human Services for the Texas Integrated Eligibility Redesign System and disaster assistance payments and the Texas Education Agency for the student technology allotment. For the state fiscal year ending August 31, 2003, House Bill 7 reduces appropriations for more than 200 state agencies and institutions of higher education by approximately \$1.5 billion.

For the FY2004-FY2005 state fiscal biennium, House Bill 7 appropriates \$295 million out of the Economic Stabilization Fund to the Texas Enterprise Fund for economic development and appropriates \$1.5 million out of the general revenue fund to The University of Texas Health Science Center at Houston as reimbursement for servicing bond debt.

The provisions of House Bill 7 relating to the Teacher Retirement System, the Texas Enterprise Fund, and The University of Texas Health Science Center at Houston take effect September 1, 2003; all other provisions take effect June 22, 2003.

House Bill 11 (1st C.S.)

Effective: 9-1-03

House Author: Heflin

Senate Sponsor: Jackson

House Bill 11 appropriates all the amounts deposited to the credit of the dry cleaning facility release fund for the fiscal biennium beginning September 1, 2003, to the Texas Commission on Environmental Quality for the purpose of administering Chapter 374, Health and Safety Code, as added by Chapter 1366 in the 78th Regular Session.

House Bill 23 (3rd C.S.)

Effective: 10-13-03

House Author: Capelo

Senate Sponsor: Bivins

House Bill 23 appropriates the fees collected during the fiscal biennium beginning September 1, 2003, by certain health occupations licensing agencies as the source of funding for the office of patient protection established under Subchapter G, Chapter 101, Occupations Code, as added by House Bill 2985, Acts of the 78th Legislature, Regular Session, 2003. The bill appropriates that revenue to the Health Professions Council for the purpose of administering the office.

House Bill 24 (3rd C.S.)

Effective: 10-20-03

House Author: Heflin

Senate Sponsor: Bivins

House Bill 24 provides conditions, limitations, rules, and procedures for allocating and expending certain appropriations authorized by legislation passed by the 78th Legislature, Regular Session. The bill provides that certain fees collected by the Department of Licensing and Regulation or the Commission of Licensing and Regulation, surcharges collected by the Texas Alcoholic Beverage Commission, surcharges collected by the Department of Agriculture, and revenue collected by the Parks and Wildlife Department are appropriated to the named agencies and are to be used only for the purpose of administering specific programs. These provisions apply to fees, surcharges, and revenue collected by those agencies during the state fiscal biennium beginning September 1, 2003, and are appropriated to those agencies for the same fiscal biennium. The bill also increases certain contingency appropriations to the Department of Health and makes additional appropriations to the Department of Licensing and Regulation. House Bill 24 includes provisions related to increases in certain full-time equivalent position limitations established for the Department of Licensing and Regulation, including associated state employee benefit costs.

House Bill 25 (3rd C.S.)**Effective:** 10-13-03**House Author:** Heflin**Senate Sponsor:** Bivins

House Bill 25 appropriates the fees collected during the fiscal biennium beginning September 1, 2003, by the Texas Animal Health Commission from persons required to register as sellers, distributors, or transporters of live domestic or exotic fowl under provisions of the Agriculture Code added by House Bill 2328, Acts of the 78th Legislature, Regular Session, 2003. The bill appropriates the fee revenue to the commission for the purpose of administering such registration.

House Bill 28 (3rd C.S.)**Effective:** See below**House Author:** McCall**Senate Sponsor:** Bivins

House Bill 28 amends several statutes relating to state and local government fiscal management, including increasing administrative efficiency in state government, and makes certain appropriations. The bill amends the Labor Code to abolish the Research and Oversight Council on Workers' Compensation on the effective date of the bill and transfers all records, property, and obligations of the council to the Texas Department of Insurance. It requires the department to conduct studies and research on specific issues related to the workers' compensation system, and it funds the department's new duties with a maintenance tax on insurance companies and self-insurance groups. The bill amends the Occupations Code to replace the Texas Commission on Private Security with a newly created seven-member Texas Private Security Board within the Department of Public Safety and on February 1, 2004, transfers all property, proceedings, functions, and activities of the former commission to the board or to the Texas Department of Health, as applicable. The bill requires the Texas Department of Health to administer provisions relating to the monitoring of personal emergency response systems. The governor must make initial appointments to the board not later than February 1, 2004.

House Bill 28 amends the Government Code to provide that if, after conducting the annual study of school district property values for 2002, the comptroller determines that the local value for a school district is invalid and the local value exceeds the state value for the school district determined by the comptroller, the taxable value for the school district for that year is the district's state value as established by the comptroller. It amends the Education Code to specify that the tuition set-aside each institution of higher education is required to make to fund the B-On-time program is five percent of the amount of the tuition charged to a resident undergraduate student in excess of \$46 per semester credit hour, and it requires the interim committee on higher education to evaluate whether students enrolled in private and independent colleges and universities should remain eligible to receive Texas B-On-time loans. House Bill 28 amends the Government Code to add semiconductors and nanotechnology to the list of areas the Texas Economic Development Bank is required to give special preference to in determining products and businesses that are eligible for financing, and it repeals a provision that limited the amount of funding that a single recipient may receive from the small business incubator fund.

House Bill 28 authorizes the board of regents of the Texas Tech University System to issue bonds in an amount not to exceed \$45 million to finance capital construction and improvements for the Texas Tech University Health Sciences Center for an academic building to support the center's educational programs in El Paso. If sufficient funds are not available to the board to meet its obligations, the board is authorized to transfer funds between Texas Tech University and the center to ensure equitable allocation of available resources. The bill provides that any portion of bond proceeds not required for the academic building may be used by the system to

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renovate existing structures and facilities of the center. House Bill 28 authorizes the board of regents of Texas Southern University to issue bonds in an amount not to exceed \$3,510,000 to restore campus facilities and infrastructure damaged by Tropical Storm Allison.

House Bill 28 authorizes the commissioners courts of Ellis, Hill, and Williamson counties to pay the judges of the district courts having jurisdiction in their respective counties an annual salary for services rendered and for performing administrative duties. The bill amends the Government Code to authorize the State Council on Competitive Government to implement a common electronic infrastructure for a benefits enrollment and administration system that may be used by the benefits plan participants of each state agency.

For the fiscal biennium beginning September 1, 2003, House Bill 28 appropriates to the comptroller the amount of cash needed from the general revenue fund to return any available cash that was transferred to that fund from a fund outside the state treasury, and it limits to \$5 million the amount that may be used to allocate earned interest to a fund outside the state treasury. It appropriates to the comptroller for use for state fiscal relief, as directed by the governor and the Legislative Budget Board, certain federal funds received by the state and the appropriations vetoed by the governor in the General Appropriations Act. House Bill 28 repeals the appropriation made to the Supreme Court of Texas for technology advancement purposes by the General Appropriations Act, and it rededicates the permit fee revenue collected from permits for oversize or overweight vehicles carrying cargo to the state highway fund for the purposes described in the original dedication.

House Bill 28 takes effect October 20, 2003, except for provisions relating to payment of judicial salaries in Ellis, Hill, and Williamson counties, which take effect January 11, 2004.

House Bill 29 (3rd C.S.)

Effective: 10-13-03

House Author: Luna

Senate Sponsor: Bivins

House Bill 29 appropriates the additional revenue generated by the increase in lobby registration fees collected by the Texas Ethics Commission under Section 305.0064, Government Code, as added by House Bill 1606, Acts of the 78th Legislature, Regular Session, 2003, during the fiscal biennium beginning September 1, 2003. The bill appropriates the revenue in an amount not to exceed \$267,400 to the commission for the purpose of developing and implementing the electronic filing system for lobbyists.

House Bill 3378

Effective: 6-16-03

House Author: Hope

Senate Sponsor: Shapleigh

House Bill 3378 provides that the amounts of funds required by statute for entities that receive state funds under Article VIII of the General Appropriations Act may be reduced or eliminated in order to achieve a balanced budget. The bill makes changes in the statutes for regulatory agencies covered under Article VIII, including the Texas Workers' Compensation Commission, Public Utility Commission, Texas Department of Banking, and Texas Department of Insurance, to conform to 2004-2005 appropriations levels.

House Bill 3442

Effective: See below

House Author: Pickett

Senate Sponsor: Averitt

House Bill 3442 enacts or amends various measures relating to certain expenditures, charges, and other financial matters of certain governmental entities. The bill authorizes the natural resources agencies funded under Article VI of the General Appropriations Act to reduce or recover expenditures through certain administrative and licensing efficiency measures,

changes in program eligibility requirements, and outsourcing. The bill repeals the chapter in the Occupations Code that regulated equine riding stables and requires the Texas Animal Health Commission to reduce all related expenditures. It amends the Utilities Code to allow administrative hearings in contested utility cases to be conducted by members of the railroad commission or by railroad commission hearings examiners, and it allows the State Office of Administrative Hearings to charge the commission an annual rate for hearings conducted by the office or an hourly rate if no appropriation is made for the annual rate.

House Bill 3442 amends the Agriculture Code to allow the Texas Department of Agriculture to use a portion of any fees collected for processing animals transported in international trade to maintain or repair the department's export-import processing facilities. The bill allows the Texas Animal Health Commission to charge a fee for an inspection to be used to prevent communicable diseases among livestock, fowl, and other animals. It extends the interval between mandatory inspection and testing of weights or measures for correctness by a sealer from three to four years.

House Bill 3442 amends the Water Code to limit to \$75 the fee for processing an expedited letter from the Texas Commission on Environmental Quality stating the total depth of surface casing needed when drilling wells to protect usable ground waters in the state. The bill makes the reimbursement from the petroleum storage tank remediation account to the owner or operator of a petroleum storage tank system contingent on the availability of sufficient funds.

House Bill 3442 amends the Parks and Wildlife Code to require the deposit of vessel and outboard motor titling fees into the game, fish, and water safety account. It requires the Parks and Wildlife Department on a monthly basis to transfer to the state parks account 15 percent of all fees collected for vessel registration, manufacturer or dealer licensing, and titling. It exempts a vessel that is numbered and documented by the United States Coast Guard from the state requirement regulating the size and placement of a vessel identification number.

House Bill 3442 requires a dealer, distributor, or manufacturer of a vessel or outboard motor to be licensed and issued a number by the department. The bill sets the fee for a number at \$500, sets the license term at two years, and allows the license to be transferred under certain restricted circumstances. The bill exempts from dealer licensing regulations the sale of outboard motors with a five horsepower or less rating, nonmotorized vessels, and certain other vessels less than 12 feet in length with a five horsepower or less rating.

House Bill 3442 removes the issuance of a marine document by the Bureau of Customs as a cause for canceling and voiding a certificate of number for the same vessel. The bill allows an applicant for a certificate of title to appeal the department's refusal to issue the certificate by filing a bond, provides that the bond expires after three years, and requires the department to return an expired bond and to issue a certificate of title on return of the expired bond; it also allows the department to define situations in which a certificate of title may be issued after the filing of a bond. A person who is not licensed as a dealer, distributor, or manufacturer must obtain a certificate of number or title before the number or title may be transferred.

House Bill 3442 repeals Subchapters N and Q, Chapter 43, Parks and Wildlife Code, relating to the freshwater trout stamp and the muzzleloader hunting stamp, and it adds a new chapter creating the freshwater fishing stamp, requiring that net receipts from stamp fees be used for freshwater fish hatcheries or the stocking of game fish in public waters, and establishing a Class C misdemeanor offense for fishing in fresh waters without a freshwater fishing stamp. These provisions, which take effect September 1, 2004, expire September 1, 2014.

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House Bill 3442 transfers the powers and duties of the Railroad Commission of Texas regarding quarry and pit safety and commission employees whose primary duties relate to quarry and pit safety to the Texas Department of Transportation. The bill requires the commission to adopt a system of fees to be assessed annually against railroads and operators of natural gas distribution pipelines and natural gas master metered pipelines, with fee revenues to be used for the rail safety program and the pipeline safety program, respectively.

House Bill 3442 amends the Agriculture Code to add two gubernatorial appointees to the State Soil and Water Conservation Board. It requires the board to file a semiannual report with the governor and the legislature's presiding officers on the board's budget areas of responsibility and oversight of water conservation districts. The bill requires the state auditor to conduct a management audit and an evaluation of the board's administrative budget and to file the report with the governor and the legislature's presiding officers not later than March 1, 2004.

The bill also requires the board to administer the brush control program with the assistance of local soil and water conservation districts and to consult with the Texas Department of Agriculture and the Texas Water Development Board on the effects of the program on agriculture and on water quantity. It requires the board, in ranking areas in need of a brush control program, to consider, among other established criteria, the amount of water produced by a project and the severity of water shortage in those areas; it also deletes provisions relating to the designation of critical needs areas. House Bill 3442 amends various provisions relating to cost-sharing participation by the state in a joint brush control project.

House Bill 3442 amends the Occupations Code to increase the fee for the issuance or renewal of a certificate of registration for a landscape architect, interior designer, land surveyor, or property tax consultant by \$200. Of each fee increase collected, \$50 must be deposited in the foundation school fund and \$150 must be deposited in the general revenue fund.

House Bill 3442 amends the Government Code to require a state agency with 500 or more full-time equivalent employees to adjust its human resources employee-to-staff ratio to not more than one human resources employee for every 85 staff members. The bill requires the State Council on Competitive Government to conduct a feasibility study to determine the cost-effectiveness of consolidating or contracting for the human resources functions of smaller state agencies. The bill requires the larger agencies to comply not later than January 1, 2004.

House Bill 3442 amends the Government Code to set the manager-to-staff ratio for state executive agencies that employ more than 100 full-time employees as follows: not later than March 31, 2004, achieve a manager-to-staff ratio of not more than 1 to 8; not later than August 31, 2005, achieve a manager-to-staff ratio of not more than 1 to 9; not later than August 31, 2006, achieve a manager-to-staff ratio of not more than 1 to 10; and not later than August 31, 2007, achieve a manager-to-staff ratio of not more than 1 to 11. House Bill 3442 allows any state agency to offer a one-time recruitment or retention payment of up to \$5,000 for new hires or current employees in certain classified positions, under certain conditions.

House Bill 3442 amends the Natural Resources Code to provide that the oil-field cleanup regulatory fees on oil and gas are in addition to and independent of any liability for the taxes imposed for oil or gas production and that the oil and gas tax exemptions and reductions in certain Tax Code provisions do not affect the imposition of the cleanup regulatory fees.

House Bill 3442 amends provisions of the Water Code to authorize the Water Development Board to establish a linked deposit program for loans from the state water pollution control revolving fund to persons for nonpoint source pollution control projects. It requires project certification by the director of the local soil and water conservation district, requires the board to monitor compliance with program requirements, and limits the amount of a program loan to

\$250,000. The bill also establishes a similar linked deposit program for loans from the agricultural water conservation fund for loans to persons for water conservation projects, with similar compliance monitoring and loan amount limits but without local certification required. The bill authorizes the board, for the purpose of enhancing the marketability, security, or creditworthiness of water financial assistance bonds, to enter into bond enhancement agreements.

House Bill 3442 specifies the composition and uses of the agricultural water conservation fund. The bill amends provisions relating to the board's approval of an application by a state agency or political subdivision for a grant or a loan for a conservation program or conservation project, the method of financing a loan or grant for a political subdivision, the default of a loan or grant, and the court of venue for hearing related proceedings.

House Bill 3442 amends the boundaries of the Hudspeth County Underground Water Conservation District No. 1. Except as otherwise provided, House Bill 3442 takes effect September 1, 2003.

House Bill 3459

Effective: See below

House Author: Pitts et al.

Senate Sponsor: Bivins

House Bill 3459 relates to fiscal matters involving certain governmental educational entities funded under Article III of the General Appropriations Act. Among other provisions, the bill repeals the school finance system established by Section 45.002 and Chapters 41, 42, and 46, Education Code, effective September 1, 2004, provided that the legislature has enacted a new school finance system. It sets forth new provisions establishing limitations on compliance monitoring by the Texas Education Agency and on the reports required to be written by teachers, allowing two or more school districts to merge under a local consolidation agreement that specifies the terms and conditions of the consolidation and the governance of the resulting district, and providing for a rehearing by the commissioner of education after a hearing on a proposed teacher termination or probation. House Bill 3459 establishes a classroom supply reimbursement program to reimburse teachers who expend personal funds on classroom supplies, but makes its implementation contingent on legislative appropriations or the availability of other state or federal funds.

House Bill 3459 moves provisions relating to the \$30 per-student allotments for electronic books and technological equipment from the chapter on textbooks funded through the state textbook fund to a new section on technology allotment in the chapter on computers and related equipment, whereby the allotment may be paid from the telecommunications infrastructure fund, the available school fund, or another fund identified in the General Appropriations Act. The bill authorizes, rather than requires, the agency to maintain and expand the telecommunications capabilities of school districts and regional education service centers. The bill raises the cap on the total amount of assessments that may be deposited in the telecommunications infrastructure fund from \$1.5 billion to \$1.75 billion.

House Bill 3459 amends public school district system accountability provisions and requires the commissioner to develop a process for auditing school district dropout records electronically and a risk-based system of identifying districts that are at high risk of having inaccurate records. The bill allows the use of compensatory education allotments for certain programs at campuses with lower levels of educationally disadvantaged students, and it requires electronic management of the reporting of allotment expenditures and development of a risk-based system of identifying districts at high risk of noncompliance or inadequate reporting. It provides for a temporary reduction in the total funding for compensatory education allotments and a corresponding reduction of each district's tier one allotments, and it decreases the program weight used to determine a district's career and technology education allotment.

Appropriations

House Bill 3459 allows the commissioner to readjust each district's cost of education adjustment according to the availability of funds in the foundation school fund and to rank districts based on their relative increases if the amount available is insufficient to fund every district's revised adjustment; it also revises the scheduled payment date for the final annual payment from the foundation school fund to category two and three school districts. The bill requires accrued income from investments of the permanent school fund to be deposited in the available school fund in accordance with the accrual basis of accounting. It directs the commissioner to reduce the \$35 guaranteed level of state and local support per student per cent of tax effort for newly eligible debt if appropriations to support newly eligible bonds are not sufficient to provide the state aid entitled to school districts. Notwithstanding any conflicting provision of the General Appropriations Act, House Bill 3459 establishes the guaranteed yield level of state and local funds per weighted student per cent of tax effort at \$27.14.

House Bill 3459 amends the Government Code to provide that an employee of the public school system is not a member of the teacher retirement system until the 91st day after the first day the person is employed. It sets forth provisions that allow a member to purchase service credits, including membership service credit for service performed during the 90-day waiting period. The bill requires the total value of eligible security used as collateral to secure a deposit of public funds of a school district to be not less than 110 percent of the amount of the deposit. House Bill 3459 amends the Insurance Code to establish open enrollment, special enrollment, and additional enrollment periods for benefits coverage for a retiree eligible under the Texas public school employees group benefits program and to prohibit the Teacher Retirement System of Texas from providing a health benefit plan that excludes in the participation network certain general hospitals located in the Texas-Louisiana border region.

House Bill 3459 requires the state to cover part of the cost of a health care plan for an employee, surviving spouse, and surviving dependent child, as prescribed by the General Appropriations Act. The bill increases the state's contribution to the public school employees group insurance fund from 0.5 percent to 1 percent of the salary of each active employee, and it increases an employee's contribution from 0.25 percent to 0.5 percent of the employee's salary. The bill also requires each public school to make monthly contributions to the fund in an amount that is not less than 0.25 percent or greater than 0.75 percent of the salary of each active employee of the public school. The allocation of the total cost for the group insurance program is shared by the state, at not more than 55 percent, by retirees, at not less than 30 percent, and by active employees and public schools, which must pay the balance. House Bill 3459 amends the method for determining the amount of state funds that the trustee of the teacher retirement system must send to each school district, educational district, charter school, and regional education service center.

House Bill 3459 authorizes the Texas Lottery Commission to participate in a multijurisdiction lottery game or games with one or more states or with a foreign country. The bill abolishes the Texas Veterinary Medical Diagnostic Laboratory effective September 1, 2007.

House Bill 3459 requires the comptroller to transfer \$42 million from the Texas school employees uniform group coverage trust fund to the retired school employees group insurance fund on September 1, 2003. It allows the commissioner of education to take not more than \$20 million of the amounts initially appropriated to the Texas Education Agency for the purpose of the existing debt assistance program and to use that money for purposes of the instructional facilities allotment. The bill requires the comptroller to contract for a comprehensive audit of regional education service centers and to submit the report to the legislature not later than June 1, 2004.

House Bill 3459 takes effect September 1, 2003, except for provisions relating to textbooks, technology allotments, the treatment of accrued income from investments of the permanent school fund, and the total amount that may be credited to the telecommunications infrastructure fund, which take effect June 10, 2003.

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

HB 425 - State Government

HB 3175 - State Government

SB 1382 - Occupational Regulation

SB 1439 - Economic Development

Business and Commerce

This chapter covers legislation on issues relating to business and commerce, including business organization, regulation, and transactions, and consumer protection. Bills relating to business incentives are in the **Economic Development** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

Business Organization

House Bill 904

Effective: 9-1-03

House Author: Mowery

Senate Sponsor: Brimer

House Bill 904 amends the Health and Safety Code to exempt a nonprofit cemetery corporation that was formed before September 1, 1963, under Article 1302, Revised Statutes, and that has no capital stock from a provision establishing the shareholder rights of a person who purchases a plot from a nonprofit cemetery corporation or owns a plot in a cemetery operated by a nonprofit corporation.

House Bill 1156

Effective: 1-1-06

House Author: Giddings et al.

Senate Sponsor: Fraser

House Bill 1156 enacts the Business Organizations Code by combining numerous statutes that govern the formation of for-profit and nonprofit private sector entities. Title 1 of the code contains provisions commonly applicable, while other titles contain provisions specific to each type of entity such as a corporation, limited liability company, and partnership. Largely a nonsubstantive codification, the bill standardizes, and in some cases increases, filing fees and eliminates the provision requiring a corporation or real estate investment trust to have a stated capital of \$1,000 at the time of beginning business. The bill also allows foreign business entities to register to do business in Texas as the type of entity they represent and extends liability to all entity types.

House Bill 1165

Effective: 9-1-03

House Author: Solomons et al.

Senate Sponsor: Janek

House Bill 1165 amends the Texas Business Corporation Act to reflect technology changes and to ease requirements for filing certain documents with the Office of the Secretary of State. The bill authorizes the use of electronic transmission of documents between a corporation and its shareholders for granting proxies, providing notice of shareholder meetings, voting on corporate actions, and other purposes; however, electronic notice of meetings and electronic voting can only be used with the consent of shareholders and directors. The bill eliminates requirements to submit certain ancillary or evidential information to the secretary of state regarding amendments to a corporation's articles of incorporation and cancellation of shares and changes to stated capital. Requirements for filing an application for a certificate of authority by a foreign corporation also are revised by eliminating the need to submit details about capital structures, to meet minimum capitalization thresholds, and to submit a certificate of original incorporation. The bill makes several changes to merger provisions, including authorizing a plan of merger or exchange, including a provision requiring it to be submitted to shareholders even if the board of directors deems that the plan is not advisable and recommends that the shareholders reject it. Regarding shareholders' rights, the bill provides that shareholders have the preemptive right to purchase their pro rata share of any newly issued stock and to

accumulate their votes in the election of directors only if the rights are specifically set forth in the articles of incorporation. The bill updates procedures related to approval of indemnification of current or former directors, officers, or employees in certain proceedings, subscriptions for shares, and receipt of stock rights and stock options, and it permits a board of directors to amend the terms of or delete an unissued series of shares. It expands the types of legal entities that may act as a registered agent for a corporation to include a limited liability company or a limited partnership, and it eliminates certain provisions relating to minimum capitalization before the start of business to conform to the Revised Model Business Corporation Act.

The bill amends the Texas Non-Profit Corporation Act to remove an organization with charitable activities that relate to conservation and protection of wildlife, fisheries, and natural resources from the list of entities that are exempted from making financial activities available for public inspection, and it authorizes the secretary of state to reactivate a nonprofit corporation when there is a court-ordered revocation of articles of dissolution. The bill amends the Texas Miscellaneous Corporation Laws Act to repeal certain obsolete provisions.

House Bill 1637

Effective: 9-1-03

House Author: Oliveira et al.

Senate Sponsor: Averitt

House Bill 1637 amends provisions of the Texas Limited Liability Company Act, the Texas Revised Limited Partnership Act, the Texas Revised Partnership Act, and the Government Code regarding the formation, organization, management, and documentation of limited liability companies (LLCs). The bill clarifies when an action is considered effective by a vote of the LLC members, when an LLC may issue a membership interest in the company, and how to allocate profits and losses if a procedure is not prescribed in the LLC regulations. The bill eliminates the provision requiring an LLC to be dissolved upon the death, expulsion, withdrawal, bankruptcy, or dissolution of a member and instead requires the LLC's dissolution under any event that terminates the last remaining member's membership; it also provides that an LLC is not dissolved if the legal representative or successor of the last remaining member agrees to continue the company and to become a member, or designates another person as a member, within a certain time frame. It sets forth procedures for revoking voluntary dissolution proceedings within the 120-day period after the issuance of a certificate of dissolution by the secretary of state.

The bill exempts a foreign LLC that is not characterized as such under the laws of the jurisdiction where it was formed but that is applying for a certificate of authority in this state from the requirement to indicate in the company name that the company is an LLC, and it deletes a provision that required a foreign LLC to provide with its application a certificate from the company's jurisdiction of formation evidencing the company's existence, requiring instead that the company include a statement in the application that the company exists as a valid entity under the laws of its jurisdiction of formation.

The bill allows a person, if provided in a written partnership agreement, to be admitted as a general partner in a limited partnership, including as the sole general partner, and acquire a partnership interest without making a contribution or assuming an obligation to make a contribution to the limited partnership. A person also may be admitted as a general partner or sole general partner without acquiring a partnership interest if the partnership agreement provides for admission under that condition. The bill clarifies that an event of withdrawal of a partner occurs on the partner's expulsion by a judicial decree for wrongful conduct or other cause, rather than on the partnership's application for the decree. Finally, the bill requires the secretary of state to permanently maintain as a public record, in any appropriate format, filings related to the organization of business entities in this state.

Senate Bill 667

Effective: 5-20-03

Senate Author: Ogden

House Sponsor: Krusee

Senate Bill 667 amends the Health and Safety Code to allow a corporation a limited exception to establish or use a cemetery within two miles of the boundary of a municipality that has a population of at least 27,000 and not more than 30,000 and that is located in a county with a population of at least 245,000 and not more than 250,000, if the corporation applies in writing to the municipality's governing body and the municipality determines that a corporation's establishment of the cemetery will not adversely affect public health, safety, and welfare.

Senate Bill 1532

Effective: 9-1-03

Senate Author: Brimer

House Sponsor: Marchant

Senate Bill 1532 amends Business & Commerce Code provisions relating to trademarks and service marks to delete the statutory listing of classes of goods and services used for registration of such marks and instead authorizes the secretary of state to adopt rules establishing a classification system. It allows the electronic filing of trademark registration renewal applications and other specified instruments, and amends provisions relating to the secretary of state's acknowledgments and certificates regarding those instruments. The bill allows the secretary of state to accept, as an original instrument, a photographic, photostatic, facsimile, or similar reproduction of a signed instrument.

Business Regulation

House Bill 155

Effective: 9-1-03

House Author: G. West et al.

Senate Sponsor: Whitmire

House Bill 155 amends the Business & Commerce Code to prohibit a sex offender from owning or serving as a director, officer, operator, manager, or employee of a sexually oriented business. The bill makes it a Class A misdemeanor for a sex offender or a sexually oriented business to violate the prohibition, and authorizes the attorney general or the appropriate district or county attorney to bring an action for an injunction against the person in violation.

House Bill 1615

Effective: 9-1-03

House Author: Farabee

Senate Sponsor: Fraser

House Bill 1615 amends the Health and Safety Code to require the commissioner of licensing and regulation, on written request from a building owner, to grant the owner a delay until September 1, 2010, rather than September 1, 2005, to comply with requirements relating to mechanical engineering standards for door restrictors or firefighter's service for an elevator, escalator, or related equipment if those requirements were not in the mechanical engineering standard in effect on the date the equipment was installed and if door restrictors or firefighter's service were not subsequently installed.

House Bill 3139

Effective: 9-1-03

House Author: Wilson

Senate Sponsor: Lucio

House Bill 3139 amends the Health and Safety Code to establish procedures and requirements for the sale of cigarettes ordered by phone, through the Internet, or by using the mail or another delivery service and the delivery of the cigarettes using the mail or another delivery service. The bill requires a person taking orders for the sale and delivery of cigarettes to verify the age of the purchaser, to provide to the purchaser disclosure statements that sales to underaged

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individuals are illegal sales and that cigarette sales are taxable, and to ship and deliver the product using a method that requires confirmation that the person who places the order for delivery or who signs to accept the delivery is at least 18 years of age. It requires a person who sells cigarettes for delivery to be registered with the comptroller, to collect and remit sales taxes to the comptroller, and to provide the comptroller with monthly reports on the purchaser and the brand and quantity of cigarettes sold. House Bill 3139 creates misdemeanor and felony offenses and establishes penalties for violations of these provisions.

Senate Bill 416

Effective: 9-1-03

Senate Author: Harris

House Sponsor: Flores

Senate Bill 416 amends the Health and Safety Code to replace the requirement that a member of the Board of Boiler Rules be a mechanical engineer or engineering professor with a requirement that a member represent organizations that repair or alter boilers. The bill increases the permissible extension of the interval between internal inspections from 48 to 60 months for a power boiler and from 84 to 120 months for steam collection or liberation drums of process steam generators. The bill clarifies that a further emergency extension may be granted and prohibits the granting of more than one such extension per interval between internal inspections.

Senate Bill 597

Effective: 9-1-03

Senate Author: Duncan

House Sponsor: Pitts et al.

Senate Bill 597 amends the Occupations Code to transfer the regulation of for-profit legal service contract companies from the Texas Department of Insurance (TDI) to the Texas Department of Licensing and Regulation (TDLR) and to exempt those companies from Texas insurance law, with certain exceptions. The bill establishes registration requirements for a legal service contract company and a tiered schedule of annual registration fees and provides that certain company information supplied to TDLR is a trade secret. The bill sets out financial security requirements to ensure the performance of a company's obligations to its legal service contract holders, and it authorizes the state to sue the company on behalf of a legal service contract holder who is injured by a violation committed by the company.

The bill specifies the services that a legal service contract company may and may not perform, establishes qualifications and other requirements for a contracting attorney, and sets out recordkeeping criteria. It requires a company's legal service contract to contain certain information, and it requires a copy of the contract to be filed with the executive director before it is marketed, sold, or issued. The bill requires an insurer that provides prepaid legal service contracts to notify TDI of the transfer of the regulation of those contracts to TDLR, and it prohibits the insurer from issuing or renewing such a contract under the Insurance Code after March 1, 2004. It authorizes TDI and TDLR to enter into a memorandum of understanding for a transition plan to transfer regulation of legal service contracts from TDI to TDLR.

Business Transactions

House Bill 208

Effective: 9-1-03

House Author: Puente

Senate Sponsor: Lucio

House Bill 208 amends the Property Code to authorize a person who performs labor as part of, or who furnishes labor or materials for, the demolition of a structure on real property under or by virtue of a written contract with the owner of the property or the owner's agent, trustee, receiver, contractor, or subcontractor to obtain a mechanic's lien on the property in the event of nonpayment.

House Bill 276

Effective: 9-1-03

House Author: Goodman

Senate Sponsor: Brimer

House Bill 276 amends the Business & Commerce Code to authorize a court to award costs and reasonable attorney's fees incurred in an action against a fraudulent transfer under the Uniform Fraudulent Transfer Act.

House Bill 1394

Effective: 9-1-03

House Author: Elkins et al.

Senate Sponsor: Williams

House Bill 1394 amends the Business & Commerce Code to make mostly technical and structural changes to Chapter 1 of the Uniform Commercial Code (UCC) dealing with general provisions and statutory definitions that apply to all commercial transactions. The bill adds definitions for the terms "consumer," "present value," "record," and "state," and it expands the definition of "good faith" to include the observance of reasonable commercial standards of fair dealing in all transactions. The bill also deletes definitions or parts of definitions relating to "notice" and "knowledge of facts," whether a transaction in the form of a lease creates a security interest, and the acquisition of "value," and it transfers those provisions to separate sections in the chapter. The bill also sets forth when parties can choose applicable law in this state or another state for their contracts and establishes the circumstances under which a course of performance constitutes an agreement of the parties with respect to a transaction. The bill repeals a provision relating to the statute of frauds for kinds of personal property not otherwise covered by the UCC.

House Bill 1840

Effective: 6-20-03

House Author: Solomons et al.

Senate Sponsor: Janek

House Bill 1840 amends The Securities Act to authorize the State Securities Board to increase certain filing fees so that the aggregate amount that exceeds the amount of the fees as of September 1, 2002, produces sufficient revenue to cover the costs of administering and enforcing the provisions of that Act. The fees, which may not exceed \$100 each, are those assessed for filing: (1) an application, renewal, or amendment to sell or dispose of securities; (2) an original or renewal application from a dealer or investment adviser; and (3) an original or renewal application from an agent, officer, or investment adviser representative.

House Bill 3414

Effective: 1-1-04

House Author: Marchant

Senate Sponsor: Brimer

House Bill 3414 amends Uniform Commercial Code (UCC) provisions relating to secured transactions to require that financing statements and other written records be filed on an industry standard form, including a national standard form or a form approved by the International Association of Commercial Administrators, adopted by rule of the Texas secretary of state. The bill deletes from the law the pictorial representations of the UCC financing statement form and associated addendum, amendment, and amendment addendum forms.

Senate Bill 876

Effective: 6-20-03

Senate Author: Duncan

House Sponsor: Hill

Senate Bill 876 amends the Government Code to establish that a commission on a public security with a limited principal amount that is resold by the initial purchaser is not regarded as proceeds of the issuer that are calculated to determine whether the principal amount of the public security being sold exceeds the authorized limit if the commission constitutes all or part of the initial purchaser's compensation.

Senate Bill 995

Effective: 9-1-03

Senate Author: Williams

House Sponsor: Solomons

Senate Bill 995 amends the Business & Commerce Code to clarify Uniform Commercial Code provisions relating to secured transactions. The bill redefines “agricultural lien” to include a security interest in farm products and redefines “health care insurance receivable” to include an interest in or a right to payment of a monetary obligation for health care goods or services to be provided at a future date. The bill clarifies that, for purposes of determining a bank’s jurisdiction with regard to perfection and priority of security interests in deposit accounts, an agreement governing a deposit account is between the bank and its customer, rather than the debtor. The bill provides that the sale of an account that is a right to payment of winnings in a lottery or other game of chance creates a perfected security interest, and it specifies that a record of a mortgage that is effective as a financing statement covering as-extracted collateral or timber to be cut remains effective until the mortgage is released or its effectiveness otherwise terminates as to the real property.

Consumer Protection

House Bill 470

Effective: 9-1-03

House Author: Hochberg et al.

Senate Sponsor: Carona

House Bill 470 amends the Business & Commerce Code to make it an offense to sell halal and nonhalal meat in the same store if the meat is not clearly labeled so as to distinguish between halal and nonhalal meat. The bill also makes it an offense to knowingly or intentionally sell food at a restaurant or retail store that is falsely represented as halal food. An offense is punishable by the fine imposed for deceptive advertising. The bill authorizes an aggrieved consumer to maintain a cause of action for damages in accordance with the Deceptive Trade Practices Act.

House Bill 1053

Effective: Vetoed

House Author: Rodriguez et al.

Senate Sponsor: R. Ellis

House Bill 1053 adds a chapter to the Civil Practice and Remedies Code to protect the confidentiality of social security numbers with regard to activities in the nongovernmental sector. A social security number may not be displayed publicly, printed on a card required for access to products or services, required to be transmitted over the Internet except via encryption or a secure connection, or required to access a website unless a password or unique identification number or other authentication device is also required. It may not be printed on materials mailed to an individual, except for certain documents that confirm the accuracy of the number, involve an application or enrollment, or relate to the establishment, amendment, or termination of an account, contract, or policy. The bill exempts from the chapter various uses, documents, and circumstances that are required by state or federal law and uses that are applicable to internal verification or administrative purposes. Prohibited uses that precede the bill’s effective date may continue if uninterrupted and if the individual whose social security number is being used is provided with an annual disclosure that informs him or her of the right to stop the use. Compliance with a request from the individual to stop the use is mandatory. The bill prohibits charging a fee for the stoppage and prohibits denial of products and services to an individual because of a stoppage request.

Reason Given for Veto: "I support the intent of House Bill No. 1053 to prevent identity theft by protecting the confidentiality of Social Security numbers. However, this bill conflicts with Senate Bill No. 473, which I have signed and which addresses the confidentiality of Social Security numbers in a more comprehensive manner."

House Bill 1282

Effective: 9-1-03

House Author: McCall et al.

Senate Sponsor: Duncan

House Bill 1282 amends the Business & Commerce Code to regulate commercial electronic mail. The bill prohibits a person from intentionally transmitting a commercial electronic message that falsifies the routing information of the message, contains deceptive or misleading information in the subject line, or uses the domain name of another person without that person's consent. The bill requires unsolicited electronic mail messages to include certain words or letters in the subject line, depending on the message content, and to provide a return address to which the recipient could, at no cost, request removal from the sender's electronic mail list. The penalty for failing to properly identify a sexually explicit or obscene electronic mail transmission is a Class B misdemeanor; all other violations are subject to a civil penalty of \$10 for each unlawful message or \$25,000 for each day an unlawful message is received, whichever is less. The attorney general or local prosecuting attorney is authorized to bring suit to recover the civil penalty and to seek an injunction to prevent or restrain a violation. The bill also establishes that a message sent in violation of this statute constitutes a deceptive trade practice and authorizes a person injured by a violation to sue for damages, including lost profits, or, in lieu of actual damages, the amount of the civil penalty. An electronic mail service provider is also authorized to sue for the amount of the civil penalty. The bill requires a person who sues under the civil liability provisions to give notice of the action to the attorney general within certain time frames and makes failure to do so subject to a civil penalty of up to \$200. The attorney general is authorized to intervene in the action by filing a notice of intervention with the court, and the court is authorized to conduct legal proceedings in such a manner as to protect the secrecy and security of computers, networks, data, programs, and software. The bill authorizes an electronic mail provider to block the receipt or transmission of prohibited messages and establishes that a provider or telecommunications utility is not in violation if the provider or utility is solely an intermediary between a sender and a receiver. A sender is not in violation if the sender contracts in good faith with an electronic mail service provider.

House Bill 2040

Effective: 6-20-03

House Author: Marchant

Senate Sponsor: R. Ellis

House Bill 2040 amends the Government Code to authorize the attorney general's office, the Texas Department of Insurance, the Texas State Board of Public Accountancy, the Public Utility Commission of Texas, and the State Securities Board to share confidential or restricted information for investigative purposes relating to the possible commission of corporate fraud by a person who is licensed or regulated by one of the five agencies. Sharing may occur at the initiative of one agency or the request of another. The bill contains provisions relating to the confidentiality and security of the information and limitations on its disclosure.

House Bill 2138

Effective: 9-1-03

House Author: Hopson

Senate Sponsor: Hinojosa

House Bill 2138 amends the Business & Commerce Code to establish that a person commits identity theft, designated as a Class B misdemeanor, by using a scanning device or a re-encoder to access, read, scan, store, or transfer information encoded on the magnetic strip of

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a credit card, debit card, or certain other type of payment card without the consent of an authorized user of the card and with the intent to harm or defraud another person. The bill adds scanning devices and re-encoders to the definition of “contraband”; any proceeds gained through the use of the devices or property acquired with those proceeds is also defined as contraband.

House Bill 2240

Effective: 1-1-04

House Author: Paxton

Senate Sponsor: Harris

House Bill 2240 enacts the Uniform Prudent Investor Act, which is based on the national act promulgated in 1994. The bill establishes the prudent investor rule, which provides that a trustee’s actions be judged based on what a prudent investor would do under certain circumstances and requires the performance of individual trust assets to be evaluated based on the performance of the trust portfolio as a whole and as part of an overall investment strategy. It requires diversification of investments unless the purposes of the trust are better served without diversifying; authorizes a trustee to delegate investment and management functions to an agent; and releases the trustee from liability for the actions or decisions of that agent.

House Bill 2248

Effective: 9-1-03

House Author: Denny

Senate Sponsor: Armbrister

House Bill 2248 amends the Penal Code to add that fraudulent use of a debit card to obtain property or services is a state jail felony. An offense also is committed if a person uses a debit card that is forged, expired, or revoked or if, with the intent to defraud the card issuer or the cardholder, the person furnishes or fails to furnish certain goods or services on presentation of such a card. The bill expands the definition of “debit card” to include a device authorizing a designated person to obtain property or services by debit to an account at a financial institution and expands the definition of “identifying information” to include an individual’s financial institution account number.

House Bill 2382

Effective: 9-1-03

House Author: Hegar

Senate Sponsor: Averitt

The Agriculture Code provides for periodic inspection of scales, measures, weights, and beams, as well as instruments, devices, and appliances for weighing or measuring, that are sold or employed commercially. House Bill 2382 amends the code to reduce the inspection frequency from at least once every three years to at least once every four years.

House Bill 2409

Effective: 9-1-03

House Author: Solomons

Senate Sponsor: Brimer

House Bill 2409 amends the Business & Commerce Code to require a check verifier to disclose in writing to a consumer, after the consumer has submitted a request and proper identification, all information pertaining to that consumer that is in the check verifier’s files at the time of the request. The bill requires the disclosed information to include: (1) the criteria used by the check verifier to reject a check from the consumer; (2) a set of instructions describing how information is presented on the written disclosure of the consumer file; and (3) a toll-free number at which personnel are available during normal business hours to help the consumer resolve a dispute after submitting such dispute in writing to the check verifier. If the check verifier has rejected a check from the consumer during the 30 days prior to the consumer’s request for information, the bill prohibits the check verifier from charging the consumer for the disclosure; otherwise the consumer can be charged an amount not to exceed \$8.

Senate Bill 235**Effective:** 9-1-03**Senate Author:** Fraser et al.**House Sponsor:** McCall

Senate Bill 235 amends the Business & Commerce Code to prohibit a person accepting a credit or debit card for the transaction of business from printing more than the last four digits of the credit or debit card account number or the month and year of the card's expiration date on a receipt. The bill makes a person who violates this provision liable to the state for a civil penalty of not more than \$500 for each calendar month during which the violation occurs and authorizes the attorney general or the local county prosecuting attorney to bring suit to recover the civil penalty. The bill also authorizes the attorney general to bring an action to restrain a person from violating the provision. It requires a person who provides, leases, or sells a machine used to print receipts to provide notice to the machine's recipient, lessee, or buyer of the requirements. The bill does not apply to handwritten or imprinted receipts, and a cash register or other receipt printing machine in use before September 1, 2003, is exempt until December 31, 2005.

Senate Bill 378**Effective:** 9-1-03**Senate Author:** Armbrister**House Sponsor:** Kolkhorst

Senate Bill 378 amends the Business & Commerce Code to prohibit a floral business from misrepresenting its geographic location in any listing of the business in a telephone directory or other directory assistance database. The bill requires such a business to include in its listing conspicuous notice of the municipality and state in which it is located if its name indicates a geographic location that is different from the geographical area in which the business is located. It establishes that a violation is a false, misleading, or deceptive act or practice subject to remedy under the Deceptive Trade Practices Act. It specifies that the prohibition does not apply to a telephone directory publisher or directory assistance provider and creates no duty and imposes no obligation on anyone other than the business that is the subject of the advertisement or listing.

Senate Bill 473**Effective:** See below**Senate Author:** R. Ellis et al.**House Sponsor:** Giddings

Senate Bill 473 amends the Business & Commerce Code to require a consumer reporting agency, on a request in writing or by telephone and with proper identification provided by a consumer, to place a notice, or security alert, on the requester's consumer file alerting a recipient of a consumer report involving that file that the consumer's identity may have been used without the consumer's consent to fraudulently obtain goods or services. A person who receives notice of a security alert in connection with a request for a consumer report for approval of a credit-based application is prohibited from lending money, extending credit, or authorizing an application without taking reasonable steps to verify the consumer's identity. The bill requires a consumer reporting agency to place the security alert within 24 hours after receiving the request and to maintain the alert for at least 45 days. At the end of the 45-day period the consumer may request a copy of the consumer's file. The bill also requires a consumer reporting agency, if the request from a consumer includes certain information, to place a notice, or security freeze, on a consumer file that prohibits a consumer reporting agency from releasing a consumer report relating to the extension of credit involving that consumer file without the express authorization of the consumer. The agency is required to place the security freeze and send a written confirmation to the consumer within certain time periods. The bill sets forth requirements for removing or temporarily lifting a security freeze,

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and provides for certain exemptions to a security freeze such as a consumer report provided to a state or local governmental entity. It also authorizes the attorney general to file suit for injunctive relief or a civil penalty of up to \$2,000 per violation. It amends the Occupations Code to provide for identity theft education and training of law enforcement officers.

Senate Bill 473 also provides for the confidentiality of social security numbers by prohibiting a person, other than government or a governmental subdivision or agency, from taking certain actions, including intentionally communicating or otherwise making available to the general public an individual's social security number or requiring such number to access a product or service. It also provides that a person using an individual's social security number in a prohibited manner before January 1, 2005, may continue that use if the use is continuous and the person provides annual disclosure to the individual stating that on written request the person will cease to use the individual's social security number in that manner. The bill makes exceptions for court records and certain other uses of a social security number.

Senate Bill 473 takes effect September 1, 2003, except for provisions relating to confidentiality of social security numbers, which take effect January 1, 2005.

Senate Bill 533

Effective: 9-1-03

Senate Author: Carona

House Sponsor: Elkins

Senate Bill 533 amends the Finance Code to require a third-party debt collector to make a written record of a dispute relating to the accuracy of a debt it is attempting to collect and adds to the procedures to be followed in such disputes. The bill deletes numerous references to credit bureaus, which are now principally regulated under the Business & Commerce Code.

Senate Bill 533 amends the Business & Commerce Code regarding disputed information that is found to be inaccurate or that cannot be verified after a reinvestigation by requiring a revised consumer report to be provided to each person who requested the consumer's report in the previous six months; prior law required the provision of such information only on the request of the consumer.

Senate Bill 611

Effective: 3-1-05

Senate Author: Nelson et al.

House Sponsor: McCall et al.

Senate Bill 611 amends the Business & Commerce Code to prohibit, with certain exceptions, a person from printing an individual's social security number on a card or other device required to access a product or service unless the individual has requested the printing in writing and to prohibit a person from requiring a request for such printing as a condition of receiving or accessing a product or service. The bill provides that a person who violates the provisions is liable for a civil penalty of up to \$500 for each violation and authorizes the attorney general or local prosecuting attorney to bring suit to recover the penalty. Additionally, the attorney general is authorized to bring an action to restrain or enjoin a person from violating the provisions.

Senate Bill 988

Effective: 5-20-03

Senate Author: Armbrister

House Sponsor: Laney

Senate Bill 988 amends the Business & Commerce Code to provide that the law regulating sweepstakes does not apply to a nonprofit association of airmen who are subject to federal transportation law.

Senate Bill 1060
Effective: 5-20-03

Senate Author: R. Ellis et al.
House Sponsor: Marchant

Senate Bill 1060 amends The Securities Act to authorize the securities commissioner to assist a securities regulator of another state or foreign jurisdiction who requests aid in determining whether a violation of a securities law or rule within that out-of-state regulator's scope of authority has occurred. The bill sets forth criteria for the commissioner to consider when determining whether to provide such assistance, including the possibility of reciprocity, the effect of compliance on Texas public policy, the applicability of Texas law to the conduct under investigation had it occurred in this state, and the availability of resources to provide assistance.

The bill makes the rendering of services as an investment adviser or an investment adviser representative without the appropriate registration a felony offense punishable by a fine of not more than \$5,000, imprisonment in a state penitentiary for not less than two or more than 10 years, or both fine and imprisonment. The bill authorizes the attorney general to seek, and the court to grant, any equitable relief for a victim of fraudulent practices relating to the sale of a security. The bill further authorizes the attorney general to seek recovery, for an aggrieved person, of any economic benefit gained by the defendant through the violation, as well as of any reasonable costs and expenses incurred by the attorney general in bringing that action. The bill establishes that the terms "security" and "securities" apply to an instrument that performs certain functions as set out in The Securities Act, regardless of whether the instrument exists in written form.

Senate Bill 1212
Effective: 9-1-03

Senate Author: Van de Putte
House Sponsor: Kolkhorst

Senate Bill 1212 amends the Business & Commerce Code to increase the maximum civil penalty that the attorney general's consumer protection division may request and a court or jury may award in an action under the Deceptive Trade Practices-Consumer Protection Act from \$2,000 per violation to \$20,000 per violation plus an additional amount of up to \$250,000 if the consumer was 65 years of age or older when the act or practice occurred. The bill also eliminates caps on the total amount of the penalty and lists certain factors that the court or jury is required to consider in assessing the penalty. It requires a consumer filing a class action lawsuit under the Deceptive Trade Practices-Consumer Protection Act to notify the attorney general's consumer protection division at the same time notice is given to the party being sued, and to provide a copy of the petition within a certain time frame; it also requires a court to abate action for 60 days if the notice is not provided. Additionally, the bill authorizes a court to allow the division to intervene in such a lawsuit.

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

HB 109 - Miscellaneous Taxes and Tax Administration
 HB 543 - Housing
 HB 1060 - Criminal Justice
 HB 1076 - Occupational Regulation
 HB 1813 - Occupational Regulation
 HB 1934 - State Government
 HB 2519 - Occupational Regulation
 SB 774 - Financial Institutions
 SB 1059 - State Government

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 4

Effective: See below

House Author: Nixon et al.

Senate Sponsor: Ratliff

House Bill 4 amends provisions of the law relating to certain procedures and remedies in civil actions.

Article 1, Class Actions, requires the supreme court to adopt rules to provide for the fair and efficient resolution of class actions and to calculate attorney's fees; requires a trial court, before hearing or deciding a motion to certify a class action, to rule on all pending pleas regarding the jurisdiction of a state agency and whether a party has exhausted all administrative remedies; and sets forth guidelines for a petition for review and interlocutory appeals.

Article 2, Settlement, establishes rules for making a settlement offer and awarding litigation costs and requires the supreme court to promulgate rules regarding settlement offers by January 1, 2004.

Article 3, Venue; Forum Non Conveniens, authorizes the supreme court to adopt rules relating to transfer of related cases for consolidated or coordinated pretrial proceedings; establishes a judicial panel on multidistrict litigation to transfer civil actions involving one or more common questions of fact pending in certain courts; requires each plaintiff in a suit involving multiple plaintiffs to establish proper venue; requires a court to decline to exercise jurisdiction if on written motion of a party the court finds that a claim or action would be more properly heard in a forum outside this state; and requires the court to decline to exercise jurisdiction under the doctrine of forum non conveniens and stay or dismiss the claim or action.

Article 4, Proportionate Responsibility and Designation of Responsible Parties, establishes guidelines for a defendant to designate a person as a responsible third party; provides that a defendant, who with the specific intent to do harm, acted with another to commit certain criminal offenses, may be held jointly and severally liable for damages; and limits an insurance carrier's subrogation interest to the amount of the total benefits paid or assumed by the carrier to the employee or the legal beneficiary, less the amount by which the court reduces the judgment based on the percentage of responsibility attributable to the employer.

Article 5, Products Liability, provides that a seller who did not manufacture a product is not liable for harm caused to the claimant by that product except under certain circumstances. It establishes a rebuttable presumption for defendants, including a health care provider, manufacturer, distributor, and prescriber, in actions alleging injury to a claimant with regard to a pharmaceutical product and for actions alleging injury to a claimant brought against a product manufacturer or seller that relates to the formulation, labeling, or design of a product if certain conditions are met. It also sets out certain criteria that the claimant must establish to rebut the presumption in these product liability actions.

Article 6, Interest, establishes that the prime rate as published by the Federal Reserve Bank of New York is used to compute the postjudgment interest rate at specific percentages determined on the date of computation and provides that prejudgment interest may not be assessed or recovered on an award of future damages.

Civil Remedies and Procedures

Article 7, Appeal Bonds, establishes the amount of security required for an appeal bond when the judgment is for money.

Article 8, Evidence Relating to Seat Belts, repeals the provision prohibiting evidence of use or nonuse of a seat belt in a civil trial.

Article 10, Health Care, sets out provisions for medical liability civil actions relating to general provisions, notice and pleadings, informed consent, emergency care, res ipsa loquitur, statute of limitations, liability limits, procedural provisions, expert witnesses, arbitration agreements, and payment for future losses. It limits the liability in certain civil actions brought against a hospital, hospital system, or its employees, officers, directors, or volunteers to \$500,000. It also states findings of the legislature regarding health care liability claims.

Article 11, Claims Against Employees or Volunteers of a Governmental Unit, deletes the exclusion of a health care provider from the limitation of personal liability for damages in excess of \$100,000. It defines a “municipal hospital management contractor” and redefines “hospital district management contractor” to establish that for certain purposes they are considered governmental units and their employees are employees of governmental units. It also provides for the election of remedies by a plaintiff, claimant, or party and establishes the circumstances under which a party is barred from any suit or recovery against a governmental unit or its employees.

Article 13, Damages, allows exemplary damages only if the jury was unanimous in regard to finding liability for and the amount of exemplary damages; provides that recovery of medical or health care expenses incurred is limited to the amount actually paid or incurred by or on behalf of the claimant; and establishes the proof required to recover loss of earnings, earning capacity, contributions of a pecuniary value, or loss of inheritance.

Article 15, School Employees, defines “professional employee of a school district” and sets forth procedures required to bring suit against a professional employee.

Article 16, Admissibility of Certain Evidence in Civil Action, establishes the evidence that is prohibited in a civil action against nursing institutions.

Article 17, Limitations in Civil Actions of Liabilities Relating to Certain Mergers or Consolidations, establishes that the cumulative successor asbestos-related liabilities of a corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation and sets forth procedures relating to establishing the fair market value of the total gross assets.

Article 18, Charitable Immunity and Liability, provides immunity from civil liability for all volunteers of an organization, not just those who serve as an officer, director, or trustee.

Article 19, Liability of Volunteer Fire Departments and Volunteer Fire Fighters, establishes that a volunteer fire department and its fire fighters are liable for an error or omission only to the extent that a county and its employees would be liable and that they are entitled to the same exclusions, exceptions, immunities, and defenses applicable to the county and its employees.

Article 20, Design Professionals, requires a person filing an action for damages alleging professional negligence by a design professional to file an affidavit from either a registered architect or a licensed professional engineer that sets forth the negligence and the factual basis for each claim.

Article 21, Limitations of Liability, establishes that an owner, lessee, or occupant of real property is liable for trespass as a result of migration or transport of any contaminant, other than an odor, only upon the showing of actual and substantial damages by a plaintiff in a civil action.

Article 22, Community Benefits and Charity Care, establishes the criteria and procedures for a nonprofit hospital or hospital system that provides charity care to be certified by the Texas Department of Health for limited liability of money damages.

Article 23, Accelerated Appeal, authorizes actions concerning the constitutionality and validity of Article 10 to be determined in a Travis County district court and establishes that an appeal of the judgment or order from the district or appellate court is an accelerated appeal.

The bill takes effect September 1, 2003, except for Article 17, which takes effect June 11, 2003.

House Bill 178

Effective: 9-1-03

House Author: Ellis

Senate Sponsor: Staples

House Bill 178 amends the Code of Criminal Procedure to add a county attorney, district judge, district attorney, or criminal district attorney to the list of individuals who are granted immunity for damages arising from an act or failure to act in connection with a work program or community service program for an inmate, offender, or releasee.

House Bill 408

Effective: 9-1-03

House Author: Miller

Senate Sponsor: Fraser

The Civil Practice and Remedies Code limits the liability of certain owners who allow others to use their property for recreational purposes. Previously the liability limits applied to owners, except for a governmental unit, who charged for entry to their premises but whose total charges collected for all recreation use was not more than twice the total amount of ad valorem taxes imposed on the premises for the previous calendar year, or for agricultural land not more than four times the total amount of ad valorem taxes. House Bill 408 amends the Civil Practice and Remedies Code to limit the liability of owners to those whose total charges collected in the previous calendar year for all recreation use was not more than 20 times the total amount of ad valorem taxes imposed on the premises, regardless of whether the land was used for agricultural purposes.

House Bill 705

Effective: 9-1-03

House Author: Solomons et al.

Senate Sponsor: Nelson

House Bill 705 amends the Civil Practice and Remedies Code to require an in-home service company or a residential delivery company to obtain a criminal history record for an officer, employee, or prospective employee whose job duties require entry into another person's residence. In a suit seeking damages for the negligent hiring of an officer or employee, the bill creates a rebuttable presumption that an in-home service company or residential delivery company, or a company that contracts with them, is not negligent if the company obtained, or was requested to obtain, the required criminal history record and it showed that within a specified time the employee or officer was not convicted of certain offenses. The bill amends the Government Code to set forth requirements for releasing, disclosing, and destroying a person's criminal history record.

House Bill 1036

Effective: 9-1-03

House Author: Ritter et al.

Senate Sponsor: Shapiro

House Bill 1036 amends provisions of the Government Code relating to the confidentiality of certain reports of criminal activity. The bill provides that a plaintiff in a civil case, in certain circumstances, may file a motion with the court for the records of the Crime Stoppers Advisory

Council (council) or a crime stoppers organization concerning a report of criminal activity by claiming that the denial of the records would abrogate any part of the plaintiff's cause of action. The plaintiff must have been charged with or convicted of a criminal offense based at least partially on the crime report and either the charges were dismissed, the plaintiff was acquitted, or the conviction was overturned. The plaintiff must also establish a prima facie case that the plaintiff's claim is based on injuries from the criminal charge or conviction caused by the wrongful acts of another performed in connection with the report. If the court finds that the materials contain information necessary to the plaintiff, the court is required to present the evidence under certain conditions. The bill requires the council or crime stoppers organization to store the material not disclosed to the plaintiff for a certain time period.

House Bill 1036 provides immunity from civil liability to a person who communicates to the council or a crime stoppers organization a report of criminal activity and to a person who, in the course and scope of the person's duties and function, receives, forwards, or acts on a report of criminal activity that leads to the arrest of, the filing of charges against, or the conviction of a person, unless the communication was intentionally, wilfully, or wantonly negligent or made with conscious indifference or reckless disregard for the safety of others.

House Bill 1297
Effective: 6-20-03

House Author: Allen
Senate Sponsor: Armbrister

House Bill 1297 amends provisions of the Civil Practice and Remedies Code relating to limits on indemnification of state employees and officials acting in the course of their official duties. The bill clarifies that a claim arises out of a single occurrence if it arises from a common nucleus of operative facts, regardless of the number of claimants or the number of separate acts or omissions. The bill deletes the provision that exempts a member of the Texas Board of Criminal Justice from the limits on state liability for indemnification.

House Bill 1699
Effective: 9-1-03

House Author: Kuempel
Senate Sponsor: Averitt

House Bill 1699 amends the Civil Practice and Remedies Code to exempt a contractor who constructs or repairs a highway, road, or street for the Texas Department of Transportation from certain liability. The bill provides that the contractor is not liable to a claimant for personal injury, property damage, or death caused by the contractor's performance if, at the time of the accident, the contractor is in compliance with contract specifications material to the condition or defect that was the proximate cause of the personal injury, property damage, or death.

House Bill 2415
Effective: 6-20-03

House Author: Hopson
Senate Sponsor: Averitt

House Bill 2415 amends the Finance Code to provide that the postjudgment interest rate used by the consumer credit commissioner to determine a money judgment awarded by a Texas court is the prime rate as published by the Federal Reserve Bank of New York on the date of computation. Under prior law, the postjudgment interest rate was the auction rate quoted on a discount basis for 52-week treasury bills as most recently published by the Federal Reserve Board. The bill further provides that if the prime rate is either less than 5 percent or more than 15 percent, the postjudgment interest rate is five percent or 15 percent, respectively. Under prior law, if the auction rate was less than 10 percent or more than 20 percent, the postjudgment interest rate was 10 percent or 20 percent, respectively.

House Bill 2453

Effective: 9-1-03

House Author: Kolkhorst

Senate Sponsor: Ogden

House Bill 2453 amends the Health and Safety Code relating to the liability of a management contractor for a municipal hospital or a hospital district and of certain public servants. The bill defines municipal hospital management contractor as a nonprofit corporation, partnership, or sole proprietorship that manages or operates a hospital or provides services under contract with a municipality. The bill provides that for purposes of liability the municipal hospital management contractor is considered a governmental unit and any employee of the contractor is, while performing services under the contract for the benefit of the hospital, an employee of the municipality. The bill redefines hospital district management contractor to include a similar entity that operates a hospital as well as one that manages a hospital or provides services under contract with a hospital district. The bill revises the liability of the hospital district management contractor to make it uniform with the liability of a municipal hospital management contractor.

Under previous law, certain licensed health care providers who were public servants could be held personally liable for damages arising from personal injury, death, or deprivation of a right, privilege, or immunity. House Bill 2453 amends the Civil Practice and Remedies Code to repeal the list of certain licensed health care providers who were public servants to uniformly limit liability for public servants under certain circumstances.

House Bill 3248

Effective: 9-1-03

House Author: Callegari

Senate Sponsor: Lindsay

House Bill 3248 amends the Civil Practice and Remedies Code to limit the liability of a state or county, in addition to a municipality, for damages arising directly from recreational hockey, in-line hockey, skating, in-line skating, roller-skating, skateboarding, or roller-blading that takes place on a premises owned, operated, or maintained by the state, county, or municipality for those purposes. The bill amends the definition of “recreation” to include activities that take place on premises, rather than inside a facility, and revises the notice that must be posted on or near the premises where the recreational activities occur to include the state and counties in the warning language.

House Joint Resolution 3

For Election: 9-13-03

House Author: Nixon et al.

Senate Sponsor: Nelson

House Joint Resolution 3 proposes a state constitutional amendment to authorize the legislature to determine the liability limit for all noneconomic damages and losses in a medical or health care provider civil lawsuit. The proposed amendment would apply to H.B. 4, enacted by the 78th Legislature, Regular Session, 2003, and to all laws enacted in subsequent regular or special sessions of the legislature.

After January 1, 2005, the legislature would be authorized to determine the liability limit for all noneconomic damages and losses in all other causes of action. This legislative exercise of authority requires a three-fifths vote of all the members elected to each house.

Senate Bill 313

Effective: 5-28-03

Senate Author: Harris et al.

House Sponsor: King

Senate Bill 313 amends the Civil Practice and Remedies Code to prohibit a claimant from collecting civil damages awarded against nonprofit institutions, facilities, or programs from certain endowment or restricted funds, or a similar fund or account, or the income derived from the corpus of the fund or account.

Senate Bill 360

Effective: 9-1-03

Senate Author: Deuell et al.

House Sponsor: Rose et al.

Senate Bill 360 amends the Civil Practice and Remedies Code to include a local chamber of commerce that meets certain requirements under the definition of a “charitable organization.” The bill excludes from the definition statewide trade associations that represent local chambers of commerce and cosponsors of an event or activity with the chamber of commerce unless the cosponsors are also defined as charitable organizations.

Senate Bill 640

Effective: 9-1-03

Senate Author: R. West

House Sponsor: Nixon

Senate Bill 640 amends provisions of the Natural Resources Code relating to the Coastal Public Lands Management Act. The bill requires notice to the State of Texas of a claim by an owner of a property abutting coastal public land against the School Land Board in the same manner as is provided in the Texas Tort Claims Act. The bill specifies what the notice must reasonably describe and the deadline for receiving it and provides that it is a jurisdictional prerequisite to filing a lawsuit.

Senate Bill 833

Effective: 9-1-03

Senate Author: Williams

House Sponsor: Nixon

Senate Bill 833 amends the Civil Practice and Remedies Code to amend the definition of a “charitable organization” to include a private primary or secondary school, if accredited by a member association of the Texas Private School Accreditation Commission, and alumni associations and related on-campus organizations. The bill specifically excludes fraternities, sororities, and secret societies from the definition.

Senate Bill 1010

Effective: 9-1-03

Senate Author: R. West

House Sponsor: Giddings et al.

Senate Bill 1010 amends provisions of the Civil Practice and Remedies Code relating to common and public nuisances. The bill allows a person to bring a suit against a person who maintains, owns, uses, or is a party to the use of a place constituting a common nuisance, and an action against the place itself. The bill provides that a person who violates a temporary or permanent injunctive order under such suit may be subject to a fine, confinement, or both. The bill authorizes the court to include in its injunctive order reasonable requirements to prevent the use or maintenance of the place as a common nuisance. The bill establishes that evidence that a person has been arrested for, rather than convicted of, an activity constituting a common nuisance offense on the property is admissible to show the defendant had knowledge that the act occurred. If it is determined after notice and a hearing that the petitioner is likely to succeed with the request for a temporary injunction, the court is required to direct the defendant to execute a bond. The bill authorizes the district, county, or city attorney or the attorney general to sue if a condition of the bond or the injunctive order is violated.

The bill authorizes a municipality with a population of 1.5 million or more to create a nuisance abatement fund and provides that the money in the fund may be used for compensation for nuisance abatement or enforcement personnel and the hiring of additional personnel for nuisance abatement.

The bill amends the definition of “gang activity,” replaces “organized criminal activities” with “gang activities” in the public nuisance provisions, and authorizes a court to issue an order to prevent a combination or gang from engaging in future gang activities.

Senate Bill 1017
Effective: 9-1-03

Senate Author: Wentworth
House Sponsor: Nixon

Senate Bill 1017 amends the Local Government Code to prevent a person from filing a suit against an elected or appointed county official acting in that person's official capacity, in addition to a county, unless the commissioners court neglects or refuses to pay all or part of a presented claim within 60 days. The bill authorizes a person to file suit for injunctive relief against a county and requires any portion of the suit that seeks monetary damages to be abated until after the claim is presented to the commissioners court and the court neglects or refuses to pay all or part of the claim within 60 days.

The bill provides that a county that is a party to a written contract for engineering, architectural, or construction services, or for goods related to those services, may sue or be sued, plead or be impleaded, or defend or be defended on a claim arising under the contract. The bill establishes guidelines on where the suit must be brought, the total amount of money recoverable from a county, and what items must be excluded from an award of damages.

The bill requires a person who brings suit against a county or a county official to provide notice to the county judge and the county or district attorney by the 30th business day after the suit is filed. If proper notice is not provided, the bill requires the court to dismiss the suit on a motion by the county or the county official.

Senate Bill 1601
Effective: Vetoed

Senate Author: R. Ellis
House Sponsor: Hartnett

Senate Bill 1601 amends provisions of the Civil Practice and Remedies Code relating to unclaimed class action settlement or judgment funds. The bill requires a court, before approving an order for settlement or judgment, to direct all defendants to report the total amount of all funds paid to the class members. After receiving the report, the court is authorized to amend the settlement or judgment to direct each defendant to pay the sum of any unpaid funds to the clerk of the court. The bill requires the clerk to pay the unclaimed funds to the clerk of the supreme court for deposit into a trust fund established and administered by the supreme court. The bill authorizes the supreme court to distribute the funds to programs that provide civil legal services to the indigent.

Reason Given for Veto: "When a class action is settled or the defendant loses at trial, the defendant deposits the amount of the settlement or judgment into a trust fund. Individual plaintiffs may then apply to receive money from the fund. Usually, a large sum of money is left over which is not needed to settle the claim of any plaintiff. Because the money belongs to the defendant, it reverts back to the defendant when an agreed amount of time has passed.

"Senate Bill No. 1601 would require that all the money in the fund that is not paid to any plaintiff would be transferred to the Supreme Court to pay for indigent civil representation. However, any funds not needed to settle the claim of a plaintiff are still the property of the defendant. No one, including the state, has the right to take this property.

"Senate Bill No. 1601 is an unconstitutional taking of property without compensation."

Senate Bill 1614
Effective: 6-20-03

Senate Author: R. Ellis et al.
House Sponsor: Homer

Senate Bill 1614 amends the law to provide that a person who discloses genetic information in violation of provisions establishing genetic information to be confidential and privileged is liable for a civil penalty up to \$10,000. The bill authorizes the attorney general to bring an action in the name of the state to recover the penalty plus reasonable attorney's fees and court costs.

Senate Bill 1811

Effective: 9-1-03

Senate Author: Whitmire

House Sponsor: W. Smith

Senate Bill 1811 amends the Local Government Code to authorize a sports and community venue district to sue and be sued. The bill also provides that service of process on a district may be had by serving either the current chairman of the board or the current chief executive officer of the district or the district's registered agent, and it sets forth procedures for designating a registered agent by the district.

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

HB 3439 - Health and Medical Occupations

SB 319 - Criminal Justice

SB 407 - Emergency Response

SB 430 - Public Officials and Employees

SB 513 - Emergency Response

SB 724 - Transportation

SB 871 - Criminal Justice

SB 930 - Public Education

SB 1517 - Utilities

Corrections

This chapter covers legislation relating to correctional, juvenile, and rehabilitation facilities, jails, pardons and paroles, and incarcerated individuals. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 28

Effective: 6-20-03

House Author: Hodge

Senate Sponsor: Whitmire

House Bill 28 amends the Government Code to authorize the state jail division to allow a defendant to tutor functionally illiterate defendants, and provides that the tutor may not exercise supervisory authority or control over the defendant. The bill requires the division to actively encourage volunteer organizations to provide certain programs to educate, rehabilitate, and aid defendants in the transition from confinement or supervision back into society.

House Bill 274

Effective: 9-1-03

House Author: Keel et al.

Senate Sponsor: Armbrister

Under previous law, an incarcerated person committed an offense if, with the intent to harass, alarm, or annoy another person, the actor caused another person to contact the blood, seminal fluid, urine, or feces of the actor or any other person. House Bill 274 amends the Penal Code to include vaginal fluid and saliva in the offense.

House Bill 301

Effective: 9-1-03

House Author: Talton

Senate Sponsor: Whitmire

House Bill 301 amends the Government Code to decrease from 10 years to 2 years the length of time a former employee or board member of the Texas Department of Criminal Justice, Texas Board of Pardons and Paroles, or Texas Board of Criminal Justice must wait before representing a person before the board or a parole panel or receiving compensation for services rendered on behalf of any person regarding a matter pending before the board or a parole panel.

House Bill 562

Effective: See below

House Author: McCall et al.

Senate Sponsor: Duncan

House Bill 562 amends the Government Code to require the Texas Department of Criminal Justice or the Texas Youth Commission, as appropriate, to obtain a sample or specimen from an inmate or juvenile serving a sentence for capital murder for the purpose of creating a DNA record. The bill requires the collection and maintenance of the record in the Texas DNA forensic database maintained by the Department of Public Safety.

House Bill 562 takes effect on the date the director of the Department of Public Safety certifies to the governor, the lieutenant governor, and the speaker of the house of representatives that the state has received funds from the federal government or from other sources in a sufficient amount to pay all costs to the state associated with the taking of samples or specimens required by this bill.

House Bill 681

Effective: 6-20-03

House Author: Farrar et al.

Senate Sponsor: Lindsay

House Bill 681 amends the Local Government Code to allow a private vendor or a county to establish a booking facility within one-half mile of a public school, an institution of higher education, or a place of worship in a municipality with a population of 1,500,000 or more if the booking facility is within 500 feet of an existing county jail or detention facility.

House Bill 1180

Effective: 9-1-03

House Author: Chisum

Senate Sponsor: Duncan

House Bill 1180 amends the Code of Criminal Procedure to increase from 90 to 180 days the maximum amount of time a person may be placed in the state boot camp program and makes conforming changes in provisions of the Government Code relating to the program.

House Bill 1236

Effective: 9-1-03

House Author: Hopson

Senate Sponsor: Whitmire

House Bill 1236 amends the Code of Criminal Procedure to add to the list of information that a county is required to provide when transferring a defendant to the Texas Department of Criminal Justice. The bill requires a county to provide a copy of any detainer, issued by a federal agency, that has been placed on the defendant and is in the possession of the county and a written description of a hold or warrant, issued by any other jurisdiction, that the county is aware of and that has been placed on or issued for the defendant.

House Bill 1331

Effective: 9-1-03

House Author: Solomons et al.

Senate Sponsor: Lucio

Currently, a commissioners court or governing body of a municipality has the authority to deny consent when notified that a state agency, political subdivision, or their contractor proposes to construct or operate a correctional or rehabilitation facility within 1,000 feet of a residential area, primary or secondary school, public park, recreation area, or place of worship. House Bill 1331 amends the Local Government Code to require the entity to provide written notice to the local governing body, rather than notice on request, of the proposed construction or operation. The bill authorizes the Texas Department of Criminal Justice to hold a public meeting to discuss the construction to satisfy certain public meeting provisions, with the written approval of the local governing body. The bill continues the correctional or rehabilitation facility subchapter, set to expire September 1, 2003, and repeals the provision relating to sunset review.

House Bill 1372

Effective: 9-1-03

House Author: Allen et al.

Senate Sponsor: Whitmire

House Bill 1372 amends provisions of the Government Code relating to the private sector prison industries program. The bill requires Texas Correctional Industries to annually determine whether there are articles or products needed by the Texas Department of Criminal Justice (TDCJ) that are not produced by but could be produced by the office at a reduced cost or savings to the department. The bill increases from 2,000 to 5,000 the number of inmates who may participate in the prison industries programs and clarifies that a program does not result in the loss of existing jobs if at the time of initial certification those jobs are performed by workers in a foreign country.

The bill establishes that the minimum wage for participants in prison industries programs under the supervision of the Texas Youth Commission is the federal minimum wage and authorizes the Private Sector Prison Industries Oversight Authority to establish deductions for those participants that are different from the deductions established for other participants. The bill requires other program participants to be paid the prison industry enhancement certification program wage, computed by the Texas Workforce Commission, rather than the prevailing wage computed by the authority.

The bill requires the manufacturing and logistics division and the institutional division to work together in supervising the production and sale of inmates' arts and crafts. The bill requires the Texas Department of Transportation (TxDOT) to reimburse TDCJ, rather than the institutional division, for the cost of manufacturing license plates and registration insignia. When manufacturing is started, and after negotiations, TDCJ, the Texas Building and Procurement Commission, and TxDOT are required to set a price for each license plate and insignia.

House Bill 1660

Effective: 9-1-03

House Author: Flores

Senate Sponsor: Hinojosa

House Bill 1660 amends the Local Government Code to require the Texas Commission on Jail Standards to submit a report regarding installation and operation of a video camera surveillance system in county jails to the presiding officer of each house of the legislature and to the presiding officer of the standing committee of the house of representatives having primary jurisdiction over county affairs not later than December 1, 2004. The report must address the feasibility of installing and operating video camera surveillance systems that record video images in certain areas of the county jail, evolutionary changes in technology affecting the installation and operation, the potential sources of county revenue to pay for video camera surveillance systems, identification of other areas that should be monitored in the county jail, and the feasibility of using other means to address the issues presenting the need for the surveillance systems. The report also includes statistics gathered by the commission regarding specific jail issues by county. The provisions of this bill expire December 2, 2004.

House Bill 1670

Effective: 9-1-03

House Author: Allen

Senate Sponsor: Whitmire

House Bill 1670 amends the Government Code to authorize an inmate, other than an inmate serving a sentence of death or having a reportable conviction or adjudication under the Sex Offender Registration Program, to be released on medically recommended intensive supervision (MRIS) on a date designated by certain parole panels. The bill only allows an inmate convicted of certain serious felony offenses to be considered for MRIS if a medical condition of terminal illness or long-term care has been diagnosed. The bill authorizes an inmate who is not a U.S. citizen, who is not serving a sentence of death, and who is not required to register as a sex offender, or has not been convicted of certain felony offenses to be released to immigration authorities pending deportation. The bill requires the parole panel to determine that on release the inmate would be deported to another country, is not a threat to public safety, and is unlikely to reenter this country illegally.

The bill provides that only certain parole panels composed of the presiding officer of the Board of Pardons and Paroles and two members appointed by the presiding officer may make determinations regarding the release of inmates on MRIS or deportation. The bill requires the Texas Council on Offenders with Mental Impairments to provide information to the panel regarding inmates who have been identified as candidates for potential release under MRIS.

House Bill 1849

Effective: 9-1-03

House Author: Allen

Senate Sponsor: Whitmire

House Bill 1849 amends the Government Code to require the pardons and parole division of the Texas Department of Criminal Justice to issue a warrant for a revocation hearing, rather than a summons, to a releasee who is on intensive supervision or superintensive supervision, who is an absconder, or who is determined by the division to be a threat to public safety. The bill authorizes the division to issue a warrant or a summons for a revocation hearing for persons who have been released when not eligible, have been arrested for an offense, have violated a rule or condition of release, or have exhibited behavior that indicates the person poses a danger to society.

The bill requires the sheriff to provide a place at the county jail to hold a revocation hearing for a releasee who appears in compliance with a summons. If the releasee is found to have violated a condition of release, the bill authorizes a warrant to be issued requiring the releasee to be held in the county jail pending action of a parole panel and, if ordered, to be returned to the releasing institution. The bill requires the revocation charges against a releasee for whom a warrant is issued to be resolved within 31 days from the date of issue.

House Bill 2071

Effective: 6-20-03

House Author: Pitts

Senate Sponsor: Averitt

House Bill 2071 amends the Government Code to authorize the Commission on Jail Standards to grant a reasonable variance that may last for the life of the facility for operation of a jail facility not in strict compliance with state law, if the variance is clearly justified by the facts and does not permit unhealthy, unsanitary, or unsafe conditions. The bill changes the appeal process to allow a county commissioner or sheriff to seek review of an order to bring a county jail into compliance, and it provides that procedure in such a contested case is governed by the Administrative Procedure Act and rules of the commission.

House Bill 3517

Effective: 9-1-03

House Author: Gallego

Senate Sponsor: Madla

House Bill 3517 amends the Government Code to exclude a county jail that houses only federal prisoners and operates pursuant to a contract with the federal government from the authority and regulations of the Texas Commission on Jail Standards.

Senate Bill 519

Effective: 4-10-03

Senate Author: Duncan

House Sponsor: Allen

Senate Bill 519 amends the Health and Safety Code, the Government Code, and the Occupations Code to require, rather than authorize, certain agencies and individuals to share information regarding special needs offenders, parolees, and sex offenders.

Senate Bill 704

Effective: 6-20-03

Senate Author: Jackson

House Sponsor: Taylor

Senate Bill 704 amends the Local Government Code to increase from 2,000 to 4,000 the maximum average daily inmate population allowed in a jail, detention center, work camp, or related facility jointly operated by a city and a county or a private vendor.

Senate Bill 729**Effective:** 9-1-03**Senate Author:** Staples**House Sponsor:** Hopson

Under previous law, an incarcerated person committed an offense if, with intent to harass another person, the actor caused the other person to contact the blood, seminal fluid, urine, or feces of the actor or any other person. Senate Bill 729 amends the Penal Code to include the blood, seminal fluid, urine, or feces of an animal to the offense.

Senate Bill 826**Effective:** 9-1-03**Senate Author:** Whitmire**House Sponsor:** Keel

Senate Bill 826 amends the Code of Criminal Procedure to provide that if a person dies as a result of a peace officer's use of force or while incarcerated in a jail, correctional facility, or state juvenile facility, the director of the law enforcement agency or facility is required to investigate the death and file a report on the cause of death with the attorney general within 30, rather than 20, days of the death. The bill defines a correctional facility to mean a confinement facility or halfway house operated by or under contract with the Texas Department of Criminal Justice. Senate Bill 826 also defines a state juvenile facility to mean any facility, halfway house, or secure correctional facility operated by the Texas Youth Commission, including a public or private residential facility or alcohol or drug treatment facility. The bill requires the superintendent or general manager of an institution to report the death to the attorney general within 24 hours and to file a report containing the relevant facts within 72 hours, and adds a general manager of an institution to the list of persons who are required to report certain deaths to either the medical examiner or to a police department. The bill makes it a Class B misdemeanor for a superintendent or general manager to fail to provide notice and to file a report of a death in an institution. The bill requires the attorney general to release the report on written request, unless it is determined that it is privileged from discovery or exempt from the open records law, and authorizes the attorney general's office to investigate certain deaths.

Senate Bill 880**Effective:** 9-1-03**Senate Author:** Whitmire**House Sponsor:** Capelo

Senate Bill 880 amends the Government Code to decrease the amount of time a parole panel, a designee of the Texas Board of Pardons and Paroles, or the Texas Department of Criminal Justice has to dispose of revocation charges for an administrative violation of a condition of release against an inmate or person who has not been charged with an offense.

Senate Bill 917**Effective:** 6-18-03**Senate Author:** Whitmire**House Sponsor:** Talton

Senate Bill 917 requires the policy board of the Texas Board of Pardons and Paroles to adopt, by January 1, 2004, a policy establishing the date on which the board may reconsider for release an inmate who has previously been denied release.

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

HB 178 - Civil Remedies and Procedures

HB 864 - Criminal Justice

HB 1011 - Criminal Justice

HB 2525 - Criminal Justice

SB 591 - Human Services

SB 1388 - Open Government and Privacy

SB 1932 - Courts

Courts

This chapter covers legislation on the jurisdiction, administration, and personnel of municipal, county, district, and appellate courts. 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 146**Effective:** 9-1-03**House Author:** Solomons**Senate Sponsor:** Estes

House Bill 146 amends the Government Code to prohibit prospective jurors from being summoned to appear for jury service on the date of the general election for state and county officers.

House Bill 829**Effective:** 9-1-03**House Author:** Hughes**Senate Sponsor:** Ratliff

House Bill 829 amends the Code of Criminal Procedure to grant a juvenile court in a county with a population of less than 100,000 the necessary jurisdiction to enter certain orders in a failure to attend school proceeding.

House Bill 858**Effective:** 9-1-03**House Author:** Goodman**Senate Sponsor:** Harris

House Bill 858 amends the Government Code to require that the annual salary paid to a county court at law judge and county criminal court judge in Tarrant County be in an amount that is not less than \$1,000 of the total annual salary, including supplements and salary increases, paid to any district judge in that county. The bill allows the Tarrant County Commissioners Court, notwithstanding state law governing judicial salaries, to temporarily set the annual supplemental salary of judges of the district courts and criminal district courts having jurisdiction only in that county until September 1, 2007, at which time the previous salary level is reenacted to the annual supplemental salary of \$8,000.

House Bill 1666**Effective:** 9-1-03**House Author:** Hartnett**Senate Sponsor:** Wentworth

House Bill 1666 amends the Civil Practice and Remedies Code to include a statutory probate court in the definition of a court that can approve a transfer of payment rights under a structured settlement if the court that authorized or approved the structured settlement no longer has jurisdiction to approve the transfer of payment rights.

House Bill 1905**Effective:** 9-1-03**House Author:** Farrar**Senate Sponsor:** Gallegos

House Bill 1905 amends the Government Code to increase the records management and preservation fee collected by a county clerk at the time a suit or action is filed from \$5 to \$10, and to allocate \$5 of that amount to the district clerk records management and preservation fund and \$5 to the county records management and preservation fund. The bill provides that a fee deposited into the funds may be used only to provide funds for specific records management and preservation on approval of a budget by the county commissioners court.

House Bill 2157

Effective: 9-1-03

House Author: Hartnett

Senate Sponsor: Duncan

House Bill 2157 amends the Government Code to add Title IV-D masters to the judicial and court personnel eligible for continuing legal education funding under the judicial and court personnel training fund.

House Bill 3306

Effective: See below

House Author: Berman

Senate Sponsor: Duncan

House Bill 3306 amends provisions of the Code of Criminal Procedure and the Government Code relating to the administration of the court system and the assignment and compensation of visiting judges. The bill amends the Government Code to move certain counties from the jurisdiction of the Eighth Court of Appeals District to that of the Eleventh Court of Appeals District and to alter the judicial makeup of the courts of appeals for the Eighth Court of Appeals District and the Ninth Court of Appeals District. It establishes eligibility requirements for a retired justice or judge of the supreme court or an appellate court judge to be assigned to a court of appeals by the chief justice of the supreme court. The bill amends the corresponding requirements for a judge to be named on a list of retired and former judges who are eligible for assignment to a trial court by the presiding judge of an administrative judicial region, and it repeals a provision that exempted a former district judge with service on more than one district court from certain length-of-service requirements for eligibility to be named on a list.

House Bill 3306 establishes deadlines for filing an objection to the assignment of a judge to a trial court by the presiding judge of an administrative judicial region or to the assignment of a judge or justice to an appellate court by the chief justice of the supreme court, exempts active judges and justices from being subject to objection, and provides for notice of assignment or objection to an assignment by electronic mail. The bill amends the Code of Criminal Procedure to provide for the compensation of an attorney appointed by the court of criminal appeals as counsel to a person who files an application or petition for a writ of habeas corpus and to require the state's reimbursement of the county for that attorney's compensation; the bill also amends the Government Code to set the compensation of a judge or justice who sits as an assigned judge for half a day or less. The bill provides that a former, retired, or active judge is not entitled to compensation paid by the state when the judge sits as an assigned judge for a statutory county court. It defines the terms "active judge," "former judge," "retired judge," and "senior judge."

The bill provides that the legislature may reduce or eliminate appropriations required by statute for judiciary entities or individuals under Article IV of the General Appropriations Act, and it sets forth various items of expenditure that may not exceed the amounts authorized by the General Appropriations Act.

House Bill 3306 takes effect June 18, 2003, except for provisions relating to the Eighth Court of Appeals District, the Eleventh Court of Appeals District, the Court of Appeals for the Eighth Court of Appeals District, and the salary of a retired judge or justice, which take effect September 1, 2003, and except for provisions relating to the Court of Appeals for the Ninth Court of Appeals District, which take effect January 1, 2005.

House Bill 3386**Effective:** 9-1-03**House Author:** Hartnett**Senate Sponsor:** Averitt

House Bill 3386 amends the Government Code to allow the supreme court to consider the adoption of rules relating to the conducting of pretrial proceedings in certain cases under Rule 11, Rules of Judicial Administration, by a district court outside the county in which the case is pending.

Senate Bill 164**Effective:** 9-1-03**Senate Author:** Lindsay et al.**House Sponsor:** Talton

Senate Bill 164 amends the Code of Criminal Procedure and the Civil Practice and Remedies Code to prohibit the use of any device to produce or make an audio, visual, or audio-visual broadcast, recording, or photograph of a jury while the jury is deliberating in a criminal or civil proceeding.

Senate Bill 322**Effective:** 6-20-03**Senate Author:** Armbrister**House Sponsor:** Morrison

Senate Bill 322 amends the Government Code to expand the list of persons who are authorized to administer an oath in this state to include a retired judge of a municipal court.

Senate Bill 325**Effective:** 6-20-03**Senate Author:** Armbrister**House Sponsor:** Wilson et al.

Senate Bill 325 amends the Government Code to require the comptroller, not later than August 1 following each regular session of the legislature, to publish in the Texas Register a list of each court cost or fee enacted or changed by the legislature in that session. The bill also provides that a new or amended court cost or fee takes effect on the next January 1 after the law takes effect, unless the law that imposes or changes a court cost or fee takes effect before August 1 or after January 1 following the legislative session at which the law was enacted.

Senate Bill 737**Effective:** 9-1-03**Senate Author:** Hinojosa**House Sponsor:** Capelo

Senate Bill 737 amends the Government Code to enable a person qualified to serve as a petit juror to establish an exemption from jury service if the person is a member of the United States military forces serving on active duty and is deployed away from the person's home station county of residence.

Senate Bill 749**Effective:** 1-1-04**Senate Author:** Madla**House Sponsor:** Lewis

Senate Bill 749 amends the Government Code to reduce the hours of continuing education courses in the handling of registry funds a county or district clerk must annually complete from three hours to one hour.

Senate Bill 922**Effective:** 9-1-03**Senate Author:** Harris**House Sponsor:** Goodman

Senate Bill 922 amends the Government Code to require at least two-thirds approval of all Tarrant County criminal judges to appoint a magistrate, rather than unanimous approval. The bill allows a magistrate to select a jury and to accept a plea of guilty from a defendant charged with a misdemeanor or felony offense, or both.

Courts

Senate Bill 1180

Effective: 6-21-03

Senate Author: R. West

House Sponsor: Hughes

Under prior law, court costs, fees, and penalties were located throughout Texas statutes. Senate Bill 1180 amends the Government Code to create one index of filing fees and other fees and costs in civil proceedings, court costs in criminal proceedings, and additional court fees and costs. The bill requires the Texas Legislative Council to perform the duties of a revisor of this subtitle as part of the statutory revision program.

County Courts

House Bill 338

Effective: 9-1-03

House Author: B. Cook

Senate Sponsor: Averitt

House Bill 338 amends the Government Code to abolish the County Court at Law of Navarro County and requires the judge of the court to transfer each pending case to a district or county court in the county with jurisdiction over the case.

House Bill 501

Effective: 9-1-03

House Author: Telford

Senate Sponsor: Ratliff

House Bill 501 amends the Government Code to expand the jurisdiction of the County Court of Marion County to include general criminal jurisdiction.

House Bill 1677

Effective: 9-1-03

House Author: Hegar

Senate Sponsor: Armbrister

House Bill 1677 amends the Government Code to provide that the county attorney of Wharton County represents the state in proceedings under Title 3 of the Family Code, and represents the Wharton County Drainage District. The bill provides that at the request of the county attorney, the district attorney may assist the county attorney in the prosecution of juvenile cases under Title 3 of the Family Code.

House Bill 1945

Effective: 9-1-03

House Author: Hartnett

Senate Sponsor: Averitt

Under previous law, counties had the option of participating in the judicial fund by collecting additional filing fees in civil cases and court costs in criminal cases under the statute relating to additional fees and costs in certain statutory county courts. House Bill 1945 requires counties to collect court costs in criminal cases, but the collection of filing fees in civil cases remains optional. To participate in the judicial fund, a county must collect both court costs and filing fees, and if a county collects only court costs, the money goes to the county treasury. The bill also amends provisions relating to the state contribution for the salary of a statutory county court judge to provide that, for counties that participate in the judicial fund under a resolution adopted or filed with the comptroller on or after September 1, 2003, the entire amount of \$35,000 will be paid from the judicial fund instead of \$30,000 from the judicial fund and \$5,000 from the general revenue fund.

House Bill 2498**Effective:** 6-20-03**House Author:** Luna**Senate Sponsor:** Hinojosa

House Bill 2498 amends the Government Code to expand the jurisdiction of the County Court at Law No. 5 of Nueces County and the proceedings to which it is required to give preference to include any proceeding involving an order relating to a child for whom the court has appointed a temporary or permanent managing conservator.

House Bill 3577**Effective:** 9-1-03**House Author:** Smithee**Senate Sponsor:** Bivins

House Bill 3577 amends provisions of the Government Code relating to the County Court at Law of Randall County. The bill redesignates the County Court at Law of Randall County as the County Court at Law No. 1 of Randall County, and provides that a county court at law of Randall County sits in the county seat or at another location in the county as assigned by the local administrative statutory county court judge. The bill provides that such a court has additional concurrent jurisdiction with the district court in felony cases to conduct arraignments and pretrial hearings and accept guilty pleas. The bill specifies that notwithstanding other state law, in matters of concurrent jurisdiction, the judge of a county court at law in Randall County and the judges of the district courts may exchange benches and courtrooms and transfer cases between their dockets in the same manner that judges of district courts exchange benches and transfer cases. House Bill 3577 stipulates that a county court at law has terms beginning on the first Mondays of January and July of each year.

House Bill 3595**Effective:** 9-1-03**House Author:** Chavez**Senate Sponsor:** Shapleigh

House Bill 3595 amends the Government Code to delete provisions that prevent county criminal courts at law in El Paso County from transferring cases between courts and exchanging benches and to expand the jurisdiction of the El Paso County Criminal Courts No. 1 and No. 2.

House Bill 3597**Effective:** 6-20-03**House Author:** Dawson**Senate Sponsor:** Armbrister

House Bill 3597 repeals provisions of the Government Code in order to abolish the County Court at Law of Matagorda County. The bill amends the Human Resources Code to make conforming changes.

House Bill 3605**Effective:** 9-1-03**House Author:** J. Keffer**Senate Sponsor:** Averitt

House Bill 3605 amends the Government Code to expand the concurrent jurisdiction of a county court at law in Hood County with the district court to include certain contested guardianship matters.

Senate Bill 1552**Effective:** See below**Senate Author:** Duncan**House Sponsor:** Hartnett

Senate Bill 1552 amends the Government Code to create and to revise the jurisdiction, procedure, or number of jurors of certain county courts at law in Collin, Comal, Henderson, Orange, Rockwall, and Parker counties. The bill is effective September 1, 2003, except that the creation of the County Court at Law No. 6 in Collin County is not effective until January 1, 2005, and the County Court at Law No. 2 of Henderson County is created December 1, 2007, or on an earlier date determined by the commissioners court.

Courts

Senate Bill 1794

Effective: 9-1-03

Senate Author: Barrientos

House Sponsor: Stick

Senate Bill 1794 amends the Government Code to authorize judges of Travis County statutory county courts that give preference to criminal cases to appoint magistrates. The bill sets forth procedures for appointing these magistrates and provides that a magistrate has the same judicial immunity as a judge of a county court at law. The bill expands the list of proceedings that may be referred to any criminal law magistrate in Travis County and prohibits a magistrate from presiding over a criminal trial that is contested on the merits. Senate Bill 1794 also amends the Code of Criminal Procedure to include in the list of magistrates those appointed by judges of Travis County statutory county courts that give preference to criminal cases.

Senate Bill 1940

Effective: 9-1-03

Senate Author: Armbrister

House Sponsor: Seaman

Senate Bill 1940 amends provisions of the Government Code relating to the County Court at Law of Aransas County. The bill provides that the district clerk serves as clerk of a county court at law in felony law cases and proceedings, and the county clerk serves as clerk of a county court at law in all other cases. The bill also provides that the jury is composed of six members, rather than 12, unless the constitution or other law requires a 12-member jury. The bill also amends the Human Resources Code to designate the judge of the county court at law as an additional member on the juvenile board of Aransas County.

Courts of Appeals

House Bill 988

Effective: 9-1-03

House Author: F. Brown

Senate Sponsor: Ogden

House Bill 988 amends the Government Code to remove Brazos County from the jurisdiction of the First and Fourteenth courts of appeals districts.

House Bill 2261

Effective: See below

House Author: G. West

Senate Sponsor: Bivins

House Bill 2261 amends the Government Code to remove Ector, Gaines, Glasscock, Martin, and Midland counties from the Eighth Court of Appeals District, and adds those counties to the Eleventh Court of Appeals District. The bill decreases the number of justices on the Court of Appeals for the Eighth Court of Appeals District from three to two justices, and increases the number of justices on the Court of Appeals for the Ninth Court of Appeals District from two to three justices. This bill takes effect September 1, 2003, except for the provision that increases the number of justices on the Court of Appeals for the Ninth Court of Appeals District, which takes effect January 1, 2005.

Senate Bill 375

Effective: 5-12-03

Senate Author: Williams et al.

House Sponsor: Christian et al.

Senate Bill 375 amends the Government Code to allow the Court of Appeals for the Ninth Court of Appeals District to transact its business in the City of Beaumont or in the county seat of any county in the district.

District Courts

House Bill 830

Effective: See below

House Author: Hughes et al.

Senate Sponsor: Ratliff

House Bill 830 amends the Code of Criminal Procedure to require six-person juries for misdemeanor trials in district courts.

The bill takes effect January 1, 2004, contingent on voter approval of the constitutional amendment proposed by House Joint Resolution 44.

House Bill 2234

Effective: 9-1-03

House Author: McReynolds

Senate Sponsor: Staples

House Bill 2234 amends the Government Code to authorize the 411th District Court to appoint a bailiff and sets forth provisions relating to the salary of the bailiff.

House Bill 2341

Effective: 6-20-03

House Author: Kolkhorst

Senate Sponsor: Armbrister

House Bill 2341 amends the Government Code to provide that the district attorney for the 21st District Court also performs the duties of district attorney before the 335th District Court in Washington and Burleson counties.

House Bill 2402

Effective: 9-1-03

House Author: Stick et al.

Senate Sponsor: Barrientos

House Bill 2402 amends the Government Code to remove the current cap on the supplemental salary for Collin County and Travis County district judges and temporarily apply the state law governing judicial salaries until September 1, 2007, at which time the cap is removed and the commissioners courts of Collin County and Travis County are authorized to budget for, set, and pay the district court judges an annual supplemental salary for services rendered and for performing administrative services.

House Bill 2937

Effective: 1-1-04

House Author: Phillips

Senate Sponsor: Estes

House Bill 2937 amends the Government Code to create the office of criminal district attorney of Grayson County, provides for the election of the criminal district attorney and for the filling of a vacancy, and specifies duties and salary for the office. The bill abolishes the office of county attorney of Grayson County on January 1, 2005.

House Bill 3167

Effective: 9-1-03

House Author: Goolsby et al.

Senate Sponsor: Brimer

House Bill 3167 amends provisions of the Government Code relating to fees collected by the district clerk for filing certain suits. The bill increases the fee for filing a suit, including an appeal from an inferior court, from \$45 to \$50. The bill creates additional fees for filing a suit with more than 10 plaintiffs: \$75 for a suit with at least 11 but not more than 25 plaintiffs; \$100 for a suit with at least 26 but not more than 100 plaintiffs; \$125 for a suit with at least 101 but not more than 500 plaintiffs; \$150 for a suit with at least 501 but not more than 1,000 plaintiffs; and \$200 for a suit with more than 1,000 plaintiffs.

House Bill 3304
Effective: 9-1-03

House Author: Guillen
Senate Sponsor: Zaffirini

House Bill 3304 amends the Government Code to authorize the judge of the 229th District Court, with the approval of the Duval County Commissioners Court, to appoint a full-time or a part-time associate judge to hear any civil or criminal case involving a matter over which the referring court has jurisdiction. The bill establishes eligibility criteria for a person to serve as an associate judge, enumerates the powers and duties of an associate judge, and sets forth guidelines relating to the administration and operation of the court.

House Bill 3384
Effective: 9-1-03

House Author: Hartnett
Senate Sponsor: Shapiro

House Bill 3384 amends provisions of the Government Code relating to associate judges in Dallas County. The bill changes the title of a court master to associate judge and allows the district judges by a majority vote to appoint one or more full-time associate judges for any civil matter, other than tax suits. The bill adds additional qualifications to include that the associate judge be at least 25 years of age, have practiced law in this state for at least four years preceding the date of appointment, and maintain a license to practice law in this state during the term of appointment. The bill provides that an associate judge has the same judicial immunity as a district judge and allows the associate judge to conduct a trial on the merits with the agreement of all parties and the consent of the referring court. The bill changes the method of referral of cases to associate judges to allow an order of referral in a specific case or by an omnibus order. The bill also revises the provisions relating to the record of evidence and the provisions of a notice of decision or appeal and repeals various provisions relating to court masters in Dallas County.

House Bill 3461
Effective: 9-1-03

House Author: Canales
Senate Sponsor: Zaffirini

House Bill 3461 amends the Government Code to delete the provision that authorizes the district attorney in the 156th Judicial District to perform the duties of the county attorney in McMullen County if there is no county attorney in McMullen County.

House Joint Resolution 44
For Election: 9-13-03

House Author: Hughes et al.
Senate Sponsor: Ratliff

House Joint Resolution 44 proposes a state constitutional amendment to authorize a six-person petit jury for misdemeanor trials in a district court.

Senate Bill 88
Effective: 1-1-05

Senate Author: Wentworth
House Sponsor: Kuempel

Senate Bill 88 amends the Government Code to include the district attorney of the 25th Judicial District in the list of prosecutors subject to provisions governing certain professional prosecutors.

Senate Bill 354
Effective: 9-1-03

Senate Author: Harris
House Sponsor: Goodman

Senate Bill 354 amends the Government Code to establish that the 213th, 297th, 371st, 372nd, and 396th district courts and the Tarrant County Criminal District Court No. 4 have concurrent original jurisdiction with the county criminal courts in Tarrant County over misdemeanor cases.

Senate Bill 520
Effective: 9-1-03

Senate Author: Duncan
House Sponsor: Hartnett

Senate Bill 520 amends the Government Code to remove Upton County from the 83rd Judicial District.

Senate Bill 979
Effective: 9-1-03

Senate Author: Wentworth
House Sponsor: Goodman

Senate Bill 979 amends the Government Code to remove Caldwell County from the 274th Judicial District.

Senate Bill 1018
Effective: 9-1-03

Senate Author: Duncan
House Sponsor: Hartnett

Senate Bill 1018 amends the Government Code to authorize the 106th District Court to appoint a bailiff and sets forth provisions relating to the salary of the bailiff.

Senate Bill 1465
Effective: 9-1-03

Senate Author: Lindsay
House Sponsor: Hamric

Senate Bill 1465 amends the Government Code to allow judges of the district courts in Harris County that give preference to criminal cases, with the consent and approval of the Commissioners Court of Harris County, to appoint the number of magistrates set by the commissioners court to perform the duties associated with the administration of drug courts and acceptance and sentencing on agreed plea bargains. The bill establishes provisions relating to the qualifications, compensation, powers, and duties of the criminal law magistrates.

Senate Bill 1551
Effective: See below

Senate Author: Duncan
House Sponsor: Hartnett

Senate Bill 1551 amends the Government Code to create certain district courts in Johnson, McLennan, Parker, Collin, Travis, Nacogdoches, Caldwell, and Kaufman counties. The bill provides that the 417th Judicial District in Collin County is created September 15, 2004, and is required to give preference to juvenile matters. The bill is effective September 1, 2003, except for the creation of the district courts in McLennan, Parker, Travis, Nacogdoches, Caldwell, and Kaufman counties, which is effective September 1, 2005.

Senate Bill 1915
Effective: 9-1-03

Senate Author: Armbrister
House Sponsor: Hegar

Senate Bill 1915 amends the Government Code to make the date on which the terms of the 9th District Court begin in Waller County uniform with Montgomery County by providing that the terms begin on the first Monday in January and the first Monday in July.

Senate Bill 1923
Effective: 1-1-05

Senate Author: Ogden
House Sponsor: McReynolds

Senate Bill 1923 amends the Government Code to include the district attorney of the 42nd and 258th judicial districts in the list of prosecutors subject to provisions governing certain professional prosecutors.

Senate Bill 1932

Effective: 6-20-03

Senate Author: Ogden

House Sponsor: McReynolds

Senate Bill 1932 amends the Government Code to require that if there is a vacancy in the office of district attorney in the 258th Judicial District, an attorney who is employed by the prison prosecution unit in Trinity County is to perform the duties of the district attorney until the vacancy is filled by the governor or a district attorney is elected by the voters of the district. The bill provides that the duties of the district attorney are in addition to the duties of the prison prosecution unit, and the attorney and the unit are not entitled to additional compensation or reimbursement. This section expires February 1, 2005.

Municipal Courts

House Bill 1066

Effective: 9-1-03

House Author: Goodman

Senate Sponsor: Brimer

House Bill 1066 amends the Code of Criminal Procedure to authorize the governing body of a municipality to use its municipal court technology fund to finance the maintenance of technological enhancements for municipal courts or municipal courts of record, rather than solely for the initial purchase of such items as previously authorized. The bill repeals a provision that would have terminated such funds on September 1, 2005.

House Bill 1729

Effective: 6-21-03

House Author: Merritt

Senate Sponsor: Ratliff

House Bill 1729 amends the Government Code to permit a municipal court of record for the City of Longview to use an electronic recording device to record court proceedings as an alternative to using a court reporter.

House Bill 2799

Effective: 9-1-03

House Author: Thompson

Senate Sponsor: R. West

House Bill 2799 amends the Government Code to specify that the Uniform Municipal Courts of Record Act applies to all municipalities that create municipal courts of record authorized by state law.

House Bill 3603

Effective: 6-20-03

House Author: T. Smith

Senate Sponsor: Brimer

House Bill 3603 amends the Government Code to exempt the City of Bedford from current state law that requires municipal judges to be appointed by a city's governing body and allows the governing body of the city to determine by ordinance whether a municipal judge is appointed by the governing body or elected by the qualified voters of the city.

House Bill 3624

Effective: 9-1-03

House Author: Quintanilla

Senate Sponsor: Shapleigh

House Bill 3624 amends the Government Code to permit electronic recordings of proceedings in the municipal court of record for the City of El Paso.

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

- HB 32 - Criminal Justice
- HB 171 - Criminal Justice
- HB 296 - Elections
- HB 559 - Criminal Justice
- HB 823 - Family Law and Juvenile Justice
- HB 1634 - Criminal Justice
- HB 2188 - Local Government
- HB 2323 - Labor and Employment
- HB 2725 - Criminal Justice
- HB 2886 - Family Law and Juvenile Justice
- HB 3070 - Local Government
- SB 791 - State Government
- SB 1564 - Local Government
- SB 1948 - Criminal Justice

Criminal Justice

This chapter covers legislation relating to criminal offenses, penalties, and procedures. Bills on correctional, juvenile, and rehabilitation facilities, jails, pardons and paroles, and incarcerated individuals are in the **Corrections** chapter, and bills relating to law enforcement agencies and the Texas Department of Public Safety 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 1609

Effective: 6-20-03

House Author: Riddle

Senate Sponsor: R. Ellis

House Bill 1609 amends the Government Code to add to the list of people who may administer and certify an oath an employee of a personal bond office if the oath is required for a determination of indigency and appointment of counsel.

House Bill 1895

Effective: 9-1-03

House Author: Hope

Senate Sponsor: Staples

House Bill 1895 amends the Code of Criminal Procedure to allow an immediate family or household member of a deceased crime victim to receive compensation from the Crime Victim's Compensation Fund for expenses and lost wages to travel to and attend the victim's funeral. The bill limits the compensation of lost wages to not more than 10 days of work or a maximum of \$1,000, and authorizes the attorney general to establish compensation limitations on the claimant's pecuniary loss incurred as a result of traveling to and attending the victim's funeral.

House Bill 2192

Effective: 9-1-03

House Author: Keel et al.

Senate Sponsor: Van de Putte

House Bill 2192 amends the Texas Controlled Substances Act to update and revise provisions relating to controlled substance penalty groups and the classification of a controlled substance analogue. The bill establishes an affirmative defense to prosecution for an offense involving a controlled substance analogue that has a chemical structure similar to a controlled substance or that is specifically designed to produce the same effect.

The bill amends the Code of Criminal Procedure to add a controlled substance, immediate precursor, chemical precursor, or other controlled substances property, including an apparatus or paraphernalia kept, prepared, or manufactured in violation of the law to the list of circumstances that authorizes a search warrant to be issued.

House Bill 2676

Effective: 9-1-03

House Author: Hughes

Senate Sponsor: Averitt

House Bill 2676 amends the Government Code to remove from the attorney general's biennial report to the governor a statement of the number of indictments found by grand juries in the state and the offenses charged; the number of trials, convictions, and acquittals for each offense; the number of dismissals; and a summary of the judgments rendered on conviction, the nature and amount of penalties imposed, and the amount of fines collected.

Senate Bill 319

Effective: 9-1-03

Senate Author: Armbrister et al.

House Sponsor: Allen

Senate Bill 319 amends the Civil Practice and Remedies Code, the Penal Code, and the Code of Criminal Procedure to allow the imposition of criminal and civil penalties in some cases for the death of or injury to an unborn child. The bill amends the Penal Code to expand the definition of an “individual” to include an unborn child from fertilization forward, except in the chapter on kidnapping and unlawful restraint. It expands the definition of “death” to include an event in which an unborn child is never born alive. The effect is to expand various offenses to cover the death of or injury to unborn children. However, the bill clarifies in the criminal homicide and assault chapters of the code that provisions relating to those offenses do not apply to conduct by the unborn child’s mother; lawful conduct in dispensing a drug or administering a lawfully prescribed drug; or a lawful consensual medical procedure, performed by a licensed health care provider and involving either assisted reproduction (artificial insemination, in vitro fertilization, or other procedures) or an intent to cause the death of the unborn child (abortion). Additional clarification provides that the offenses of intoxication manslaughter and intoxication assault (from drunken driving and like situations) do not apply to the death of or injury to an unborn child from conduct committed by its mother. The bill adds a provision to the Code of Criminal Procedure, relating to prosecutions where there is evidence of pregnancy, to conform to the Penal Code changes.

The bill also amends the subchapter on wrongful death in the Civil Practice and Remedies Code to expand the definitions of “individual” and “death” in the same manner as it does generally in the Penal Code, but it excludes from the subchapter’s applicability a claim for the death of an unborn child that is caused by its mother, results from the lawful dispensing or administration of a drug, or results directly, indirectly, or intentionally from lawful medical or health care procedures or practices. Other provisions relate to evidence of pregnancy in a civil suit brought by a plaintiff with respect to the wrongful death of an unborn child.

Senate Bill 443

Effective: 6-20-03

Senate Author: Wentworth et al.

House Sponsor: Keel

Senate Bill 443 amends the Government Code to authorize a nonprofit activity provider that has participants or recipients who are younger than 17 years of age to obtain criminal history record information concerning its volunteers or volunteer applicants to determine their suitability for a volunteer position. The bill prohibits the activity provider from disclosing or releasing the information except under certain circumstances and requires the information to be destroyed after determining the person’s suitability.

Senate Bill 1015

Effective: 6-21-03

Senate Author: Wentworth

House Sponsor: Elkins

Senate Bill 1015 amends the Government Code to establish the confidentiality of certain information about a crime victim held by a governmental body or filed with a court as part of a crime victim impact statement. The confidential information includes the name, address, telephone number, and social security number of the crime victim and any other information that would identify or tend to identify the crime victim. An amendment to provisions of the Code of Criminal Procedure relating to crime victim compensation expands the definition of compensable “pecuniary loss” to include the reasonable and necessary costs of travel and lodging associated with witnessing an execution.

Offenses and Penalties

House Bill 11

Effective: 9-1-03

House Author: Keel et al.

Senate Sponsor: Shapiro

House Bill 11 amends the Penal Code to add to the list of terroristic threats that constitute felonies of the third degree. A terroristic threat offense occurs if an individual commits any offense involving violence to a person or property with intent to place the public or a substantial group of the public in fear of serious bodily injury or with intent to influence the conduct or activities of a branch or agency of the federal or state government or a Texas political subdivision. The bill also establishes when a murder committed in the course of a terroristic threat is considered a capital murder.

House Bill 12

Effective: 9-1-03

House Author: Keel et al.

Senate Sponsor: Armbrister

House Bill 12 amends the Penal Code to expand the definition of disorderly conduct to make it a Class C misdemeanor for a person to look, for a lewd or unlawful purpose, into a public restroom, shower stall, or changing or dressing room that is designed to provide privacy to the person using the area.

House Bill 59

Effective: Vetoed

House Author: Wise et al.

Senate Sponsor: Van de Putte

House Bill 59 amends the Penal Code to increase the penalty for the offense of kidnapping from a third degree to a second degree felony if the actor exposes the abducted person to a risk of serious bodily injury. The bill provides that a person commits the offense of aggravated kidnapping if the person holds an abducted person to coerce a third person to perform some act, holds the abducted person in a condition of involuntary servitude, or intentionally or knowingly abducts another person who is younger than 18 years of age or is incompetent.

The bill makes it an offense, with progressive penalties, for a person to knowingly traffic another person with the intent to engage the trafficked person in forced labor or services or conduct that constitutes a public indecency offense. The bill includes trafficking of persons under the offense of engaging in organized criminal activity.

Reason Given for Veto: "House Bill No. 59 must be vetoed to avoid confusion for law enforcement, prosecutors, and courts. House Bill No. 2096, which I signed, creates a new chapter in the Penal Code regarding trafficking of persons. Therefore, the similar but not identical provisions in House Bill No. 59 are unnecessary."

House Bill 236

Effective: 9-1-03

House Author: G. West et al.

Senate Sponsor: Shapiro

House Bill 236 amends the Penal Code to increase the punishment to the next level for the offense of obscenity if it is shown at trial that the obscene material depicts activities by a child younger than 18 years of age or an image created, adapted, or modified to be the image of an identifiable child, and requires a defendant previously convicted of this offense to be imprisoned for life. The bill increases the punishment from a third to a second degree felony if a person is convicted of the offense of sale or purchase of a child with the intent to commit an offense relating to the sexual performance of a child. The bill deletes a provision of the offense of sexual performance by a child that provides a defense to prosecution if the defendant, in good faith, reasonably believed that the child who engaged in the sexual conduct was 18 years or

older. The bill creates a duty to report for a business that develops or processes visual material and determines that the material may be evidence of the criminal offense of possession or promotion of child pornography. The Department of Public Safety is responsible for determining whether the elements of an offense under the laws of another state, federal law, or military law are substantially similar to the elements of an offense in Texas for purposes of the Sex Offender Registration Program, and House Bill 236 adds the laws of a foreign country to that duty.

House Bill 275

Effective: 9-1-03

House Author: Keel

Senate Sponsor: Armbrister

House Bill 275 amends provisions of the Penal Code relating to the offense of theft of service. The bill provides that intent to avoid payment is presumed if a person fails to return rental property valued at less than \$1,500 within five days after receiving notice demanding return or fails to return rental property valued at \$1,500 or more if the property is not returned within three days after receiving notice.

House Bill 284

Effective: 9-1-03

House Author: D. Ellis et al.

Senate Sponsor: Staples

The offense of unlawfully carrying a weapon does not apply to a person's own premises or premises under the person's control under most circumstances. House Bill 284 amends the Penal Code to define "premises" to include a recreational vehicle that is being used by the person carrying the handgun, illegal knife, or club as living quarters, regardless of whether that use is temporary or permanent. The bill defines "recreational vehicle" as a motor vehicle primarily designed as temporary living quarters or a vehicle that contains temporary living quarters and is designed to be towed by a motor vehicle. The term includes a travel trailer, camping trailer, truck camper, motor home, and horse trailer with living quarters.

House Bill 325

Effective: 9-1-03

House Author: McCall

Senate Sponsor: Estes

House Bill 325 amends the Penal Code to increase the penalty from a Class C to a Class B misdemeanor for giving a false or fictitious name, residence address, or date of birth to a peace officer under certain circumstances. The bill increases the penalty from a Class B to a Class A misdemeanor if the individual is a fugitive from justice at the time of the offense.

The bill makes it a Class A misdemeanor for a person to observe and fail to report the commission of a felony under circumstances in which a reasonable person would believe that an offense had been committed and serious bodily injury or death may have resulted.

House Bill 346

Effective: 6-20-03

House Author: Dutton et al.

Senate Sponsor: Whitmire

House Bill 346 amends the Government Code to limit confinement for criminal contempt of court to a maximum of 18 months, including three or more periods of confinement for contempt arising out of the same matter that equal a cumulative total of 18 months, and the lesser of 18 months or the period from the date of confinement to the date the person complies with the court order that was the basis of the finding of contempt. The bill's confinement limitations do not apply to a person held in contempt of court for disobedience of a court order to make child support payments.

House Bill 420**Effective:** 9-1-03**House Author:** Martinez Fischer et al.**Senate Sponsor:** Zaffirini

House Bill 420 amends the Penal Code to increase the punishment for theft and certain types of fraud, including misapplication of fiduciary property, to the next higher category of offense if it is shown at trial that the offense was committed against an elderly individual.

House Bill 532**Effective:** 9-1-03**House Author:** Giddings**Senate Sponsor:** Nelson

House Bill 532 amends the Penal Code to make it a second degree felony for an employee of a public or private primary or secondary school to engage in improper sexual relations with a person who is enrolled in a public or private primary or secondary school at which the employee works.

House Bill 565**Effective:** 9-1-03**House Author:** Haggerty**Senate Sponsor:** Jackson

House Bill 565 amends the Penal Code to make it a third degree felony for a person to commit the offense of assault against a person the actor knows is a security officer while the officer is on duty, and a first degree felony to commit the offense of aggravated assault against a security officer. The bill defines “security officer” as a security officer commissioned by the Texas Commission on Private Security or a noncommissioned security officer registered with the commission.

House Bill 616**Effective:** 9-1-03**House Author:** Keel et al.**Senate Sponsor:** Hinojosa

House Bill 616 amends the Penal Code to increase the penalty from a Class A misdemeanor to a state jail felony for the offense of terroristic threat if the actor causes a loss of \$1,500 or more to the owner of the building, room, place, or conveyance affected.

House Bill 716**Effective:** 9-1-03**House Author:** Delisi et al.**Senate Sponsor:** Harris

House Bill 716 amends the Penal Code to increase the penalty from a Class C to a Class B misdemeanor if the offense of assault is committed by a person who is not a sports participant against a person the actor knows is a sports participant while the participant is performing the duties or responsibilities of the participant or in retaliation for or on account of the performance of those duties or responsibilities.

House Bill 778**Effective:** 9-1-03**House Author:** Naishtat et al.**Senate Sponsor:** Nelson

House Bill 778 amends the Penal Code to change the definition of an emergency, as it applies to the offense of interference with an emergency telephone call, from a situation in which a person is in “imminent danger of serious bodily injury” to a situation in which a person is in “fear of imminent assault.” The bill amends the Code of Criminal Procedure to permit a peace officer to arrest, without a warrant, a person who the peace officer has probable cause to believe prevented or interfered with an individual’s ability to place a telephone call in an emergency, if the offense is not committed in the presence of the peace officer.

House Bill 831

Effective: 9-1-03

House Author: Reyna et al.

Senate Sponsor: Deuell

House Bill 831 amends the Penal Code to make it a Class C misdemeanor for a person to knowingly direct a laser pointer light at a uniformed safety officer, including a peace officer, security guard, firefighter, emergency medical service worker, or other uniformed municipal, state, or federal officer.

House Bill 864

Effective: 9-1-03

House Author: Kolkhorst et al.

Senate Sponsor: Staples

House Bill 864 amends the Penal Code to make it a third degree felony for a person to provide an inmate of a correctional facility with a deadly weapon, to possess a deadly weapon while in a correctional facility, or to provide an inmate of a correctional facility operated by or under contract with the Texas Department of Criminal Justice with a cellular telephone, a cigarette, a tobacco product, or money. The bill also makes it an offense for an inmate of a correctional facility to possess a cellular telephone. The bill provides that it is an affirmative defense to prosecution that the person possessing a deadly weapon is a peace officer or an officer or employee of the correctional facility and is authorized to possess the weapon while on duty or traveling to or from the person's place of assignment.

House Bill 1060

Effective: 9-1-03

House Author: Thompson et al.

Senate Sponsor: R. Ellis

House Bill 1060 amends the Penal Code to make it a state jail felony for a person, knowing the character and content of certain photographs or visual recordings, to promote those items without consent and for an improper sexual purpose.

House Bill 1246

Effective: 9-1-03

House Author: Riddle et al.

Senate Sponsor: Hinojosa

House Bill 1246 amends provisions of the Penal Code relating to the offense of sexual assault to make it a criminal offense to penetrate the anus or sexual organ of any person, rather than only a female, under certain circumstances.

House Bill 1458

Effective: 9-1-03

House Author: Eiland et al.

Senate Sponsor: Jackson

House Bill 1458 amends provisions of the Penal Code relating to criminal obstruction and retaliation to define an "honorably retired peace officer" to mean a peace officer who did not retire in lieu of any disciplinary action; was eligible to retire from a law enforcement agency or was ineligible to retire only as a result of an injury received in the course of the officer's employment with the agency; and is entitled to receive a pension or annuity for service as a law enforcement officer or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the officer does not offer a pension or annuity to its employees. The bill establishes that a "public servant" includes an honorably retired peace officer.

House Bill 1592

Effective: 9-1-03

House Author: Nixon et al.

Senate Sponsor: Janek

House Bill 1592 amends the Occupations Code to make it a state jail felony for a licensed health professional to perform surgery on a patient while intoxicated and, due to that conduct, place the patient at a substantial and unjustifiable risk of harm. The bill provides that it is an affirmative defense to prosecution if the surgery was performed in an emergency and defines "emergency."

House Bill 1661
Effective: 9-1-03

House Author: Haggerty
Senate Sponsor: Jackson

House Bill 1661 amends provisions of the Penal Code relating to the possession of prohibited weapons to provide a defense to prosecution for the offense of possessing a chemical dispensing device if the actor holds a security officer commission issued by the Texas Commission on Private Security and has received training on the use of the device that is approved by the commission or provided by the Commission on Law Enforcement Officer Standards and Education.

House Bill 1704
Effective: 9-1-03

House Author: Taylor et al.
Senate Sponsor: Janek

House Bill 1704 amends the Government Code to change the definition of a felony for purposes of eligibility for a license to carry a concealed handgun to include an offense that contains all the elements of an offense designated by a law of this state as a felony and to specify that a felony determination is made at the time of a person's application for the license. The bill requires the Department of Public Safety to establish a procedure for the issuance of a license to carry a concealed handgun for a person who relocates to this state with the intent to establish residency or who is a legal resident of a state that does not provide for licensure. The bill provides that if a state whose residents may obtain a Texas license enacts a law providing for the issuance of such a license, then the Texas license remains in effect until its expiration and may be renewed unless the department negotiates an agreement with that state to recognize its licenses.

House Bill 1872
Effective: 9-1-03

House Author: Riddle
Senate Sponsor: Williams

House Bill 1872 amends the Penal Code to expand the offense of criminal trespass to include entering or remaining in a vehicle of another without effective consent.

House Bill 2525
Effective: 9-1-03

House Author: D. Ellis
Senate Sponsor: Whitmire

House Bill 2525 amends the Penal Code to make it a third-degree felony for a person to assault under certain circumstances another person who contracts with the government to perform a service in a correctional or detention facility.

House Bill 2881
Effective: 9-1-03

House Author: Driver et al.
Senate Sponsor: Deuell

House Bill 2881 amends the Penal Code to make it an offense with progressive penalties for a person or an animal owned by or in the custody of the person to attack, injure, or kill an assistance animal. The bill requires a court to order a convicted defendant to make restitution to the owner of the assistance animal for any veterinary or medical bills, the cost of replacing the assistance animal or retraining an injured one, and any other expenses reasonably incurred as a result of the offense. The bill also amends the Human Resources Code to make conforming changes.

House Bill 2892

Effective: 9-1-03

House Author: Allen

Senate Sponsor: Whitmire

House Bill 2892 amends the Health and Safety Code to make it a second degree felony for a person to barter property or expend funds that were derived from the commission of the offense of possession of 50 to 2,000 pounds of marihuana or to barter property or finance or invest funds to further the commission of such offense. The bill makes it a first degree felony to barter property, in addition to expending, financing, or investing funds, that were derived from, or to further the commission of, an offense punishable by life imprisonment.

For an offense punishable as a state jail, third, or second degree felony, the bill increases the punishment by one degree if it is found that the defendant manufactured or delivered a controlled substance that caused the death or serious bodily injury of a person as a result of the controlled substance. The bill prevents the court from ordering the sentence to run concurrently with any other sentence imposed on the defendant.

Senate Bill 45

Effective: 9-1-03

Senate Author: Zaffirini

House Sponsor: Talton

Senate Bill 45 amends the Penal Code to make it a state jail felony for a person to drive a motor vehicle in a public place while intoxicated with a passenger who is younger than 15 years of age.

Senate Bill 176

Effective: 9-1-03

Senate Author: Nelson et al.

House Sponsor: Naishtat et al.

Senate Bill 176 amends the Penal Code to change the definition of an emergency, as it applies to the offense of interference with an emergency telephone call, from a situation in which a person is in “imminent danger of serious bodily injury” to a situation in which a person is in “fear of imminent assault.” The bill amends the Code of Criminal Procedure to permit a peace officer to arrest, without a warrant, a person who the peace officer has probable cause to believe prevented or interfered with an individual’s ability to place a telephone call in an emergency.

Senate Bill 317

Effective: 9-1-03

Senate Author: Hinojosa

House Sponsor: Naishtat

Senate Bill 317 amends provisions of the Penal Code relating to the elements of an offense of violating a protective or magistrate’s order. Under previous law, a violation constituted an offense if a person knowingly or intentionally communicated in all of the following ways: (1) directly with a protected individual or a member of the family or household in a threatening or harassing manner; (2) a threat through any person to a protected individual; and (3) in any manner with a protected individual if the order prohibited communication. Senate Bill 317 provides that a person commits an offense if the person communicates with a protected individual in only one of these ways.

Senate Bill 408

Effective: 9-1-03

Senate Author: Deuell

House Sponsor: R. Cook

Senate Bill 408 amends the Penal Code to increase the penalty for a terroristic threat from a Class B to a Class A misdemeanor if a person threatens to commit an offense involving violence to a member of the person’s family or household or if committed against a public servant with the intent to place the person in fear of imminent serious bodily injury.

Senate Bill 501**Effective:** 9-1-03**Senate Author:** Armbrister et al.**House Sponsor:** Hupp

Senate Bill 501 amends provisions of the Penal Code relating to the application of criminal trespass laws to persons licensed to carry a concealed handgun. The bill creates a defense to prosecution for the offense of criminal trespass if the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden and the person carrying the concealed handgun was licensed to do so. The bill provides an exception to the application of the offense of trespass by a holder of a license to carry a concealed handgun if the property is owned or leased by a governmental entity and is not a premises or other place where concealed handguns are prohibited. The bill provides that the prohibition against certain prohibited weapons applies to the premises of government courts or court offices, instead of only in the courts or offices themselves.

Senate Bill 825**Effective:** 9-1-03**Senate Author:** Whitmire**House Sponsor:** Keel

Senate Bill 825 amends the Penal Code to expand the offense of sexual assault to provide that it is a criminal offense for an employee of certain health care facilities to engage in sex with a resident of the facility unless the employee and resident are formally or informally married to each other.

Senate Bill 827**Effective:** Vetoed**Senate Author:** Whitmire**House Sponsor:** Keel

Senate Bill 827 amends provisions of the Penal Code relating to the offense of abandoning or endangering a child to include an elderly or disabled individual. The bill adds the additional offense of failure to provide food, medical care, or shelter for a child younger than 15 years or an elderly or disabled individual and makes it a second degree felony. The bill provides for an affirmative defense to prosecution if the act or omission was based on treatment in accordance with the tenets and practices of a recognized religious method of healing, and for a defense to prosecution if the person delivered the child to a designated emergency infant care provider.

Reason Given for Veto: "I support the intent of Senate Bill No. 827 to provide added protections to individuals who are elderly or disabled. However, the bill's flawed language has the unintended consequence of holding hospitals and hospital staff criminally liable for carrying out a patient's advanced directive to withhold lifesaving treatment. The bill would have provided a defense to prosecution if medical care or food is withheld based on an advanced directive or a living will. However, that defense did not extend to hospitals or their personnel."

Procedures**House Bill 13****Effective:** 9-1-03**House Author:** Keel**Senate Sponsor:** Wentworth

House Bill 13 amends the Code of Criminal Procedure to provide that an arrest warrant, and any affidavit in support of its issuance, is public information. After the warrant is executed, the bill requires the magistrate's clerk to make a copy of the warrant and affidavit available for public inspection during normal business hours, and authorizes a person to request copies of the information on payment of the cost of providing the copies.

House Bill 32

Effective: Vetoed

House Author: Hodge

Senate Sponsor: Deuell

House Bill 32 amends the Code of Criminal Procedure to exempt a subsequent application for a writ of habeas corpus based on a claim of a time-served credit error from the court's prohibition relating to the consideration of a subsequent application for a writ of habeas corpus. The bill amends the Government Code to make conforming changes.

Reason Given for Veto: "House Bill No. 32 would allow inmates to file an unlimited number of applications for a writ of habeas corpus when complaining about time-credits on their sentences. That is a waste of time in the trial and appellate courts of this state. Current law allows a subsequent application when an inmate produces facts that could not have been previously presented."

House Bill 42

Effective: 9-1-03

House Author: Chisum et al.

Senate Sponsor: Duncan

House Bill 42 amends the Code of Criminal Procedure to provide that an offense of escape or unauthorized absence may be prosecuted in either the county in which the offense was committed or the county where the defendant committed the offense for which the defendant was placed in custody, detained, or required to submit to treatment.

House Bill 171

Effective: 9-1-03

House Author: Keel

Senate Sponsor: Whitmire

House Bill 171 amends provisions in the Code of Criminal Procedure relating to the expunction of arrest records and files for a defendant who is acquitted. The bill clarifies that the expunction order should be entered either by the trial court, if it is a district court, or by a district court in the county in which the trial court is located. The bill deletes the requirement that a hearing be held before the court enters an expunction order. The bill requires the defendant's attorney, if the defendant was represented by counsel, or the state's attorney, if the defendant was not represented, to prepare the expunction order for the court's signature.

House Bill 254

Effective: 9-1-03

House Author: Kolkhorst et al.

Senate Sponsor: Armbrister

House Bill 254 amends the Code of Criminal Procedure to provide that the offense of fraudulent use or possession of identifying information may be prosecuted in the county where the offense was committed or in the county of residence of the person whose identifying information was fraudulently used.

House Bill 406

Effective: 9-1-03

House Author: Miller et al.

Senate Sponsor: Williams

House Bill 406 amends the Code of Criminal Procedure to expand the definition of "proceeds" to include income a person accused or convicted of a crime, or the person's representative or assignee, receives from a telephone service or an electronic media format, including an Internet website. The bill adds these items to the list of forfeited property that an attorney for the state is required to transfer to the attorney general.

House Bill 559

Effective: 9-1-03

House Author: B. Brown

Senate Sponsor: Deuell

House Bill 559 amends the Code of Criminal Procedure to add obscene device or material to the list of contraband that a magistrate is required to dispose of following a final conviction for certain crimes.

House Bill 670**Effective:** 9-1-03**House Author:** Phillips et al.**Senate Sponsor:** Estes

House Bill 670 amends the Code of Criminal Procedure to allow a victim to use a pseudonym for public files and records of any offenses that occur during a criminal episode involving a sexual offense, rather than only for the sexual offense.

House Bill 1011**Effective:** 9-1-03**House Author:** Hochberg et al.**Senate Sponsor:** Duncan

House Bill 1011 amends provisions of the Code of Criminal Procedure relating to postconviction DNA testing. The bill clarifies that a court is required to appoint counsel for an indigent convicted person only if the court finds that reasonable grounds exist for filing a motion for forensic DNA testing. The guardian of a convicted person is also authorized to submit motions on the person's behalf and is entitled to counsel if it would be provided to the convicted person. The bill establishes that the standard of proof for ordering DNA testing is a preponderance of the evidence and deletes the requirement that there be a finding that the convicted person would not have been prosecuted if the test results had been available. The convicting court is authorized to modify or withdraw an execution date in a death penalty case if it determines that additional proceedings are necessary for a forensic DNA testing motion. The bill provides that an appeal on a motion for DNA testing is a direct appeal to the court of criminal appeals only if the person was convicted in a capital case and sentenced to death; otherwise, the appeal is to the court of appeals and the state may appeal the court's order.

House Bill 1634**Effective:** 6-18-03**House Author:** Hilderbran et al.**Senate Sponsor:** Staples

House Bill 1634 amends the Code of Criminal Procedure to specify that a court retains jurisdiction over a defendant who violates a condition of community supervision by absconding, regardless of whether the period of community supervision has expired, if before the expiration a warrant is issued for the defendant's arrest and the state's attorney files a motion to proceed with the adjudication of guilt or to revoke, continue, or modify the community supervision. The bill establishes an affirmative defense to revocation if certain law enforcement officers fail to contact the defendant in person at the defendant's last known residence address or place of employment.

House Bill 1713**Effective:** 6-20-03**House Author:** Hodge**Senate Sponsor:** Whitmire

House Bill 1713 amends the Code of Criminal Procedure to establish a procedure for an application for a writ of habeas corpus in a felony or misdemeanor case where the applicant seeks relief from an order or a judgment of conviction ordering community supervision. The bill requires the application to be filed with the clerk of the court where community supervision was imposed, and requires the application to challenge either the conviction for which community supervision was imposed or the conditions of community supervision. The bill sets forth provisions for the court to either deny the application as frivolous or enter an order including findings of fact and conclusions of law, and it establishes procedures for appealing the holding of the court and for filing subsequent applications.

House Bill 2474

Effective: 9-1-03

House Author: Callegari

Senate Sponsor: Deuell

House Bill 2474 amends provisions of the Penal Code and the Code of Criminal Procedure relating to electronic surveillance. The bill expands the affirmative defense to prosecution for the offense of unlawful interception, use, or disclosure of a wire, oral, or electronic communication if a person who was acting under the color of law intercepts a wire, oral, or electronic communication under certain conditions. The bill authorizes an investigative or law enforcement officer to disclose the contents of a wire, oral, or electronic communication to a federal law enforcement officer or agent, or to a law enforcement officer or agent of another state. The bill provides that a peace officer may obtain consent for the emergency installation and use of interception devices from a district judge in the county where the device will be installed or a judge or justice of the court of appeals or of a higher court, rather than a magistrate, and establishes the expiration of the consent. The bill defines “computer trespasser” and “protected computer” and expands the definitions of “ESN reader,” “mobile tracking device,” “pen register,” and “trap and trace device.” The bill authorizes a prosecutor to file an application for the installation and use of certain interception equipment under federal law, rather than only state law. The bill establishes that a computer trespasser or a user, aggrieved person, subscriber, or customer of a communications common carrier or electronic communications service does not have a cause of action against the carrier or service for providing information, facilities, or assistance as required by a good faith reliance on legislative authority or a court order, warrant, subpoena, or certification.

House Bill 2668

Effective: 9-1-03

House Author: Allen et al.

Senate Sponsor: Whitmire

House Bill 2668 amends provisions of the Code of Criminal Procedure relating to convictions of certain state jail felonies under the Texas Controlled Substances Act. The bill requires a judge to suspend the imposition of the sentence and place a defendant who has been convicted of possession of a small amount of certain controlled substances on community supervision. If the defendant has previously been convicted of a felony, the bill authorizes the judge to either place the defendant on community supervision or order the sentence to be executed. The bill requires a defendant placed on community supervision to comply with certain substance abuse treatment conditions, unless the judge finds that the defendant does not require the condition to successfully complete the period of community supervision. The bill amends the Government Code to require the community justice assistance division to propose, and the Texas Board of Criminal Justice to adopt, best practice standards for substance abuse treatment conditions.

House Bill 2668 also requires the Drug Demand Reduction Advisory Committee, not later than October 1, 2003, to inform in writing each court having jurisdiction over offenses covered in the bill and the office of each state attorney charged with prosecuting those offenses of the changes made by the bill and the availability of grants and other sources of revenue to assist in providing the required treatment.

House Bill 2703

Effective: 6-20-03

House Author: Bailey et al.

Senate Sponsor: Gallegos

House Bill 2703 amends the Government Code to require the Texas Department of Public Safety director to establish by rule an accreditation process for crime laboratories, including DNA laboratories, and other entities that conduct forensic analyses of physical evidence for use in criminal proceedings. The bill also requires the director to regulate by rule DNA

testing, including regulation of DNA laboratories. The bill provides that physical evidence and testimony regarding the evidence are not admissible in a criminal case if the analysis of the evidence is not performed by an accredited laboratory or entity, unless the laboratory or entity has preserved samples of physical evidence for use by the defense or the convicting court and has agreed to retain the samples until all appeals in the case are final. The bill amends the definition of “forensic analysis” to include DNA evidence and to exempt latent print examinations and certain other examinations and tests.

House Bill 2725**Effective:** 6-20-03**House Author:** Talton**Senate Sponsor:** R. West

House Bill 2725 amends provisions of the Code of Criminal Procedure relating to the expunction of a person’s arrest records and files. The bill requires a clerk of the court to destroy a person’s arrest files and records relating to certain expunction orders not earlier than the 60th day after the expunction order and not later than the first anniversary of the order. The clerk is required to notify the state’s attorney 30 days before destroying the files or records, and if the state’s attorney objects within 20 days after receiving notice, the clerk is prohibited from destroying the files and records until the first anniversary of the expunction order.

House Bill 2795**Effective:** 6-18-03**House Author:** Riddle**Senate Sponsor:** Whitmire

House Bill 2795 amends the Code of Criminal Procedure to provide that if a person who is arrested without a warrant is first taken to a hospital, clinic, or other medical facility instead of before a magistrate, the time limits imposed for releasing the person on bond do not begin until the person is released from the medical facility.

House Bill 2989**Effective:** 9-1-03**House Author:** Capelo et al.**Senate Sponsor:** Janek

House Bill 2989 amends the Code of Criminal Procedure to require a justice of the peace to conduct an inquest into the death of a person if a body part, and not just the entire body, of a person is found and the cause or circumstances of death are unknown. The bill also authorizes the justice of the peace, rather than the medical examiner, to request the aid of a forensic anthropologist in examining a body or body part. The forensic anthropologist is required to hold a doctoral degree in anthropology with an emphasis in physical anthropology.

House Bill 3377**Effective:** 9-1-03**House Author:** Rangel et al.**Senate Sponsor:** Lucio

House Bill 3377 amends the Code of Criminal Procedure to allow a notice of seizure and intended forfeiture in an asset forfeiture case involving property seized at a federal checkpoint to be filed in and the proceeding to be held in the county in which the seizure occurred or in an adjacent county if both counties are in the same judicial district and the owner, operator, or agent in charge of the property consents.

Senate Bill 146**Effective:** 9-1-03**Senate Author:** Estes et al.**House Sponsor:** Phillips

Senate Bill 146 amends provisions of the Code of Criminal Procedure, the Family Code, and the Government Code relating to procedural and registration requirements for certain sex offenders. The bill authorizes a political subdivision to collect from a sex offender any unpaid fees incurred by the local law enforcement authority in providing certain required newspaper

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notices, including any unpaid amount within a bill for utility service provided by the political subdivision. The bill requires a convicted sex offender to notify local law enforcement, within seven days, of any intent to change his or her name and requires any law enforcement officer supervising a sex offender who becomes aware of such a name change to report it to local law enforcement promptly. The bill requires that a petition to change the name of a child or an adult include whether that person is subject to sex offender registration and if so, proof that the appropriate local law enforcement authority has been notified of the proposed name change.

Senate Bill 356

Effective: 9-1-03

Senate Author: Janek

House Sponsor: Capelo

Senate Bill 356 amends the Code of Criminal Procedure to require a justice of the peace to conduct an inquest into the death of a person if a body part, and not just the entire body, of a person is found and the cause or circumstances of death are unknown. The bill makes conforming changes and also authorizes the justice of the peace, rather than the medical examiner, to request the aid of a forensic anthropologist in examining a body or body part. The forensic anthropologist is required to hold a doctoral degree in anthropology with an emphasis in physical anthropology.

Senate Bill 566

Effective: 9-1-03

Senate Author: R. West

House Sponsor: Driver

Senate Bill 566 amends the Code of Criminal Procedure to require a local law enforcement agency to notify a person and the Department of Public Safety that the person's identifying information was misused by another person arrested in the county. The bill provides procedures for an identity theft victim to expunge the criminal record and requires the applicable court, upon completion and verification of an expunction application, to enter a final order directing expunction without holding a hearing on the matter. The bill requires the department to take action to ensure that the information maintained in its computerized criminal history system reflect the use of the person's identity as a stolen alias and to notify any central federal depository to destroy, obliterate, or return the criminal records. The department must also notify the Texas Department of Criminal Justice (TDCJ) that the person's identifying information may have been falsely used by an inmate in TDCJ's custody. The bill amends the Government Code to require the TDCJ to make reasonable efforts to identify an inmate's actual identity and take action to correct its records, regardless of whether the inmate is in custody, is serving supervised release, or has been discharged.

Senate Bill 802

Effective: 9-1-03

Senate Author: Janek

House Sponsor: Riddle

Senate Bill 802 amends the Code of Criminal Procedure to provide that an alternate juror may serve on a grand jury when a juror who is currently serving becomes unavailable due to death or a physical or mental illness.

Senate Bill 837

Effective: 9-1-03

Senate Author: Williams

House Sponsor: Riddle

Senate Bill 837 amends the Penal Code to include disabled individuals as a specially protected class of victims for the purposes of aggravated sexual assault prosecutions.

Senate Bill 871**Effective:** 9-1-03**Senate Author:** Shapiro**House Sponsor:** Allen et al.

Senate Bill 871 amends provisions of the Code of Criminal Procedure relating to the sex offender registration program. The bill clarifies that an offender is considered employed or carries on a vocation if the person volunteers on a full-time or part-time basis, and is considered a student if the person enrolls on a full-time or part-time basis in any educational facility. The bill requires a sex offender who is employed, carries on a vocation, or attends classes at a public or private higher education institution to register with that institution's campus security or the local law enforcement authority (authority). Also, it requires an offender who resides in Texas but is affiliated with a higher education institution in another state to register with that institution's campus security or the local law enforcement authority and to notify the appropriate authority when the person's status as a worker or student terminates. The bill authorizes a public or private higher education institution and its campus security authority to release certain public information regarding a registered sex offender and provides that the institution and its authority are not liable for any damages arising from the release of information.

The bill requires the Texas Department of Public Safety (DPS) to determine and to inform the offender which local law enforcement authority serves as the offender's primary registration authority based on the municipality or county in which the person resides, works, or attends school. Within a specified time frame, the bill requires an offender's supervising officer to notify the authority of any change in the offender's job or education status, the authority to notify DPS, and DPS to notify the higher education institution, if appropriate.

Senate Bill 871 amends provisions of the Health and Safety Code relating to the civil commitment of sex offenders. The bill changes the composition of the multidisciplinary team that assesses whether a person is a sexually violent predator and increases certain time frames governing civil commitment procedures. The bill requires a person who is on trial to determine the person's status as a sexually violent predator to submit to all required or permitted expert examinations and provides certain consequences for the failure to submit. The bill provides that the civil commitment order is effective upon entry of the order; increases the offender's commitment requirements; allows the requirements to be modified with proper notice and a hearing; and authorizes a case manager to instruct the offender on the requirements regardless of whether the person is incarcerated at the time. The bill increases from \$1,600 to \$2,500 the limit that the state will pay for a civil commitment proceeding and clarifies that the state will pay the reasonable costs of appointed counsel and treatment. The bill establishes that a person who suffers from a behavioral abnormality as determined under the civil commitment of sexually violent predators chapter is not considered a person of unsound mind, due to that abnormality, for certain provisions of the Texas Constitution.

The bill requires the Office of State Counsel for Offenders to represent indigent persons, rather than all persons, subject to civil commitment proceedings and changes the name of the Interagency Council on Sex Offender Treatment to the Council on Sex Offender Treatment. The bill authorizes a judge to request assistance from the council to determine the appropriate residence for a sex offender. The bill provides immunity to an employee of the prison prosecution unit who initiates and pursues civil commitment proceedings.

Senate Bill 1054**Effective:** 9-1-03**Senate Author:** Shapleigh**House Sponsor:** Pena

Senate Bill 1054 amends the Code of Criminal Procedure to require a judge to direct a supervision officer to evaluate the appropriateness of, and a course of conduct necessary for, treatment, specialized supervision, or rehabilitation of a defendant who is a sex offender and to

report the results of the evaluation to the judge. The evaluation is required to be made after conviction and before the entry of a final judgment or, if requested by the defendant, after arrest and before conviction. The bill authorizes a judge to require a sex offender who is granted community supervision to submit to certain treatment, specialized supervision, or rehabilitation. The bill prohibits a sex offender, if the victim of the offense was a child, from going within 1,000 feet, rather than a distance specified by a judge, of certain premises where children commonly gather except under special circumstances.

Senate Bill 1057
Effective: 1-1-04

Senate Author: Duncan
House Sponsor: Keel

Senate Bill 1057 amends the Code of Criminal Procedure, Family Code, and Health and Safety Code to establish procedures and standards for determining the competency of a defendant in criminal and juvenile justice cases. The bill defines a person to be incompetent if the person does not have sufficient present ability to consult with the person's lawyer with a reasonable degree of rational understanding, or a rational, as well as factual, understanding of proceedings against the person.

The bill provides that either party, or the court, may raise the issue of competency before or during the trial. If, after an informal inquiry, the court determines there is evidence to support a finding of incompetency, the court is required to order a competency evaluation. The bill provides that the defendant is entitled to counsel before the evaluation and during the competency proceedings. The bill sets forth the qualifications for experts providing the evaluation and the factors to be considered in the examination and included in the report. If the defendant's competency is contested, the bill establishes procedures for a hearing to determine the competency of the defendant to stand trial.

Upon a finding of incompetency, the court is required to commit the defendant for an initial period not to exceed 120 days, with one 60-day extension permitted, for treatment to attain competency, or to release the defendant on bail if the person is not a danger to others and can be treated on an outpatient basis. The bill provides procedures for an extended commitment to a mental health facility or residential care facility if the defendant cannot be restored to competency within the initial commitment period. A court under certain conditions may compel a defendant, who has been restored to competency and refuses to continue to take the defendant's medication, to do so.

The bill establishes guidelines for subsequent redeterminations of competency. If the defendant is found competent, and the criminal charges have not been dismissed, the criminal trial may proceed. If the defendant is found incompetent, and the criminal charges have been dismissed, the bill sets forth procedures for civil commitment proceedings.

Senate Bill 1129
Effective: 9-1-03

Senate Author: Bivins
House Sponsor: Riddle

Senate Bill 1129 amends the Code of Criminal Procedure to provide that a certificate of analysis and a chain of custody affidavit that complies with certain requirements is admissible in evidence on behalf of the state or the defendant to establish the results of a laboratory analysis of physical evidence conducted by or for a law enforcement agency without requiring the analyst to personally appear in court.

Senate Bill 1336
Effective: 6-20-03

Senate Author: Hinojosa
House Sponsor: Talton

Senate Bill 1336 amends the Code of Criminal Procedure to clarify that the incarceration of a person (principal) in any United States jurisdiction will exonerate the principal and the bail bond surety (surety) from liability when a bond is forfeited. If there is cause for the surety to surrender the principal, the bill requires the court to issue a writ for the arrest of the principal within a certain time frame, and clarifies how a person executing a bail bond may surrender the principal.

The bill amends the Occupations Code to change the composition of a county bail bond board, requires the board to elect by secret ballot a member to serve as a corporate surety board member to represent licensed bail bond sureties, and authorizes the presiding officer to vote on any board matters. The bill expands the list of solicitations or advertisements from bail bond sureties that the board may regulate, clarifies the requirements for a bail bond surety license, and refines the application and renewal process. The bill also provides for the inspection and maintenance of a license holder's bail bond records. Senate Bill 1336 sets forth conditions for the payment of a final judgment of forfeiture, requires the board to notify the sheriff if a surety fails to pay a judgment, and prohibits the sheriff from accepting any bonds from the surety until payment of the judgment. The bill prohibits a surety from holding the security for payment of a bail bond fee or to assure the principal's appearance in court for more than 30 days after receiving certain written requests from the owner of the security.

Senate Bill 1477
Effective: 9-1-03

Senate Author: R. West
House Sponsor: Talton et al.

Senate Bill 1477 amends the Government Code to authorize a person who has been placed on deferred adjudication, received a discharge and dismissal, and satisfied certain requirements to petition the court for an order of nondisclosure. After notice to the state and a hearing to decide if the person is entitled to file a petition and if the issuance of an order is in the best interest of justice, the court is required to issue an order to prohibit criminal justice agencies from disclosing to the public information related to the deferred adjudication. The bill requires the court clerk to send a copy of the order to the Texas Department of Public Safety and requires the department to send a copy to certain entities, including law enforcement agencies, courts, officials, agencies or entities of the state or political subdivision, and to all central federal depositories of criminal records that are believed to have criminal history information subject to the order. The bill prohibits private entities that compile and disseminate criminal history record information from releasing information for which a nondisclosure order has been issued and provides a civil penalty not to exceed \$500 for each violation.

Senate Bill 1835
Effective: 9-1-03

Senate Author: Staples
House Sponsor: Eissler

Previous law required a person who was arrested for the offense of evading arrest or detention and, during the commission of the offense, caused the peace officer to come into contact with the person's bodily fluids, to be tested for communicable diseases. Senate Bill 1835 amends the Code of Criminal Procedure to require a person who is arrested for a misdemeanor or felony and, either during the commission of the offense or after arrest, causes the peace officer to come into contact with the person's bodily fluids to be tested for communicable diseases.

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Senate Bill 1948

Effective: 6-2-03

Senate Author: Whitmire et al.

House Sponsor: Keel et al.

Senate Bill 1948 amends the Code of Criminal Procedure to authorize the convicting court to release on bond certain applicants for a writ of habeas corpus seeking relief from judgment in a criminal case until the applicant is denied relief, remanded to custody, or ordered released.

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

HB 240 - Agriculture

HB 297 - Family Law and Juvenile Justice

HB 830 - Courts

HB 1036 - Civil Remedies and Procedures

SB 532 - Public Officials and Employees

SB 1109 - Public Education

SB 1131 - Emergency Response

SB 1245 - Higher Education

Economic Development

This chapter covers legislation on issues relating to statewide and local economic development, including business incentives, defense base development, economic development districts, and rural development. Bills on workforce development are in the **Labor and Employment** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

Business Incentives

House Bill 1858

Effective: 6-18-03

House Author: Wise et al.

Senate Sponsor: Staples

The Agriculture Code includes a directive and program authorization regarding the Texas Department of Agriculture (TDA), relating to the promotion and development of agriculture and horticulture and the promotion and marketing of Texas agricultural products. House Bill 1858 amends the code to expand the directive to include other industries and to expand the program authorization to include nonagricultural Texas products. The bill establishes a Texas shrimp marketing assistance program at the TDA and creates an associated advisory committee. It requires the TDA to assess a surcharge on the annual license fee for shrimp-producing aquaculture facilities to fund the program. Amendments to the Parks and Wildlife Code increase fees for wholesale and retail fish dealers' and truck dealers' licenses and fees for commercial bay and commercial gulf shrimp boat licenses and direct the resulting revenue to the program. The bill provides for a minimum funding level of \$250,000 per fiscal year for the shrimp marketing assistance program.

House Bill 2912

Effective: 6-20-03

House Author: Homer et al.

Senate Sponsor: Ratliff

House Bill 2912 amends provisions of the Development Corporation Act of 1979 relating to the creation of development corporations in certain eligible cities to support economic development projects. The bill revises the types of projects eligible for support by economic development corporations to include streets and roads, water, gas, and electric utilities, rail spurs, drainage and related improvements, telecommunications and Internet improvements, and regional or national corporate headquarters and to mean infrastructure improvements that are for the creation or retention of primary jobs. The bill also sets forth requirements for the training seminar that certain city, county, and corporation administrators must attend at least once every two years. The bill prohibits a development corporation from providing a direct incentive to or making an expenditure on behalf of a business unless the corporation enters into a performance agreement with the business specifying, at a minimum, a schedule of additional payroll or jobs and terms for repayment should the business fail to meet the performance requirements in the agreement. It requires a development corporation to enter into a written contract approved by the corporation's board of directors in connection with payment to a third party who is involved in business recruitment or development and makes a violation a civil penalty of up to \$10,000. Finally, the bill prohibits a development corporation from offering an economic incentive to a business that purchases taxable items using a resale certificate and then resells those items to a business to which the sales and use tax would be rebated as part of an economic incentive.

Senate Bill 15

Effective: 4-1-03

Senate Author: Madla et al.

House Sponsor: Puente

Senate Bill 15 authorizes the Texas Department of Economic Development to use unencumbered appropriations in the Smart Jobs Fund to award grants to local governmental entities for business location incentives. The bill requires the department to develop procedures or adopt rules to implement the incentives and appropriates \$15 million remaining in the Smart Jobs Fund to finance them during fiscal years 2003 and 2004. If the department is abolished on September 1, 2003, via the Texas Sunset Act, the bill requires the unexpended balance to be transferred to an agency designated by the governor to implement the bill. The bill requires the department to enter into a written agreement with a potential grant recipient specifying that the state must retain a proportional interest in any capital improvement paid for with grant funds. If the capital improvement later is sold or if the local entity does not spend the funds by a date specified in the agreement, the agreement must require the grant recipient to reimburse the state with interest.

Senate Bill 275

Effective: 9-1-03

Senate Author: Nelson

House Sponsor: Solomons et al.

Senate Bill 275 amends the Government Code to abolish the Texas Department of Economic Development and transfer its business development, financial incentive, and tourism functions to the Texas Economic Development and Tourism Office (office) in the Governor's Office. The office will expire September 1, 2015, unless continued by the legislature. The bill also abolishes the Texas Aerospace Commission and transfers its functions to the Aerospace and Aviation Office within the office. It requires the governor to appoint a seven-member Aerospace and Aviation Advisory Committee to assist in recruiting and retaining aerospace and aviation jobs and investment. It also establishes the spaceport trust fund consisting of money from gifts, grants, or donations for the development of spaceport infrastructure.

The bill establishes that the office's first duty is to market and promote the state as a premier business location and tourist destination, and requires the governor to appoint the office's executive director, who serves at the pleasure of the governor. Other provisions require the executive director to designate an individual as the small business advocate to assist small and historically underutilized businesses; require the office to work with certain entities to identify regional and statewide industry clusters and strengthen their competitiveness; and require the office to coordinate state efforts to attract, develop, or retain technology industries in certain sectors, including the semiconductor industry. Additionally, the office is required, not later than December 31, 2003, to enter into a memorandum of understanding with the Parks and Wildlife Department, Texas Department of Transportation, Texas Historical Commission, and Texas Commission on the Arts to direct the efforts of those agencies in all matters pertaining to tourism.

Senate Bill 275 requires the office to establish the Texas Economic Development Bank (bank) to administer a variety of financial incentives for communities and businesses, including the linked deposit program and capital access program, and creates the Texas economic development bank fund as a general fund for all of the incentives. The fund is created as a dedicated account in the general revenue fund, and the office is authorized to issue bonds and impose and collect fees in administering it. It creates the nine-member Product Development and Small Business Incubator Board, appointed by the governor, to govern the newly created Texas product development fund and small business incubator fund administered by the bank. The funds are created as revolving funds in the state treasury, and the bank is authorized to

issue general obligation bonds to finance them. The bill establishes that the bank also administers and monitors the Enterprise Zone Program, and sets forth requirements for designation of enterprise zones and enterprise projects. It also establishes designation periods for enterprise zones and enterprise projects and the process for local nomination of enterprise projects. Additionally, the bill amends the Government Code and the Tax Code to specify the tax refund per job and the maximum tax refund for a range of capital investments in an enterprise project. It requires three percent of the amount of a tax benefit from participation in the enterprise zone program to be transferred to the Texas economic development bank fund to defray administrative costs.

The bill also amends the Government Code and the Tax Code to establish that the defense economic readjustment zone program is administered by the Texas Economic Development Bank. It amends the Government Code and the Development Corporation Act of 1979 to require the governor to appoint the board of directors of the Texas Economic Development Corporation and the Texas Small Business Industrial Development Corporation. It amends the Agriculture Code to establish the Fuel Ethanol and Biodiesel Production Incentive Program and the fuel ethanol and biodiesel production account administered by the office to provide grants to producers as an incentive for the development of the fuel ethanol and biodiesel industry and agriculture production in this state. To fund the program, the office is required to impose a fee on each producer, and the comptroller is required to transfer a certain amount from undedicated general revenue to the production account.

Senate Bill 275 requires the office to promote the sports industry and related industries; promotion may include the establishment by the governor of a Texas Sports Commission composed of volunteers who are knowledgeable about or active in amateur sports. It also requires the office to assist endorsing counties and municipalities in attracting major sports events by providing financing for the costs of bidding for selection, making necessary preparations, and conducting the games. The bill recreates the Olympic Games trust fund by authorizing the comptroller to retain a certain amount of state and local sales and use tax revenue, mixed beverage tax revenue, and hotel occupancy tax revenue that increase due to holding the Olympic Games in a certain endorsing county and municipality. Similarly, it extends the law supporting a certain endorsing municipality's bid to host the 2007 Pan American Games to cover future Pan American Games and recreates the Pan American Games trust fund as a fund outside the state treasury and administered by the comptroller. It also creates the Other Events trust fund until January 1, 2007, to help an endorsing county or municipality with a population of one million or more attract a one-day game event such as the Super Bowl.

The bill repeals certain other provisions to conform to current law.

Senate Bill 1771
Effective: 9-1-03

Senate Author: Brimer et al.
House Sponsor: J. Keffer

Senate Bill 1771 amends provisions of the Government Code relating to economic development programs and funding. The bill requires the executive director of the Texas Department of Economic Development or its successor to coordinate certain economic development efforts with the legislature and state agencies, including each agency that administers a job training or job creation program, and private entities. The bill also establishes the Texas Enterprise Fund to fund economic development, infrastructure development, community development, job training programs, and business incentives. The bill also provides that the fund may be temporarily used by the comptroller for cash management purposes. The fund is to be administered by the governor's office and will consist of appropriations, interest,

and donations. The governor is authorized to award grants from the fund with written prior approval of the lieutenant governor and speaker of the house of representatives and to enter into an agreement with a grantee specifying certain conditions, including repayment. The bill creates an advisory board of economic development stakeholders to assist the department and establishes the board's composition, terms, and duties. Finally, the bill authorizes the department or its successor to recommend that a taxing unit enter into a tax abatement agreement with certain persons and that a school district grant a person a limitation on appraised value.

Defense Base Development

House Bill 655

Effective: 5-29-03

House Author: Menendez et al.

Senate Sponsor: Madla

With certain exceptions, the Local Government Code requires that before a political subdivision may sell land or exchange it for other land, it must post a newspaper notice of the offer, including an explanation of sealed bid procedures. House Bill 655 amends the code to provide that such notice and bidding requirements do not apply to a property interest owned by a defense base development authority. However, the authority may not convey, sell, or exchange land or interest for less than fair market value unless the conveyance, sale, or exchange is with one or more abutting property owners who own the underlying fee simple.

Senate Bill 652

Effective: See below

Senate Author: Shapleigh et al.

House Sponsor: Corte et al.

Senate Bill 652, the Military Preparedness Act, amends various codes to enhance efforts, under a pending round of federal defense base realignment and closure scheduled for 2005, to retain Texas military installations. It creates the Texas Military Preparedness Commission, which replaces the Texas Strategic Military Planning Commission, and abolishes the Office of Defense Affairs of the Texas Department of Economic Development, transferring the two former entities' functions, property, records, obligations, and funding to the new commission. The bill authorizes the Texas Public Finance Authority to issue and sell general obligation bonds to establish a Texas military value revolving loan account, and provides for the appropriation of general revenue to the authority to pay the principal, premium if any, and interest on the bonds. The new commission, from the account, may provide loans of financial assistance to defense communities to fund projects that will enhance the military value of local military facilities. The bill elaborates on related loan procedures and commission functions, and includes temporary provisions focusing another existing loan program on communities that are potentially affected by the 2005 round of realignment and closure, giving first priority to such communities for loans from the community infrastructure development revolving loan account. Among other provisions, it allows tax abatements for certain housing units for military personnel, contains measures to ensure that state land transactions materially assist military missions and do not adversely affect nearby defense bases, provides for discounted electric utility rates and energy efficiency incentives targeting military installations, includes such installations among those entities to whom the General Land Office gives priority for sales of power and natural gas, and supports interstate educational reciprocity agreements for public school students who are dependents of relocating military personnel. The bill takes effect May 28, 2003, except for provisions relating to the issuance of bonds and related appropriations, which take effect contingent on voter approval of the constitutional amendment proposed by Senate Joint Resolution 55.

Senate Bill 1143**Effective:** 6-18-03**Senate Author:** Madla**House Sponsor:** Corte et al.

Senate Bill 1143 revises the Government Code to provide that an amendment to the boundary of a defense economic readjustment zone may not exclude any qualified business designated as a defense readjustment project and included within the boundary of the zone as designated. Previous law prohibited a boundary amendment that excludes territory originally within the zone. The bill also provides that the Texas Department of Economic Development may designate the same qualified business in a zone as more than one defense readjustment project.

Senate Bill 1295**Effective:** 6-18-03**Senate Author:** Van de Putte et al.**House Sponsor:** Corte

Senate Bill 1295 amends the Government Code to require the Office of Defense Affairs at the Texas Department of Economic Development, in coordination with the Texas Strategic Military Planning Commission, to assist defense communities in obtaining financing for economic development projects to address future realignment or closure of a defense base. The two entities are required to refer a defense community to a local economic development corporation or to an appropriate state agency with an existing program to provide financing. The bill clarifies that a state agency has sole discretion on whether to finance a project, and if the defense community defaults on a loan, the state agency may foreclose and liquidate collateral to recover outstanding debt. The Office of Defense Affairs must enter into a memorandum of understanding that includes agency responsibilities in granting and administering such loans, with each state agency that has a program to fund such projects. Temporary bill provisions, which expire December 31, 2006, require the office to develop a priority list of projects and require agencies in reviewing project applications to consider that priority list. Other temporary provisions require the office to maintain a record of each loan granted to a defense community containing information on the loaning agency, the loan amount, and a description of the project.

Senate Bill 1439**Effective:** 9-1-03**Senate Author:** Shapleigh**House Sponsor:** Corte

Senate Bill 1439 amends the Government Code to authorize the governor, after consulting with the adjutant general and the executive director of the Texas Military Facilities Commission and finding the state to be eligible for federal matching funds for projects at military facilities, to direct that money appropriated for that purpose be used to obtain the federal matching funds.

Senate Bill 1565**Effective:** 6-20-03**Senate Author:** Madla**House Sponsor:** Uresti

Senate Bill 1565 amends the Local Government Code to provide for the creation of a defense adjustment management authority for the purposes of economic development. The bill authorizes a municipality to create such an authority in an area that (1) is located in the same county as a military installation or military facility that has been closed or realigned or is part of a base efficiency project and (2) is located in the extraterritorial jurisdiction of a municipality with a population of at least 1.1 million and that has been annexed for limited purposes. It establishes requirements for holding public hearings on the creation of the proposed authority, and it provides for the appointment of a board of directors, setting forth the qualifications,

Economic Development

terms, powers, and duties of the board members. The bill grants the authority the zoning power and the power to regulate subdivisions and property development held by a municipality. Senate Bill 1565 permits an authority to pay for eligible economic development projects in areas designated by the authority's master plan through the issuance of bonds and notes, if approved by the municipality that created the authority, or through the imposition of a sales and use tax, if approved by voters at an election held for that purpose. An authority may enter into regional development agreements with its creating municipality or certain other entities, such as a county, school district, college or university, or private interest, to advance long-term economic development in the authority or, with some restrictions, to fund improvements to school facilities and teacher pay at a local school or college. The bill provides for the dissolution of the district by the governing body of the creating municipality.

Senate Bill 1955

Effective: 6-18-03

Senate Author: Ratliff

House Sponsor: Telford

Senate Bill 1955 amends Local Government Code provisions relating to the Red River Redevelopment Authority. The bill validates the authority's creation and recognizes its status as a governmental agency and a political subdivision of the state subject to state laws regarding governmental liability, open meetings, and open records. The bill authorizes the authority to issue bonds, including revenue bonds, for projects, feasibility studies, and certain facility operations; to exercise the powers granted to a conservation and reclamation district under the Texas Constitution and to a district under the Regional Waste Disposal Act; and to undertake, and exercise the power of eminent domain for, water, sewer, and natural gas projects. The bill also specifies certain general powers of the authority and authorizes its expansion by conveyance of real property or by annexation of territory.

Senate Joint Resolution 55

For Election: 9-13-03

Senate Author: Shapleigh

House Sponsor: Cortez

Senate Joint Resolution 55 proposes a state constitutional amendment to permit the legislature by general law to authorize one or more state agencies to issue general obligation bonds or notes in an aggregate amount not to exceed \$250 million and to enter into related credit agreements. Proceeds go to a revolving loan account to be used without further appropriation by one or more statutorily designated agencies to provide loans for economic development projects that benefit defense-related communities or enhance the military value of military installations located in Texas. Other provisions of the proposed amendment relate to administrative and bond issuance costs, use of account money by a recipient community to capitalize interest on a loan, and paying of the principal and interest on maturing bonds and notes.

Economic Development Districts

House Bill 2533

Effective: 2-15-04

House Author: B. Brown

Senate Sponsor: Staples

House Bill 2533 creates the Lake View Management and Development District in Henderson County and provides for its administration, powers, duties, operation, membership on the board of directors, and financing. The bill authorizes the district to impose a tax for operation and maintenance purposes; impose an ad valorem tax and issue bonds to provide certain improvements and services; and impose, repeal, or amend the rate of a hotel occupancy tax. The bill also provides the district the power of eminent domain.

House Bill 3562**Effective:** 6-18-03**House Author:** Eissler**Senate Sponsor:** Staples

House Bill 3562 provides for the creation, administration, powers, duties, operation, and financing of the Southwest Montgomery County Improvement District. The district is authorized to impose a limited sales and use tax and to issue bonds to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

House Bill 3575**Effective:** 6-20-03**House Author:** Hegar et al.**Senate Sponsor:** Armbrister

House Bill 3575 provides for the creation, administration, powers, duties, operation, and financing of the Katy Towne Centre Development District in Harris County. The bill authorizes the district to impose an ad valorem tax, assessment, or impact fee and, subject to voter approval, to impose a maintenance tax or issue bonds payable from ad valorem taxes to provide certain improvements and services that will promote the economic health and vitality of the area and provide for the general welfare of the public. The district may also levy an assessment to finance a service or improvement project if certain petition requirements are met, provide law enforcement services, and enter into certain agreements with other taxing units. The bill exempts certain utilities in the district from impact fees and property assessments.

House Bill 3578**Effective:** 6-20-03**House Author:** Wong**Senate Sponsor:** R. Ellis

House Bill 3578 amends provisions of the Local Government Code relating to the name, powers, and duties of the Upper Kirby Management District. The bill changes the name of the Upper Kirby Management District to the Harris County Improvement District No. 3. The bill allows an assessment to be imposed on a part of the district, rather than the entire district, if only that part will benefit from the service or improvement being financed, and it prohibits the board from imposing an assessment or financing a service or improvement project without a valid written petition filed with the board and signed by the appropriate number of affected property owners. The bill allows the district to impose an assessment to pay costs associated with removing, burying, and reconnecting electrical or optical lines, and it allows the district to acquire, operate, or charge fees for the use of the district conduits for another person's telecommunications network, fiber-optic cable, or electronic transmission line, or any other type of transmission line or supporting facility. The bill also allows the district, with certain restrictions, to acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a public transit system to serve the area within the boundaries of the district. The bill validates certain acts and proceedings of the district's board of directors that occurred before the bill's effective date.

House Bill 3583**Effective:** 6-20-03**House Author:** Goodman et al.**Senate Sponsor:** Harris

House Bill 3583 provides for the creation, administration, powers, duties, operation, and financing of the Great Southwest Improvement District in Tarrant County to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

House Bill 3587

Effective: 6-18-03

House Author: Callegari

Senate Sponsor: Lindsay

House Bill 3587 amends provisions of the Local Government Code relating to the name, powers, and duties of the Energy Corridor Management District. The bill changes the name of the Energy Corridor Management District to the Harris County Improvement District No. 4. The bill allows the board, by rule and on a determination that it is in the best interest of the district, to increase or decrease the number of board members as long as it does not consist of fewer than seven or more than 15 directors. The bill prohibits the board from financing a service or improvement project with assessments unless a written petition requesting the service or improvement is filed and signed by a specified minimum number of affected property owners. The bill allows the board to make a correction to or deletion from the assessment roll without notice and hearing required for an additional assessment if the correction or deletion does not increase the amount of a parcel of land. The bill allows the district to grant an abatement for a tax or assessment owed to the district, and it provides that all or any part of the area of the district is eligible to be included in certain tax increment reinvestment or enterprise zones. The bill allows the district to join and pay dues to a charitable organization and authorizes the district to establish and provide for the administration of certain economic development programs.

House Bill 3592

Effective: 6-20-03

House Author: G. West

Senate Sponsor: Bivins

House Bill 3592 provides for the creation, administration, powers, duties, operation, and financing of the Downtown Midland Management District in Midland County. The bill authorizes the district, subject to voter approval, to impose a maintenance tax and to issue bonds or other obligations payable from ad valorem taxes or other sources. The district may levy an assessment but must have the written consent of the property owner if the property is appraised at less than \$200,000. The district may also levy an assessment to finance a service or improvement project if certain petition requirements are met. The district may engage in housing, residential development, and certain other projects in the district; form a nonprofit corporation; provide law enforcement services; and establish economic development programs. The bill prohibits the district from imposing an impact fee or assessment on the property of certain utilities, and it exempts the City of Midland from paying any district obligations. The bill establishes that a competitive bidding limit for the district applies only for a contract with a value of more than \$50,000, and it authorizes the board to vote to dissolve a district that has debt, with the district remaining in existence solely to discharge its debt. The district may annex certain territory and grant an abatement for a tax or assessment owed to the district. The bill authorizes the district to become a member of certain charitable organizations and grants the district eligibility for inclusion in certain reinvestment or enterprise zones.

House Bill 3629

Effective: 6-20-03

House Author: Bohac

Senate Sponsor: Whitmire

House Bill 3629 provides for the creation, administration, powers, duties, operation, and financing of the Spring Branch Area Community Improvement District in Harris County. The bill authorizes the district to impose an assessment and, subject to petition requirements, to issue bonds and use assessments to finance certain improvement projects. The district may not impose assessments, impact fees, or other requirements on certain properties and must notify a property owner who could be subject to an assessment. The district may acquire, operate, or

charge fees for the use of the district's conduits for another person's telecommunications network, fiber-optic cable, or other type of transmission line or supporting facility, but it may not require the use of those conduits. The district may engage in housing, residential development, and other projects; form a nonprofit corporation; and provide law enforcement services. The bill establishes that a competitive bidding limit for the district applies only for a contract with a value of more than \$15,000 and authorizes the board to dissolve the district with outstanding debt, but the district remains in existence only to discharge its debt.

House Bill 3629 also provides for the creation, administration, powers, duties, operation, and financing of the Temple Health and Bioscience Economic Development District in the City of Temple, subject to certain petition and election requirements. The bill requires the city council to appoint a temporary board of directors to serve until the election of the permanent board and provides for the board's hiring of employees. The bill authorizes the district to enter into contracts, establish fees, and implement economic development programs and projects. The bill includes general financial provisions for the management of district funds. The bill authorizes the district to impose property assessments, incur liabilities, issue bonds or other obligations, and impose an ad valorem tax subject to voter approval. The bill provides that the district may be dissolved by agreement between the city council and the board, or by the city council if the board determines that certain conditions exist and petitions the council for its dissolution, and abolishes upon dissolution any taxes imposed by the district.

Senate Bill 18
Effective: 6-20-03

Senate Author: Jackson
House Sponsor: J. Davis

Senate Bill 18 provides for the creation, administration, powers, duties, operation, and financing of the Baybrook Management District. The district is authorized to impose an ad valorem tax and to issue bonds to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

Senate Bill 868
Effective: 4-24-03

Senate Author: Lindsay
House Sponsor: Woolley

Senate Bill 868 grants the Harris County Improvement District No. 1 the authority to establish a public transit system and public parking facilities to serve the area within the district on the petition of a majority of owners of property adjacent to the right-of-way of a transit-related improvement or facility. The district may issue bonds, impose tolls and other assessments, and accept grants and loans from public and private entities to finance the cost of a public transit system or parking facilities. If the district uses any local assessments to finance the transit system or parking facilities, a petition must be approved by a majority of property owners in the entire district and a public hearing must be held on the matter. Senate Bill 868 exempts public parking facilities and related lease agreements from property taxes and sales and use taxes, but requires the district to compensate an affected taxing unit for the loss of property tax revenue in an amount equal to the property tax that would have been due the previous year, excluding the value of any improvements constructed on the property. The bill also validates district acts and proceedings.

Senate Bill 1726

Effective: 6-20-03

Senate Author: Lindsay

House Sponsor: Van Arsdale

Senate Bill 1726 provides for the creation, administration, powers, duties, operation, and financing of the Cy-Fair Community Improvement District in Harris County, subject to voter approval in a confirmation election. The bill authorizes the district to impose sales and use and ad valorem taxes, issue bonds, and levy assessments and impact fees to provide certain improvements and services that will promote the economic health and vitality of the area in the district and provide for the general welfare of the public. The district is also authorized to form a nonprofit corporation, provide law enforcement services, and enter into certain contracts. The bill exempts residential property in the district and property of an electric or gas utility or a telecommunications provider from a tax, fee, or assessment. It prohibits the district from exercising the power of eminent domain.

Senate Bill 1885

Effective: 6-20-03

Senate Author: Janek

House Sponsor: Howard

Senate Bill 1885 provides for the creation, administration, powers, duties, operation, and financing of the Sienna Plantation Management District. The district is authorized to impose an ad valorem tax and issue bonds to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

Senate Bill 1887

Effective: 6-20-03

Senate Author: Janek

House Sponsor: Nixon

Senate Bill 1887 amends the Local Government Code to change the qualifications for appointment to the board of directors of the Westchase Area Management District by eliminating the requirement that specific positions be filled by representatives of designated interests and by allowing representation generally of owners of multitenant retail property or major retail tenants without regard to the size of the retail establishment. The bill also permits the district to finance, acquire, lease, construct, improve, operate, or maintain a conference or convocation center and enter into a long-term operating agreement for the center or facility, and it validates all district acts and proceedings.

Senate Bill 1897

Effective: 6-20-03

Senate Author: Whitmire

House Sponsor: Thompson

Senate Bill 1897 provides for the creation, administration, powers, duties, operation, and financing of the Fall Creek Management District. The district is authorized to impose an ad valorem tax and issue bonds to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

Senate Bill 1912

Effective: 6-20-03

Senate Author: Jackson

House Sponsor: Eiland

Senate Bill 1912 provides for the creation, administration, powers, duties, operation, and financing of the Harborside Management District in Galveston County. The bill authorizes the district to impose an ad valorem tax, issue bonds, and levy assessments and impact fees to provide certain improvements and services that will promote the economic health and vitality of the area in the district and provide for the general welfare of the public. The district is also

authorized to form a nonprofit corporation, provide law enforcement services, and establish economic development programs. The bill prohibits the district from imposing an impact fee or assessment on the property of an electric utility or power generation company, a gas utility, a telecommunications provider, or a cable operator.

Senate Bill 1936
Effective: 6-20-03

Senate Author: R. Ellis
House Sponsor: Coleman

Senate Bill 1936 provides for the creation, administration, powers, duties, operation, and financing of the Buffalo Bayou Management District in Harris County. The bill authorizes the district to impose an ad valorem tax, issue bonds, and also levy assessments and impact fees to provide certain improvements and services that will promote the area's economic health and vitality and provide for the general welfare of the public. The district is also authorized to form a nonprofit corporation, provide law enforcement services, and establish economic development programs. The bill prohibits the district from imposing an impact fee or assessment on the property of an electric utility or power generation company, a gas utility, a telecommunications provider, or a cable operator.

Rural Development

House Bill 649
Effective: 9-1-03

House Author: J. Keffer et al.
Senate Sponsor: Estes

House Bill 649 amends provisions of the Government Code relating to the annual meeting of the heads of certain state agencies to discuss rural issues to add 13 new agencies and any other agency interested in rural issues. The bill requires meetings to take place in Austin and requires each agency represented to provide information showing the agency's impact on rural communities for use in developing rural policy and compiling the Office of Rural Community Affairs' annual report on the condition of rural communities. House Bill 649 also establishes an interagency work group composed of representatives of the 25 agencies to develop a process to allow agencies to work together on issues that face rural communities, discuss and coordinate programs and services offered to rural communities, and develop regulatory and legislative recommendations that would eliminate duplication and combine program services.

House Bill 3325
Effective: 9-1-03

House Author: J. Keffer et al.
Senate Sponsor: Staples

House Bill 3325 amends the Government Code to require the Office of Rural Community Affairs and the Telecommunications Infrastructure Fund Board by rule to adopt a memorandum of understanding establishing the community telecommunications alliance program to assist local communities in forming telecommunications alliances to pursue rural economic development or innovative rural school health technology projects. The bill also specifies that the program is to assist telecommunications alliances in applying for grant funding for projects, including assisting alliances in securing matching private sector funding for projects and requiring alliances to develop sustainable plans. It requires each community telecommunications alliance to establish an advisory council with certain local representatives and to offer local entities such as libraries the opportunity to be included in the alliance. The office and the board, by January 1 of each odd-numbered year, are required to submit a joint report to the legislature detailing the grant activities of the program and grant recipients. The bill also establishes certain prohibited activities of a community telecommunications alliance. House

Economic Development

Bill 3325 amends the Utilities Code to add a project that serves a group in an economically depressed area or a project that assists the community telecommunications alliance program to the criteria for the board to consider in awarding a grant or loan.

Senate Bill 446

Senate Author: Madla

Effective: 9-1-03

House Sponsor: Quintanilla

Senate Bill 446 amends the Health and Safety Code to authorize the Rural Foundation to finance community and economic development programs in rural areas. The bill also applies restrictions on board appointment, membership, and employment to a person affiliated with an association that contracts with the foundation or whose spouse is affiliated with such an association.

The bill substitutes the Office of Rural Community Affairs (ORCA) for the Center for Rural Health Initiatives as the oversight agency of the foundation to conform to previously enacted law abolishing the center and transferring its duties to ORCA.

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

HB 1675 - Miscellaneous Taxes and Tax Administration

HB 1877 - Health

HB 3075 - Property Taxes

SB 349 - State Government

SB 374 - Labor and Employment

SB 657 - Property Taxes

SB 1663 - Housing

SB 1664 - Housing

SB 1811 - Civil Remedies and Procedures

SB 1892 - Local Government

Elections

This chapter covers legislation on issues relating to statewide and local election regulation, including early voting and absentee voting procedures, duties and qualifications of election officials, the role of the secretary of state's office, recount procedures, and compliance with the federal Help America Vote Act. The chapter also includes legislation relating to political advertising, campaign contributions, financial reporting and disclosure, and lobby regulation. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 1 (3rd C.S.)

Effective: See below

House Author: Denny et al.

Senate Sponsor: Nelson

House Bill 1 amends provisions of the Election Code relating to certain election dates and election procedures, including the procedures for canvassing the ballots for an election and the counting of certain ballots voted by mail. The bill changes the date for general or special elections held in May, the date of the runoff primary election held in April, the period during which the local canvassing authority is to convene to conduct the local canvass, the day by which the early voting ballot board is to convene to count ballots voted by mail, and the day by which a marked ballot voted by mail must arrive in order to be counted. To allow for the districts established by House Bill 3 as enacted by the 78th Legislature, 3rd Called Session, 2003, House Bill 1 also establishes a deadline for the filing of an application for a place on the ballot for the 2004 general primary election for the office of United States representative and sets the date of the 2004 general primary election, the 2004 presidential primary election, and the 2004 runoff primary election.

House Bill 1 takes effect January 11, 2004, except for the provision that changes the date of the May general or special election; that provision takes effect January 1, 2005.

House Bill 3 (3rd C.S.)

Effective: 1-11-04

House Author: Crabb et al.

Senate Sponsor: Staples

House Bill 3 redraws the 32 single-member districts from which the Texas members of the United States House of Representatives are elected. The bill makes the redrawn congressional districts applicable beginning with the primary and general elections in 2004 for members of the 109th Congress.

House Bill 1549

Effective: 1-1-04

House Author: Denny et al.

Senate Sponsor: Nelson

House Bill 1549 amends provisions of the Election Code to bring the code into compliance with the federal Help America Vote Act of 2002.

The bill allows the secretary of state to adopt rules as necessary to implement the federal Help America Vote Act (HAVA), and it requires the secretary to adopt rules establishing state-based administrative complaint procedures to remedy grievances. The bill provides that if the secretary of state determines that federal matching funds are available under HAVA, the secretary of state is required to certify to the comptroller the amount of state funds required to qualify for the maximum amount of federal matching funds, and on the receipt of the certification, the comptroller is required to deposit the certified amount into the election improvement fund, which is created by this bill.

Elections

The bill expands the information required on the voter's registration application to include the applicant's driver's license number or the number on a personal identification card issued by the Department of Public Safety, or, in the absence of such, the last four digits of the applicant's social security number, or a statement that the applicant has no such number. The bill requires the secretary of state to implement and maintain a statewide computerized voter registration list to serve as the single system for storing and managing the official list of registered voters in the state. Effective January 1, 2006, the bill replaces references to the registration service program and the state master list with references to the statewide computerized voter registration list.

The bill replaces the system of using ballot stubs for a voter whose eligibility is challenged at the polling place with a provisional voting procedure and includes provisions for casting, verifying, and processing provisional ballots, including the duties of election officials, and the security, acceptance, delivery, disposition, and preservation of provisional ballots. The bill provides that an election officer commits an offense if the officer knowingly permits an ineligible voter to vote other than by provisional voting.

The bill sets forth methods for determining the intent of the voter when counting irregularly marked paper ballots or when counting electronic system ballots. The local canvass day is changed for each local canvassing authority for a general election for state and county officers, an election other than for state and county officers, a primary election, and a special election to fill a vacancy in the legislature. The bill provides procedures for the acceptance of a new voter in an election for federal office and designates the secretary of state as the state office to provide information regarding voter registration procedures and absentee ballot procedures to be used by persons overseas eligible to vote absentee.

The bill requires a voting system to comply with the error rate standards of the voting system standards adopted by the Federal Election Commission and, effective January 1, 2006, prohibits the use of a voting system that uses a mechanical voting machine or a punch card ballot or a similar form of tabulating card.

The bill changes the possible May election day for a general or special election from the first Saturday to the third Saturday and changes the runoff primary election day from the second Tuesday to the third Tuesday in April. The bill extends until December 31, 2004, the authority of a governmental body of a political subdivision other than a county to change the date on which it holds its general election for officers to another authorized uniform election date.

The bill requires, rather than permits, the authority responsible for procuring the election supplies to have a supply of sample ballots printed and requires the election officer to post a sample ballot at the polling place. The bill removes from the list of acceptable documentation that can serve as proof of identification preprinted checks containing the person's name and adds to the list a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. The bill specifies additional instructions and information the secretary of state is required to include on the instruction posters at polling places. House Bill 1549 requires that by January 1, 2006, each polling place that uses electronic voting systems is to provide at least one voting system that is accessible to persons with disabilities and allows them to cast secret ballots.

House Bill 1695
Effective: 9-1-03

House Author: Denny et al.
Senate Sponsor: Nelson

House Bill 1695 amends the Election Code to clarify and update various election procedures. The bill allows a voter 10 days to provide a completed application if the initial application is rejected by the registrar for incompleteness. The bill shortens from 60 days to 30 days the period that a voter has to respond to a notice from the registrar indicating that the voter is being investigated by the registrar and that the registration is subject to cancellation. The bill specifies that a voter may prove United States citizenship by providing a certified copy of the voter's birth certificate, United States passport, or certificate of naturalization or any other form prescribed by the secretary of state, and it requires the registrar to include the number of registrations canceled for noncitizenship status in the registrar's annual report to the comptroller.

House Bill 1695 requires the secretary of state to adopt training standards for election judges and to develop and distribute training materials for a standardized curriculum; the standards may include required program attendance or passage of a post-training examination. The bill also specifies the dates for the local canvass and for counting early voting mail-in ballots, including late ballots, for an election of a political subdivision that is held jointly with that of a county or of another political subdivision under a contract with the county election officer. The bill allows an applicant for an early voting mail-in ballot who has returned the ballot to request cancellation of the application for that ballot by appearing in person after the ballot is returned to the early voting clerk but before it is delivered to the early voting ballot board and executing an affidavit that the applicant did not mark the ballot.

House Bill 1695 requires appointment of a signature verification committee in a general election on the written request of at least 15 registered voters and specifies the manner of appointment of members affiliated with each political party to that committee. The bill requires the early voting ballot board to deliver the container for the early voting electronic system ballots that are to be counted by automatic tabulating equipment, without opening it, to the central counting station. The bill extends the deadline for a disabled voter to submit an application to vote a late ballot on election day and extends the period for voting by an early voting procedure on election day in certain precincts by a disabled voter. The bill requires that a sealed ballot box be delivered to the presiding judge of the central counting station, or the judge's designee, by two election officers.

House Bill 1695 requires a declaration of write-in candidacy to be filed not later than 5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed in certain elections. The bill raises the filing fees for candidates for nomination in the general primary election and requires that any surplus remaining in a county primary fund be remitted to the secretary of state.

House Bill 1697
Effective: 9-1-03

House Author: Denny
Senate Sponsor: Staples

House Bill 1697 amends provisions of the Election Code relating to recounts of elections in which direct recording electronic voting machines were used. The bill requires the recount committee chair to determine how many committee members must be present while images of ballots cast are printed for purposes of a recount. It also allows each candidate to be present during the printing of the images and have representatives present in the same numbers as prescribed for a recount. The bill provides for determining the amount of the recount deposit required when printed images of ballots cast using direct recording electronic voting machines are to be recounted manually.

House Bill 1701
Effective: Vetoed

House Author: Taylor et al.
Senate Sponsor: Jackson

House Bill 1701 amends the Election Code to increase from 2,000 to 5,000 the maximum number of registered voters in a county election precinct, and repeals a provision that establishes different maximums for counties of different sizes.

Reason Given for Veto: "House Bill No. 1701 would allow counties to combine election precincts, which would make them much larger and would limit the number of polling places. As a result, the bill would move many voters' polling places further from their homes. The bill would allow some precincts which are currently capped at 2,000 voters to grow to 5,000 voters, making people leave their neighborhoods to vote and increasing lines at polling places.

"We should work to allow people to vote in their neighborhoods and to make it easier, not harder, for Texans to vote on Election Day."

House Bill 1777
Effective: 6-20-03

House Author: Dawson
Senate Sponsor: Jackson

House Bill 1777 amends the Election Code to allow the governing body of a political subdivision other than a county to change the date of its general election to no later than December 31, 2003. The bill prohibits an election on the new date from being held before the uniform election date in May 2004. Under previous law, the last such opportunity to change the date of the general election expired December 31, 1999.

House Bill 2089
Effective: Vetoed

House Author: Geren
Senate Sponsor: Nelson

House Bill 2089 amends the Election Code to require the secretary of state to make the name, address, and occupation of each candidate nominated for statewide or district office in the general election for state and county officers and the list of candidates in a primary election for statewide or district office available to the public through a posting on the secretary of state's website. The bill also requires posting of the final report of the tabulation of unofficial results of certain races on the secretary of state's website.

Reason Given for Veto: "House Bill No. 2089 would require the Secretary of State to post the name and certain information of each candidate who is nominated for statewide or district office in the general election for state and county officers on the secretary's website as soon as practicable after it becomes available.

"As the chief election officer of Texas, the Secretary of State already exercises her power to post the names and identifying information of each candidate on the official web site."

House Bill 2149
Effective: 9-1-03

House Author: Denny
Senate Sponsor: Staples

House Bill 2149 amends provisions of the Election Code relating to an investigation of criminal conduct in connection with an election. The bill requires a county or district attorney to deliver to the secretary of state a notice that includes a statement that a criminal investigation is being conducted and the date of the election that is the subject of the investigation within 30 days of beginning an investigation. The bill provides that the secretary of state may disclose information relating to a criminal investigation only if the county or district attorney has disclosed the information or would be required by law to disclose the information.

House Bill 2152
Effective: 9-1-03

House Author: Denny
Senate Sponsor: Staples

House Bill 2152 amends the Election Code to require that an automatic recount be conducted if more than two candidates tie for the highest number of votes in the main election, two or more candidates tie for the second highest number of votes in the main election, or if the candidates in a run off election tie. The bill provides that if the recount does not resolve the tie, the tied candidates must cast lots. Under previous law, casting lots was the only procedure for resolving the tie.

House Bill 2153
Effective: 9-1-03

House Author: Denny
Senate Sponsor: Staples

House Bill 2153 amends the Election Code to require that a voting system and equipment contract be approved by the secretary of state. The bill requires the authority acquiring the equipment to submit to the secretary of state a request for the letter and order approving the voting system and equipment, accompanied by a copy of the relevant portions of the contract needed to determine whether the version of the system and equipment is in compliance with the law. If the contract is not approved, the secretary of state is required to send a notice to the parties to the contract explaining why the contract was not approved.

House Bill 2154
Effective: 6-20-03

House Author: Denny
Senate Sponsor: Staples

House Bill 2154 amends the Election Code to provide that an appeal of an order or other action of a presiding judge taken to preserve order in a polling place is to be made in the same manner as the appeal of an order or other action of a district court in the county in which the polling place is located.

House Bill 2496
Effective: 9-1-03

House Author: Branch et al.
Senate Sponsor: Janek

House Bill 2496 amends the Election Code to change the date of the general primary election from the second Tuesday to the first Tuesday in March in each even-numbered year, the runoff primary election from the second Tuesday to the first Tuesday in April following the general primary election, and the presidential primary election from the second Tuesday to the first Tuesday in March in each presidential election year. The bill requires the secretary of state by rule to modify the applicable procedures, dates, and deadlines in the Election Code to implement the changes in primary election dates.

House Bill 2682
Effective: 9-1-03

House Author: Denny et al.
Senate Sponsor: Staples

House Bill 2682 amends the Government Code to designate permanent place numbers for the supreme court, the court of criminal appeals, and the courts of appeals for all purposes, including identification on official ballots for primary or general elections. The bill repeals Election Code and Government Code provisions that are rendered obsolete or redundant by the new provision.

House Bill 3128

Effective: 9-1-03

House Author: Truitt

Senate Sponsor: Nelson

House Bill 3128 amends the Election Code to add the office of county chair to provisions governing write-in candidates for precinct chair so that a write-in vote for the office of county chair is prohibited from being counted unless the name written in appears on the list of write-in candidates. The bill repeals the provision that if no candidate's name is to be placed on the ballot or the list of write-in candidates for the office of precinct chair, write-in votes may be cast and counted for the office in the regular manner.

Candidate Filing Requirements for Placement on Ballot

House Bill 296

Effective: 9-1-03

House Author: Goodman

Senate Sponsor: Harris

House Bill 296 amends the Election Code to require a candidate for the supreme court or the court of criminal appeals who chooses to pay the filing fee when applying for a place on the ballot to also submit a petition with 50 signatures from each court of appeals district.

House Bill 1274

Effective: Vetoed

House Author: Geren et al.

Senate Sponsor: Nelson

House Bill 1274 amends the Election Code to delete the requirement that a person who circulates a petition in connection with a candidate's application for a place on the ballot point out and read to the petition signer certain statements on the petition before permitting the person to sign and to delete the provision for an affidavit verifying that the requirement was met.

Reason Given for Veto: "House Bill No. 1274 would repeal the requirement that persons gathering signatures on petitions to place candidates on the ballot inform the signer of provisions which affect the signer. However, there are some very specific consequences to signing a candidate's petition, and it therefore is in the public interest to make sure that the public understands what they are signing. For example, a voter who signs a petition for a one party's candidate for public office becomes ineligible to vote in any other party's primary. This is a serious ramification which restricts the voter's right to choose the primary in which he or she wishes to participate, and it is important that the voter have that information when deciding whether to sign the petition."

House Bill 2684

Effective: 6-20-03

House Author: Denny

Senate Sponsor: Staples

House Bill 2684 amends the Election Code to clarify that a home-rule city charter prescribing requirements relating to a candidate's application for a place on the ballot for office in a home-rule city is not authorized to provide a deadline or time period for filing the application that differs from the current provisions in the Election Code.

Senate Bill 757

Effective: 6-20-03

Senate Author: Brimer

House Sponsor: Denny

Senate Bill 757 amends the Election Code to clarify that the petition that must accompany the filing fee or be submitted in lieu of the filing fee for a candidate for certain judicial offices in a county with a population of more than 850,000 is the petition for a place on the primary ballot as a candidate for judicial office.

Senate Bill 1215
Effective: 11-1-03

Senate Author: Van de Putte
House Sponsor: E. Jones

Senate Bill 1215 amends various statutes relating to state and local elections to change the deadlines for ordering an election and filing for a place on the ballot. The bill amends the Election Code to advance the deadline for ordering an election by an authority of a political subdivision from 45 days to 62 days before the election day. The bill amends the Election and Education codes to require a candidate for city office, office of a political subdivision other than county or city office, or a place on the board of trustees of an independent school district to file an application for a place on the respective ballot not later than the 62nd day, rather than the 45th day, before election day.

Senate Bill 1215 amends the Election Code to change the extended filing deadline for city office from the 40th day before the election day to the 57th day. The bill changes the deadline for withdrawing from an election, other than a general election for state and county officers, from the 36th day before election day to the 53rd day. The bill amends the Water, Education, and Health and Safety codes to change the deadline for filing a declaration of write-in candidacy for office as a member of a board of navigation and canal commissioners, board of trustees of a junior college district, or board of directors of a hospital district from the 45th day before election day to the fifth day after the date an application for a place on the ballot is required to be filed.

Early Voting

House Bill 54
Effective: 9-1-03

House Author: Wolens et al.
Senate Sponsor: Shapiro

House Bill 54 amends provisions of the Election Code relating to early voting by mail procedures and to the prevention of voting fraud.

The bill defines, by means of specific examples, conduct that constitutes assisting the voter while the person providing the assistance is in the presence of the voter's ballot or carrier envelope. The bill also expands the offense of illegal voting to include knowingly marking or attempting to mark another person's ballot without that person's consent; expands the offense of unlawfully assisting a voter to include preparing a voter's ballot without direction from the voter and providing assistance to a voter who either has not requested assistance or has not designated that person to provide the assistance; and increases the penalty for the latter offense from a Class B misdemeanor to a Class A misdemeanor.

The bill makes it a Class A misdemeanor for a person who acts as a witness for or helps in the completion of an applicant's early-voting ballot application and who signs the application to knowingly fail to comply with applicable provisions of current law governing such signature unless the person is related to the applicant or is registered to vote at the same address as the applicant.

The bill requires an application for an early-voting ballot to contain space for the signature, printed name, and address of any person assisting the applicant and a notice of all applicable offenses. The bill establishes deadlines for mailing the balloting materials for early voting by mail to an eligible voter.

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The bill expands the restrictions on the common or contract carrier used for early voting by mail. The bill requires a person who put the carrier envelope in the mail or a person who assisted a voter in preparing a ballot to put the person's signature, printed name, and residence address on the official carrier envelope of the voter.

The bill requires that each carrier envelope delivered by a common or contract carrier have a receipt with the name and address of the person who actually delivered the envelope to the carrier, and it prohibits delivery by a carrier of an envelope that originates from an office of a political party or candidate, rather than the party's or candidate's headquarters as previously proscribed. The bill prohibits anyone from collecting and storing carrier envelopes for subsequent delivery to the early voting clerk, and it prohibits anyone from possessing another person's ballot or carrier envelope without appropriate authority. The secretary of state's office is required to prescribe procedures to provide accountability for the delivery of the envelopes to the early voting clerk.

In addition to other requirements, the bill requires the official carrier envelope to contain the following: space on the reverse side for indicating the identity and date of the election and entering the signature, printed name, and residence address of a person other than the voter who deposits the carrier envelope in the mail or with the common or contract carrier; notice of all applicable prohibitions and offenses; and the voting rights hotline, which must also be included with the balloting materials for voting by mail sent to the voter.

The bill postpones the earliest permissible disclosure of information on the roster for a person who was sent an early voting mail ballot until the first business day after the election day, and it requires information on the roster for a person who votes an early voting ballot by mail to be made available for public inspection not later than the day following the day the early voting clerk receives the ballot by mail. The bill establishes various offenses ranging from Class B misdemeanors to second-degree felonies for various violations of these provisions.

The bill also makes it a state jail felony for anyone to buy, offer to buy, sell, or offer to sell an official ballot, ballot envelope, carrier envelope, signed application for an early-voting mail ballot, or any other election record and makes it a Class B misdemeanor for a voter to sell his or her ballot. The bill increases the penalty for knowingly providing false information on an application from a Class A misdemeanor to a state jail felony, unless the person was the applicant, a close relative, or a registered voter at the same address as the applicant, in which case the offense remains a Class A misdemeanor. The bill provides that it is a state jail felony to steal a ballot or carrier envelope and makes conforming amendments to the Penal Code.

House Bill 1174

Effective: 9-1-03

House Author: B. Brown

Senate Sponsor: Staples

House Bill 1174 amends Election Code provisions relating to election officers that serve a branch polling place during the early voting period. To the extent practicable, for a general election for state and county officers and for a special election that fills a vacancy in an office regularly filled at the general election, the set of election officers who are not employees of the county must equally represent all political parties conducting primary elections in the county.

House Bill 1975

Effective: 9-1-03

House Author: Deshotel

Senate Sponsor: R. Ellis

House Bill 1975 amends the Election Code to require the early voting clerk to include with the balloting materials provided to a voter a notice of the clerk's physical address for purposes of return by common or contract carrier.

House Bill 2064**Effective:** 9-1-03**House Author:** Bohac**Senate Sponsor:** Lindsay

House Bill 2064 amends provisions of the Election Code relating to an application for an early voting ballot. The bill deletes the provision that requires an applicant to use only an application form that is pre-printed or stamped with the early voting clerk's name and official mailing address. The bill requires the application to be submitted by mail to the early voting clerk who serves the election precinct of the applicant's residence and requires an application that is addressed to the wrong early voting clerk to be forwarded to the proper clerk not later than the day after it is received by the wrong clerk.

House Bill 2093**Effective:** 9-1-03**House Author:** Harper-Brown**Senate Sponsor:** Staples

House Bill 2093 amends the Election Code to change the prohibition on electioneering within a certain distance of a polling place during early voting. The bill replaces three restrictions applying to different circumstances with a uniform distance of 100 feet from a door into the structure in which the early voting place is located. The bill's repeal of another provision of the code makes the statute prohibiting electioneering and loitering near polling places and the statute regarding unlawful operation of a sound truck near a polling place applicable to early voting polling places.

House Bill 2636**Effective:** 9-1-03**House Author:** Madden**Senate Sponsor:** Staples

House Bill 2636 amends the Election Code to require an early voting clerk to notify an applicant of the omission of certain information from a federal postcard application to vote in an election by telephone or e-mail, if the applicant provided a telephone number or e-mail address.

Election Officials and Polling Place Requirements and Procedures

House Bill 403**Effective:** 9-1-03**House Author:** Madden**Senate Sponsor:** Madla

House Bill 403 amends the Election Code to increase the penalty for an election officer, watcher, or other person serving at a polling place in an official capacity who prematurely discloses certain voting information from a Class C misdemeanor to a Class A misdemeanor.

House Bill 1173**Effective:** 6-20-03**House Author:** Madden et al.**Senate Sponsor:** Madla

House Bill 1173 amends the Election Code to authorize use of a building on a federal military base or facility, with the permission of the post or base commander, as a polling place if a suitable public building is unavailable.

House Bill 1696**Effective:** 9-1-03**House Author:** Denny**Senate Sponsor:** Staples

House Bill 1696 amends the Election Code to change the provisions governing the hours a watcher at a precinct polling place may serve on election day. The bill allows a watcher who serves for more than five continuous hours to serve the hours the watcher chooses except that if the watcher is present when ballots are counted, the watcher must remain until counting is

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completed. The bill removes the requirement that the watcher be present at the time the polls are open and repeals certain other provisions regulating the times and instances when a watcher may leave the precinct polling place and be readmitted.

House Bill 2085

Effective: 9-1-03

House Author: Campbell

Senate Sponsor: Duncan

House Bill 2085 amends the Election Code to provide that, if the number of election clerks appointed who are fluent in both English and Spanish is insufficient to serve the needs of the Spanish-speaking voters in the election, the authority holding the elections is required to appoint at least one such clerk to serve at a central location. On primary election day, the county chairs of each party holding a primary are each required to appoint a clerk who is fluent in both English and Spanish.

Senate Bill 1643

Effective: 9-1-03

Senate Author: Staples

House Sponsor: Denny

Senate Bill 1643 amends the Election Code to require the appointment of a presiding judge and an alternate presiding judge for each central counting station used to process electronic voting system results in a county election. The bill provides that an alternate presiding judge serves as the presiding judge if the regularly appointed presiding judge cannot serve or serves in another position as provided by the code subchapter governing central counting stations.

Ethics, Reporting, and Disclosure

House Bill 736

Effective: 9-1-03

House Author: Denny et al.

Senate Sponsor: Shapiro

House Bill 736 amends the Election Code to provide that it is a Class A misdemeanor for an officer or employee of a state agency or political subdivision to knowingly use or authorize the use of an internal mail system for the distribution of political advertising, with certain exceptions.

House Bill 999

Effective: Vetoed

House Author: Madden et al.

Senate Sponsor: R. Ellis

House Bill 999 amends the Election Code to repeal the provision that allows a candidate, officeholder, or political committee to file written reports if that person or the campaign treasurer of the committee files with the Texas Ethics Commission an affidavit stating that the candidate, officeholder, or committee, that person's or committee's agent, or a person with whom the person or committee contracts does not use computer equipment to keep the current records of political contributions, political expenditures, or persons making political contributions.

Reason Given for Veto: "The author of House Bill No. 999 requested that this bill be vetoed because it conflicts with House Bill No. 1606, which requires political candidates and officeholders to file reports electronically as part of a major effort to strengthen the state's ethics laws. I have signed House Bill No. 1606."

House Bill 1602**Effective:** 9-1-03**House Author:** Madden**Senate Sponsor:** R. Ellis

House Bill 1602 amends the Election Code to require the Texas Ethics Commission to make available to the public on the Internet a report filed electronically by a candidate for a particular office or by a specific-purpose committee supporting or opposing only one candidate for that office if (1) the candidate or committee is required to file electronically; and (2) each candidate for that office who is associated with one of the two political parties required to nominate candidates by primary election and each committee supporting or opposing such a candidate has filed a report for that reporting deadline.

House Bill 2158**Effective:** 9-1-03**House Author:** Hartnett**Senate Sponsor:** West

House Bill 2158 amends the Election Code to provide that for the purpose of campaign contribution limits and limits on reimbursement of personal funds, the general primary election and general election for state and county officers are considered a single election for an unopposed judicial candidate. The bill allows the unopposed candidate to raise up to 25 percent more than the contribution limits for a single election and restricts use of the extra money to officeholder expenditures.

House Bill 3149**Effective:** 9-1-03**House Author:** Wilson**Senate Sponsor:** Harris

House Bill 3149 amends the Government Code to clarify provisions enacted in 2001 relating to conflicts of interest involving lobbyists who represent clients in communicating directly with a member of the legislative or executive branch to influence legislative subject matter or an administrative action. The bill also requires the statement the registrant files with the Texas Ethics Commission regarding a conflict to include the name and address of each affected client and removes the Class B misdemeanor offense for violating the conflict of interest provisions.

Unopposed Candidates**House Bill 1344****Effective:** Vetoed**House Author:** Uresti**Senate Sponsor:** Van de Putte

House Bill 1344 amends the Election Code to allow the governing body of a political subdivision for which an unopposed candidate seeks office in a general or special election to declare the candidate elected. If the candidate is declared elected, the office is not listed on the ballot and an election is not held for that office. The bill also requires that if such a candidate is declared elected, then all unopposed candidates in that election that qualify are to be declared elected. A copy of each declaration is required to be posted during the early voting period and on election day at the applicable polling places. House Bill 1344 takes effect September 13, 2003, contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 59.

Reason Given for Veto: "House Bill No. 1344 would omit from the ballot any unopposed candidate. Under Sec. 2.053 of the Texas Election Code, an unopposed candidate for public office in a political subdivision may be declared elected without a vote. This bill, however, would eliminate the candidate's name from the ballot entirely, preventing voters from seeing the candidates and offices for which the election has been decided without a vote.

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“The better practice is that prescribed in House Bill No. 1476, which I have signed into law. House Bill No. 1476 permits unopposed candidates for state and county offices to be declared elected without a vote if no one is eligible to serve as a write-in candidate, but it continues to place the names of the unopposed candidates on the ballot so voters can see who was elected without a vote.”

House Bill 1476

Effective: See below

House Author: Truitt

Senate Sponsor: Nelson

House Bill 1476 amends the Election Code to authorize the certifying authority for an election to declare an unopposed candidate elected to an office of the state or county government if the candidate is the only person whose name is to appear on the ballot for that office and no candidate's name is to be placed on a list of write-in candidates for that office. In such a case, the election for that office is not held and the name of the candidate is listed on the ballot as elected to the office. The offices and names of any candidates declared elected in this manner are to be listed separately on the ballot after the contested races in the election under the heading “Unopposed Candidates Declared Elected,” and no votes are to be cast in connection with these candidates. The bill requires the certifying authority to issue a certificate of election to a candidate declared elected in an uncontested race in the same manner as one is issued to a candidate elected in an election. The certifying authority for a statewide or district office is the secretary of state, and for a county or precinct office, the county clerk.

This bill takes effect contingent on voter approval of the constitutional amendment proposed by House Joint Resolution 62.

House Joint Resolution 59

For Election: 9-13-03

House Author: Uresti

Senate Sponsor: Van de Putte

House Joint Resolution 59 proposes a state constitutional amendment to authorize the legislature, for an office of a political subdivision for which the constitution requires an election, to provide by general law for a person to assume the office without an election if the person is the only candidate to qualify in an election to be held for that office.

House Joint Resolution 62

For Election: 9-13-03

House Author: Truitt

Senate Sponsor: Nelson

House Joint Resolution 62 proposes a state constitutional amendment to authorize the legislature, for an office for which the constitution requires an election, to provide by general law for a person to assume the office without an election if the person is the only candidate to qualify in an election to be held for that office.

House Joint Resolution 62 also amends Section 2 of House Joint Resolution 61, Acts of the 78th Legislature, Regular Session, 2003, to change the date on which the election is to be held from November 4, 2003, to September 13, 2003.

Voter Rights, Voter Registration, and Voting Procedures

House Bill 402

Effective: 6-20-03

House Author: Madden et al.

Senate Sponsor: Shapiro

House Bill 402 amends the Election Code to require the secretary of state to establish a pilot program to evaluate the use of an electronic registration system to confirm a voter's registration when the voter appears in person to vote. The bill requires the pilot program to be used in one or more countywide elections in a single county with a population of approximately 500,000 people and to provide for the use of a card with a magnetic strip issued to the voter.

The secretary of state is required to file a report on the pilot program and the use of the electronic registration card with the governor, the lieutenant governor, and the speaker of the house of representatives at the conclusion of the program, but not later than December 31, 2006. The pilot program expires January 1, 2007.

House Bill 1517**Effective:** Vetoed**House Author:** J. Jones**Senate Sponsor:** R. West

House Bill 1517 amends the Election Code to require the secretary of state to publicize voter's rights by posting a notice at each polling place, on the secretary of state's website, through published material, or in another manner designed to give voters notice of their rights. The bill specifies a list of voter's rights and other information to be included in the notice. House Bill 1517 also deletes the requirement that the telephone number of the voting rights hotline be continuously posted separately in a prominent location at each polling place.

Reasons Given for Veto: "House Bill No. 1517 would mandate a notice of voters' rights which is inconsistent with requirements of House Bill No. 1549, which I have signed and which will implement the federal Help America Vote Act of 2002 in Texas.

"House Bill No. 1549 requires that a poster containing general information on voting rights and prohibited acts of fraud and misrepresentation under state and federal be posted at every polling place. House Bill No. 1517 does not reference federal law nor does it list prohibited acts of fraud and misrepresentation as required by House Bill No. 1549. Accordingly, House Bill No. 1517 does not comply with federal law and is in conflict with House Bill No. 1549."

House Bill 1597**Effective:** 9-1-03**House Author:** Madden**Senate Sponsor:** Staples

House Bill 1597 amends the Election Code to require the secretary of state to prescribe procedures to allow military personnel or other persons overseas who qualify to vote by a federal write-in absentee ballot to vote through the use of a federal write-in absentee ballot in any general, special, primary, or runoff election for federal office.

House Bill 1863**Effective:** 9-1-03**House Author:** Bohac**Senate Sponsor:** Lindsay

House Bill 1863 amends the Election Code to provide that a social security number, Texas driver's license number, or number of a personal identification card issued by the Department of Public Safety furnished on a voter registration application is confidential. The voter registrar must ensure that such information is excluded from disclosure.

House Bill 2094**Effective:** 6-20-03**House Author:** Harper-Brown**Senate Sponsor:** Harris

House Bill 2094 amends the Election Code to define "assisting a voter" as conduct by a person other than the voter that occurs while the person is in the presence of the voter's ballot or carrier envelope and includes reading the ballot to the voter, directing the voter to read the ballot, marking the voter's ballot, or directing the voter to mark the ballot.

Senate Bill 196**Effective:** 9-1-03**Senate Author:** Staples**House Sponsor:** Howard

Senate Bill 196 amends the Election Code to specify that the sworn statement filed by a voter challenging a registration must identify the voter whose registration is being challenged and state a specific qualification for registration that the challenged voter has not met based on the personal knowledge of the voter challenging the registration.

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Senate Bill 197

Effective: 9-1-03

Senate Author: Staples

House Sponsor: Howard

Senate Bill 197 amends provisions of the Election Code relating to a confirmation notice that results from a sworn statement challenging a voter's registration based on residency. The bill prohibits a voter registrar from delivering such a notice until after the date of that election if the sworn statement was filed after the 75th day before the date of the general election for state and county officers. The provision does not apply to a person who registers after the 75th day and prior to the 30th day before the general election for state and county officers.

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

HB 146 - Courts

HB 1199 - Alcoholic Beverages

HB 1606 - State Government

HB 2334 - Local Government

SB 688 - Public Education

Emergency Response

This chapter covers legislation relating to emergency response, including homeland security, the AMBER alert and statewide 9-1-1 systems, emergency medical services providers, and emergency services districts. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 9

Effective: 6-22-03

House Author: Flores et al.

Senate Sponsor: Shapiro

House Bill 9 gives the governor the duties of directing Texas homeland security, developing a statewide homeland security strategy, and allocating and reviewing homeland security grants and funding. The bill creates the Critical Infrastructure Protection Council as an interagency advisory entity administered by the governor and authorizes the governor to appoint additional special advisory committees composed of representatives from state and local agencies and nongovernmental entities not represented on the council. It establishes a Texas Infrastructure Protection Communications Center, administered by the Department of Public Safety (DPS), and makes the DPS the repository for multijurisdictional criminal intelligence information related to homeland security. The bill modifies eligibility for the Texas State Guard and establishes the role of the guard in homeland security and community service activities. It requires pharmacists to report unusual incidents or trends that might suggest bioterrorism or serious disease outbreaks, and adds emergency medical service personnel, peace officers, and firefighters to those required to report suspected cases of reportable diseases. Confidentiality provisions relate to critical infrastructure, security systems, risk and vulnerability assessments, encryption codes and security keys, weapons construction and assembly, reports to the federal government on acts of terrorism and related criminal activity, and the tactical plans, staffing requirements, and contact numbers of emergency response providers. Other provisions address issues of liability relating to the performance of homeland security activities. The bill establishes September 11 as Texas First Responders Day to honor Texans who assist others in emergencies.

House Bill 627

Effective: 6-20-03

House Author: Reyna et al.

Senate Sponsor: Deuell

House Bill 627 amends the Health and Safety Code to authorize the commissioner of public health, the regional director for a public health region, or a local physician designated as a health authority to impose an area quarantine on determining that an environmental or toxic agent has been introduced into the environment through an act of terrorism or other circumstances. The bill covers bacteria and other disease-producing organisms, radioactive and toxic substances, and other hazardous substances capable of causing widespread human illness, death, or substantial negative economic impact. Quarantine procedures follow those used for communicable diseases. An area quarantine must be accomplished by the least restrictive means necessary to protect public health considering the availability of resources. A quarantine imposed by a regional director or local health authority expires after 24 hours, or when superseding action has been taken under the Texas Disaster Act of 1975 or by the commissioner of health, whichever is earlier. The bill creates a criminal offense for knowing failure or refusal to obey an order or instruction of the commissioner, a regional director, or a local health authority issued under such a quarantine.

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House Bill 1401

Effective: 9-1-03

House Author: Goolsby

Senate Sponsor: Carona

House Bill 1401 amends the Government Code to add the Texas Lottery Commission to the Statewide Texas Amber Alert Network of agencies and organizations that disseminate information about a child who has been reported abducted and may be in immediate danger. The bill requires the commission, when notified by the Department of Public Safety that the Amber Alert system has been activated, to distribute information about the missing child to its retail locations using the lottery operator system.

House Bill 1512

Effective: 9-1-03

House Author: G. West

Senate Sponsor: Armbrister

House Bill 1512 amends the Government Code to require each local or interjurisdictional agency to conduct at least one public meeting each calendar year to exchange information regarding emergency management plans relating to pipeline safety. The bill requires each agency to provide written notice of the meeting to the pipeline safety section of the Railroad Commission of Texas. It exempts an agency from the information exchange if its emergency management plan contains sensitive information that could jeopardize the safety or security of critical facilities if disclosed.

House Bill 1771

Effective: 6-18-03

House Author: Keel et al.

Senate Sponsor: Wentworth

House Bill 1771 amends the Health and Safety Code to authorize a county with a population of at least 700,000 that is part of the statewide 9-1-1 system to use certain 9-1-1 fees and surcharges to pay any costs considered necessary by the Commission on State Emergency Communications and attributable to the design, establishment, and operation of certain aspects of the system.

House Bill 1937

Effective: 6-20-03

House Author: Gallego

Senate Sponsor: Gallegos

House Bill 1937 amends the Government Code to designate September 11 as Texas First Responders Day in honor of those who assist others in emergencies and to authorize the Star of Texas award for peace officers, firefighters, and emergency medical first responders who are killed or sustain serious or fatal injuries in the line of duty. The governor may present the award to the surviving next of kin. The bill establishes governor-appointed committees to advise the governor on the issuance, design, and presentation of the award. At a minimum, the award must consist of a medal, certificate, and ribbon suitable for wearing on a uniform.

House Bill 2650

Effective: 6-21-03

House Author: Kuempel

Senate Sponsor: Armbrister

House Bill 2650 amends the Government Code to create the Public Safety Radio Communications Council composed of the administrative heads of the Sheriffs' Association of Texas and seven designated state agencies. The council has responsibility to advise the Department of Public Safety regarding a strategic plan to design and implement a statewide integrated communications system for state agencies and other designated public safety entities. Other functions relate to the facilitation of intergovernmental interoperability, the enhancement of radio communications and infrastructure equipment, and certain advisory duties involving police chiefs, firefighting personnel, and municipal and county officials. The bill requires the council to report annually to the legislature on the status of its duties.

House Bill 3491**Effective:** 6-22-03**House Author:** Raymond et al.**Senate Sponsor:** Zaffirini

House Bill 3491 amends the Health and Safety Code to authorize a county that has the highest population within a region that is part of the statewide 9-1-1 system to use certain 9-1-1 fees and surcharges to pay any costs considered necessary by the Commission on State Emergency Communications and attributable to the design, establishment, and operation of certain aspects of the system.

Senate Bill 57**Effective:** 6-20-03**Senate Author:** Zaffirini et al.**House Sponsor:** Driver

Senate Bill 57 amends the Government Code to require the Department of Public Safety to create a statewide America's Missing: Broadcast Emergency Response (AMBER) alert system for abducted children. The bill directs the department to adopt rules and issue directives in order to establish and administer the alert system, including recruiting participants, activating and deactivating the system, and coordinating the use of the alert system between state agencies and local law enforcement agencies.

Senate Bill 401**Effective:** 6-20-03**Senate Author:** Van de Putte et al.**House Sponsor:** Capelo et al.

The Health and Safety Code provides that when certain public safety personnel are exposed to the blood or bodily fluids of a person while responding to an emergency, that person is tested for hepatitis B or hepatitis C for the protection of the public safety worker who has been exposed. Senate Bill 401 amends the code to provide that the organization for which the public safety worker performs emergency duties is responsible for paying the cost of the test.

Senate Bill 407**Effective:** Vetoed**Senate Author:** Deuell**House Sponsor:** Harper-Brown

Senate Bill 407 amends the Government Code to authorize governmental units that contract to provide emergency or fire services, to determine by contract which entity is responsible for any civil liability that arises from furnishing those services. In the absence of a contract that addresses the liability, the bill provides that the governmental unit that requests and obtains the services is responsible for any civil liability that arises from furnishing those services.

Reason Given for Veto: "Senate Bill No. 407 attempts to encourage cities with fire departments and emergency services to make those services available to neighboring local government entities that do not have them. Unfortunately, the bill would have the exact opposite effect.

"Current law provides that when two governmental units contract to furnish or obtain fire services, the city furnishing the services cannot be sued for injuries or property damage that might be caused by the services.

"The city receiving the services 'is responsible for any civil liability that arises from the furnishing of those services.' This is more than merely an indemnity between the two governmental entities; it means that a plaintiff can only recover damages from the entity which receives the services.

"The bill replaces this statutory ban on lawsuits with a provision that inadvertently allows the city providing the services to be sued.

"The only protection the city would have under the bill is an indemnity agreement with the entity which receives the services. That means the city providing the services can be sued; once it pays a judgment, it must try to recover the amount it pays plaintiff by suing the entity which received the services.

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“Further, in the event that the city provides fire or emergency services to another local governmental entity without a contract, the bill gives the city which provides the services the same shield from lawsuits that current law gives to a city which provides fire services under a contract.

“However, the wording of this provision makes the governmental unit which receives the services without a contract liable for any civil liability. School districts or hospital districts within the same city as the fire department would be liable for any damages that occur anytime the fire or emergency services departments respond to an alarm at their facilities.”

Senate Bill 504

Effective: 9-1-03

Senate Author: Ogden et al.

House Sponsor: Kolkhorst et al.

Senate Bill 504 amends the Property Code to establish that an emergency medical services provider has a lien on a cause of action or claim of an individual who receives emergency medical services in a county with a population of 575,000 or less for injuries caused by an accident that is attributed to the negligence of another person. The bill requires the individual to receive the services not later than 72 hours after the accident for the lien to attach. It provides a cap of \$1,000 and specifies charges that are not covered by the lien. It also applies certain provisions relating to a hospital lien to an emergency medical services lien, and it establishes that a hospital lien does not attach to a claim against the owner or operator of a railroad company that maintains or whose employees maintain a hospital in which the injured individual is receiving hospital services.

Senate Bill 513

Effective: 9-1-03

Senate Author: Lindsay

House Sponsor: Seaman et al.

Senate Bill 513 amends the Civil Practice and Remedies Code to provide that, under certain conditions, a person is immune from civil liability for an act or omission that occurs in giving care, assistance, or advice relating to the management of a man-made or natural disaster when help is requested by an authorized governmental authority and the person is not compensated for the help.

Senate Bill 692

Effective: 9-1-03

Senate Author: Madla

House Sponsor: McReynolds et al.

Senate Bill 692 amends the Health and Safety Code to require an emergency medical services provider to submit an annual report to the Texas Department of Health about the number and types of EMS runs the provider makes. The bill requires the department to adopt rules relating to the information in the report and to post the information that is not confidential on the department’s website.

Senate Bill 1131

Effective: 9-1-03

Senate Author: Harris

House Sponsor: Capelo et al.

Senate Bill 1131 amends the Code of Criminal Procedure to establish an additional \$100 fine for intoxication-related offenses, with the money to be used to fund emergency medical services, trauma facilities, and trauma care systems. The bill amends the Health and Safety Code to establish an account in general revenue for emergency medical services, trauma facilities, and trauma care systems and combines the administration of the account with the administration of an account funded by the 9-1-1 equalization surcharge. It changes requirements relating to the administration of the accounts, changes limits on reserve amounts and disbursements that are required to be made from the accounts, and specifies that designated trauma facilities are eligible for payments from the account created by the 9-1-1 equalization surcharge.

Senate Bill 1409
Effective: 5-28-03

Senate Author: Deuell et al.
House Sponsor: Raymond

Senate Bill 1409 amends provisions of the Health and Safety Code relating to funding of the regional emergency medical dispatch resource center pilot program. The bill authorizes participating political subdivisions to pay a share of the cost of the pilot program and directs the Texas Department of Health to implement the program under contract with those political subdivisions if the political subdivisions provide funds that, together with other available funds, are sufficient to pay for the program. Senate Bill 1409 provides for the appointment of a work group to assist the department with the program. The bill extends the pilot program until September 1, 2005.

Emergency Services Districts

House Bill 522
Effective: 9-1-03

House Author: Lewis
Senate Sponsor: Harris

House Bill 522 amends the Health and Safety Code to add operating costs and costs for related services to the allowable expenses a 9-1-1 emergency communication district may charge and deletes costs attributable to equipment and personnel necessary to establish and operate certain answering points.

House Bill 802
Effective: 9-1-03

House Author: Geren
Senate Sponsor: Harris

House Bill 802 amends provisions of the Emergency Communication District Act that are applicable to a county with a population of 860,000 or more in which such a district was created before 1988 under a specified 1984 law. The bill adds telephone service requirements to enable local public safety entities to better pinpoint the location from which a 9-1-1 call has originated in situations in which multiple tenants at the same complex share a single telephone system or in which a single entity with offices dispersed physically among multiple addresses or building floors shares a consolidated telephone system. Additionally, a hotel or motel that does not have a telephone operator continually on-site is required to use a system that enables automatic pinpointing by individual hotel or motel room. The bill applies only to a telecommunications system installed on or after the effective date. It amends associated liability provisions.

House Bill 1108
Effective: 9-1-03

House Author: Lewis
Senate Sponsor: Madla

House Bill 1108 amends provisions of the Health and Safety Code relating to emergency services districts. The bill revises the procedures and requirements for the annexation of territory in a district by a municipality and its disannexation from the district, and adds that the disannexation of territory from a district does not impair the rights of holders of any outstanding district obligations, including certain loans and lease-purchase agreements. The bill requires a municipality that annexes territory in a district to compensate the district immediately after disannexation of the territory and provides a formula for computing the amount of compensation. The bill also requires the municipality and the district to use binding arbitration if they cannot reach an agreement on the amount of compensation and sets out procedures for arbitration.

Emergency Response

House Bill 1108 allows a district to contract with the state or a political subdivision for enforcement of the district's fire code, requires a district's fire code to be similar to standards adopted by a nationally recognized standards-making association, and provides for continued enforcement of a district code in certain areas of a municipality or county under certain conditions. The bill changes the range and increments of the sales and use tax rate the district may adopt. The bill permits an emergency services board member disqualified from serving on the board because municipal annexation resulted in the member no longer residing in the district or owning land subject to the district's taxation to finish out his or her term of office. The bill requires the district to file an annual report with the Office of Rural Community Affairs, rather than the secretary of state, and requires the Office of Rural Community Affairs to develop and maintain an Internet-based system before January 1, 2004, for the filing and public viewing of the annual reports. The bill allows a district to commission a peace officer or employ a person who holds a permanent officer license as a peace officer and amends the Code of Criminal Procedure to expand the list of peace officers to include any officers, inspectors, or investigators commissioned by an emergency services district.

Senate Bill 892

Effective: 6-20-03

Senate Author: Bivins

House Sponsor: Laney

Senate Bill 892 amends the Health and Safety Code to require that two members of the board of managers of certain emergency communication districts be appointed jointly by the majority vote of the municipalities voting on the appointment and located in whole or part in the district.

Senate Bill 905

Effective: 9-1-03

Senate Author: Madla

House Sponsor: Hamric

Senate Bill 905 amends provisions of the Health and Safety Code relating to the reimbursement for land that a municipality annexes from an emergency service district. The bill provides the specific formula to be used to determine the amount of compensation and requires the same formula to be applied to compensation for removal of district territory in counties with a population of 125,000 or less. The bill requires the municipality and the district to use binding arbitration if they cannot reach an agreement and sets out procedures and timelines for arbitration. The bill adds that the disannexation of territory from a district does not impair the rights of holders of any outstanding district obligations, including certain loans and lease-purchase agreements.

Senate Bill 1021

Effective: 9-1-03

Senate Author: Madla

House Sponsor: Lewis

Senate Bill 1021 amends provisions of the Health and Safety Code relating to emergency services districts and rural fire prevention districts. The bill converts all remaining rural fire prevention districts to emergency services districts. The bill prohibits the most recently created emergency services district, if it includes territory that overlaps with the boundaries of another emergency services district or a district converted from a rural fire prevention district, from providing services in the overlapping territory that duplicate the services provided by the other district. The bill revises fire-fighting equipment and system standards applicable to certain businesses that are not subject to ad valorem taxes or district powers because they provide their own fire prevention and control services. Senate Bill 1021 also repeals certain provisions relating to rural fire prevention districts.

Senate Bill 1022
Effective: 9-1-03

Senate Author: Madla
House Sponsor: Lewis

Senate Bill 1022 amends Health and Safety Code provisions relating to emergency services districts. The bill revises the procedures and requirements for the annexation of territory in a district by a municipality and its disannexation from the district. The bill allows a district to contract with the state or a political subdivision for enforcement of the district's fire code, requires a district's fire code to be similar to those adopted by a nationally recognized standards-making association, and provides for continued enforcement of a district code in certain areas of a municipality or county under certain conditions. The bill changes the range and increments of the sales and use tax rate the district may adopt. It also allows a district to commission a peace officer or employ a person who holds a permanent peace officer license as a peace officer and amends the Code of Criminal Procedure to expand the list of peace officers to include any officers, inspectors, or investigators commissioned by an emergency services district.

Senate Joint Resolution 45
For Election: 9-13-03

Senate Author: Madla
House Sponsor: Lewis

Senate Joint Resolution 45 proposes a state constitutional amendment to repeal the authority of the legislature to provide for the establishment and creation of rural fire prevention districts.

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

- HB 861 - Health and Medical Occupations
- HB 873 - Public Officials and Employees
- SB 461 - Transportation
- SB 530 - Health
- SB 756 - Transportation
- SB 985 - Oil and Gas
- SB 1155 - Government Purchasing
- SB 1594 - State Government

Environment

This chapter covers legislation on issues relating to environmental regulation, including air quality, water quality, waste disposal, and the Texas Commission on Environmental Quality. Bills relating to water supply are in the **Water** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

Air Quality

House Bill 37 (3rd C.S.)

Effective: 10-20-03

House Author: Bonnen

Senate Sponsor: Ogden

House Bill 37 amends the Health and Safety Code to transfer from the Texas Council on Environmental Technology to the Texas Commission on Environmental Quality (TCEQ) functions related to the solicitation of proposals and the award of grants under the new technology research and development program to support development of emissions-reducing technologies. The bill requires the TCEQ to consult with the council in administering the program and prohibits the agency from collecting a fee from grant recipients. The bill also amends the General Appropriations Act, 78th Legislature, to appropriate funds for the program to the TCEQ rather than the council and to make other changes regarding allocations from the Texas emissions reduction plan account, including eliminating funding for programs administered by the Public Utility Commission and the comptroller of public accounts and increasing funding for the diesel emissions reduction program administered by the TCEQ. The bill caps administrative costs for programs financed by the account, and it directs the TCEQ to allocate certain amounts of appropriated funds to air quality activities in affected counties, also known as near-nonattainment areas, and air quality research in the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas. Regarding the authorization for governmental entities in an affected county to give a limited preference to vendors that meet or exceed air quality standards when awarding contracts for goods or services, the bill clarifies that the authorization also applies to contracts to be performed in a nonattainment area.

House Bill 43

Effective: 5-14-03

House Author: Chisum

Senate Sponsor: Armbrister

House Bill 43 amends the Health and Safety Code to require the Texas Council on Environmental Technology to compete for and manage federal grants and funds from other sources and to enter into public-private partnerships to facilitate development of environmental technology infrastructure in Texas. The bill authorizes the council to collect a fee from grant recipients to administer development of emissions-reducing technologies that show promise for commercialization. The fee cannot exceed five percent of the grant amount. The bill adds conflict-of-interest provisions for a Texas Council on Environmental Technology member who is employed by or owns an entity that applies for a grant from the council. The bill requires that such a member disclose the employment or ownership before a vote on the grant and that the disclosure be entered into the minutes of the meeting. If the member fails to comply with the disclosure requirement or votes or otherwise participates in awarding the grant, the entity is ineligible for the grant.

House Bill 555

Effective: 6-18-03

House Author: Chisum

Senate Sponsor: Armbrister

House Bill 555 amends the Health and Safety Code to exempt a portable facility from the requirement to publish notice of intent to obtain a permit, permit amendment, or permit review under the Texas Clean Air Act if the facility moves to a site where a portable facility has been located any time during the previous two years. The bill also specifies that a facility applying for an air emissions permit must comply with location and distance requirements as measured toward structures that are in use as of the date that the permit application is filed with the Texas Commission on Environmental Quality.

House Bill 638

Effective: 6-20-03

House Author: Chisum

Senate Sponsor: Armbrister

House Bill 638 amends the Health and Safety Code to require, rather than authorize, the Texas Commission on Environmental Quality by rule to develop a program for the reduction of nitrogen oxides emissions from reciprocating internal combustion engines associated with pipelines and to include emissions reduction project incentives under the program. The bill prohibits the rules from requiring more stringent emissions reduction criteria than those specified in statute for determining eligibility for an emissions reduction project incentive. The bill dedicates the interest earned on money in the emissions reductions incentives account to the account and authorizes money in the account to be appropriated only for emissions reduction project incentives. The bill makes a person or an affiliate of a person who pays or contributes money to the account ineligible for an incentive. The bill revises the law relating to pipeline facilities permits to provide that a reciprocating internal combustion engine that is subject to a mass emissions cap as established by commission rule is considered permitted with respect to all air contaminants if the facility is located in an area designated nonattainment for ozone and is achieving compliance with all state and federal requirements designated for that area.

House Bill 1287

Effective: 6-20-03

House Author: Chisum

Senate Sponsor: Madla

House Bill 1287 amends provisions of the Health and Safety Code relating to the Texas Commission on Environmental Quality's authority to prohibit the location of concrete crushing facilities within a certain distance of a residence, school, or church currently in use. The bill limits the commission's authority to the operation of the facility, rather than its location or operation, at the time the application for a permit to operate the facility is filed with the commission. The bill exempts a concrete crushing facility at a location for which commission authorization was in effect on September 1, 2001, or at a location that maintains distance requirements at the time of initial commission authorization regardless of whether a residence, school, or church is subsequently built or put to use within a certain distance of the facility. A concrete crushing facility that operates at a location for up to 180 days for the purpose of crushing materials produced by the demolition of a structure at the location is also exempt, provided that the commission determines that there will be no adverse environmental or health effects and the facility complies with all applicable rules. Otherwise, the prohibition on certain locations applies to a concrete crushing facility in a county with a population of 2.4 million or more or in a county adjacent to such a county. The bill exempts a portable facility from the requirement to publish notice of intent to obtain a permit, permit amendment, or permit review under the Texas Clean Air Act if the facility moves to a site where a portable facility has been located any time during the previous two years. A concrete crushing facility

that operates at a location for up to 180 days for the purpose of crushing materials produced by the demolition of a structure at the location is also exempt from the notice requirement unless the facility is in a county with a population of 2.4 million or more or in a county adjacent to such a county.

House Bill 1365

Effective: See below

House Author: Bonnen et al.

Senate Sponsor: Harris

House Bill 1365 amends the Health and Safety Code to fund the Texas Emissions Reduction Plan (TERP), a set of incentive-based programs created in 2001 to reduce by 2007 ozone precursor chemicals created by diesel engines in areas that currently do not meet, or soon may not meet, mandatory federal clean air standards for ozone. The bill finances TERP by increasing the fee for obtaining a certificate of vehicle title from \$13 to \$33 if the applicant's residence is in a county located within an area designated as nonattainment under the federal Clean Air Act and to \$28 if the applicant's residence is in any other county. The fee is set at \$28 statewide on or after September 1, 2008, at which time revenues will be credited to the Texas Mobility Fund instead of TERP. The bill increases the surcharge on heavy-duty diesel construction equipment, including mining equipment, from one to two percent of the sale, lease, or rental cost of the equipment and imposes the surcharge on storage and use of the equipment as well. Additionally, the bill extends the 2.5 percent surcharge on the sale or lease of on-road diesel motor vehicles to include use of the vehicles and lowers the surcharge to two percent for vehicles that are 1997 model year or newer. The bill requires 87.5 percent, rather than 72 percent, of money in the TERP fund to be allocated to the diesel emissions reduction incentive program, which provides grants to offset the cost of purchasing or leasing lower emission diesel equipment. Remaining funds are allocated to the new technology research and development program and to administrative costs. The bill adds three counties to the list of affected counties where residents are eligible for TERP grants and includes any other county designated as an affected county by the Texas Commission on Environmental Quality. It also expands the number of eligible projects, including infrastructure projects, that are eligible for a grant, and requires the commission by rule to develop a method of providing fast and simple access to grants for a small business. The bill makes on-road diesel motor vehicles certified by the California Air Resources Board eligible for purchase or lease with a TERP grant and authorizes the commission to make other on-road vehicles that meet emissions standards eligible, regardless of fuel type. It specifies that a building certified by a national, state, or local accredited energy-efficiency program complies with the state's building energy performance standards and authorizes the General Land Office to develop an energy-efficient building accreditation program for buildings that exceed building energy performance standards by 15 percent and more. The commission, other state agencies, and other governmental agencies such as municipalities and counties are authorized to give preference to vendors that meet or exceed air quality standards for contracts to be performed in an affected county for air quality. Finally, the bill prohibits the commission from declaring a speed limit for environmental purposes on part of the state highway system.

House Bill 1365 takes effect June 22, 2003, except for provisions relating to the surcharge on diesel construction equipment and on diesel motor vehicles, which take effect July 1, 2003.

House Bill 1481

Effective: 9-1-03

House Author: Allen

Senate Sponsor: Estes

House Bill 1481 amends the Health and Safety Code to require fees collected under Titles IV and V of the federal Clean Air Act to be deposited in a separate operating fees account in the state treasury and appropriated to the Texas Commission on Environmental Quality only to

Environment

cover the costs of developing and administering the federal permit programs under Titles IV and V. The bill exempts the funds from the law governing the use of dedicated revenue and requires unexpended balances to be left in the account.

Senate Bill 1159

Effective: 6-10-03

Senate Author: Barrientos

House Sponsor: Krusee

Senate Bill 1159 amends the Health and Safety Code and the Transportation Code to authorize a county that is a party to an early action compact with the United States Environmental Protection Agency and the Texas Commission on Environmental Quality regarding air quality to request the commission to adopt a motor vehicle emissions inspection and maintenance program for the county if the county's early action plan contains provisions for the program and has been found adequate by the commission. The bill requires the request to be made by a resolution adopted by the governing bodies of the county and the most populous municipality in the county. After approving a request, the commission is authorized by resolution to request the Public Safety Commission to establish a compulsory vehicle inspection program in the county that may include certain testing methods and to assess a fee for a vehicle inspection to cover costs, including a reasonable margin of profit for the station owner, contractor, or operator performing the inspection. The Public Safety Commission is authorized to establish a program that is consistent with the early action compact and to use alternative testing methodology that meets or exceeds federal requirements in the county. The bill requires incentives for voluntary participation in a vehicle emissions inspection and maintenance program to be made available to the county, and the county is authorized to participate in the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program. Additionally, the Texas Department of Transportation is authorized to execute any contract or instrument to implement the program.

Senate Bill 1272

Effective: 9-1-03

Senate Author: Armbrister

House Sponsor: Flores

Senate Bill 1272 amends the Health and Safety Code to require the Texas Commission on Environmental Quality to issue a standard permit for a permanent concrete plant that performs certain functions and meets environmental requirements specified in the bill. The bill also requires the commission to issue the permit if the plant meets all of the requirements, except for locating or operating equipment, stockpiles, and vehicles more than 100 feet from any property line, and takes certain other action. The bill establishes notice and hearing requirements for the permit and establishes that the public hearing is not an evidentiary proceeding if the applicant meets the environmental requirements. It requires the executive director of the commission to respond in writing to any public comments received regarding an application for a concrete plant standard permit.

Regulatory Agency

House Bill 44

Effective: 9-1-03

House Author: Chisum et al.

Senate Sponsor: Armbrister

House Bill 44 amends the Health and Safety Code to rename the small business stationary source assistance program at the Texas Commission on Environmental Quality (TCEQ) as the small business compliance assistance program and to require the program to help small businesses achieve compliance with federal water quality, solid waste, and air quality laws.

The bill renames the program's compliance advisory panel as the small business compliance assistance advisory panel and expands its duties to include reviewing TCEQ information to all small businesses instead of only to small businesses that are stationary sources of air contaminants. The bill requires the Office of Small Business Assistance at TCEQ to defer to the small business compliance assistance program on advocacy and technical assistance related to water, waste, and air environmental programs that regulate small businesses.

House Bill 2252

Effective: 9-1-03

House Author: Flores

Senate Sponsor: Hinojosa

House Bill 2252 amends provisions of the Health and Safety Code relating to cost recovery actions and liens placed on homesteads by the Texas Commission on Environmental Quality. The bill authorizes the executive director, before filing a lien, to take into consideration a landowner's financial ability to satisfy the lien, including whether the landowner received financial compensation for the disposal of any substance addressed by the remedial action and whether the real property that is the subject of the lien is being used as a home by the landowner and has a fair market value of \$250,000 or less. The bill prohibits the commission from filing a cost recovery action if the individual's only significant asset is a homestead that includes the facility subject to or affected by a remedial action, is occupied as a home, and has a fair market value of \$250,000 or less. It requires the commission by rule to adopt criteria for determining whether a potentially responsible party is financially capable of conducting any necessary remediation studies or remedial action if the responsible party is an individual whose homestead includes the facility subject to or affected by a remedial action. The bill requires the rules to prohibit including the value of the individual's homestead in the total amount of the individual's assets if the individual is occupying the homestead as a home and the fair market value of the homestead is \$250,000 or less.

Senate Bill 934

Effective: 9-1-03

Senate Author: Jackson

House Sponsor: W. Smith

Senate Bill 934 amends Water Code provisions relating to environmental laboratory data and analysis that the Texas Commission on Environmental Quality may accept for use in commission decisions. The bill expands the types of laboratories from which the commission may accept data and analysis to include an on-site or in-house laboratory that is: located in another state that accredits or periodically inspects the laboratory; performing the work for another company with a unit located on the same site; or performing the work without compensation for a governmental agency or charitable organization if the laboratory is periodically inspected by the commission.

Senate Bill 1091

Effective: 9-1-03

Senate Author: Shapiro

House Sponsor: Taylor

Senate Bill 1091 amends the Health and Safety Code to remove the commissioner of the General Land Office and executive director of the state economic development agency from the Recycling Market Development Board. The chairman of the Texas Commission on Environmental Quality is required to assume their presiding officer responsibilities. The bill repeals provisions requiring the land office to provide ongoing research and assistance to the board and to develop and implement a recycling awareness campaign. It also removes the land office from the municipal solid waste reduction advisory task force.

Senate Bill 1265

Effective: 9-1-03

Senate Author: Armbrister

House Sponsor: Capelo

Senate Bill 1265 amends provisions of the Water Code relating to the criminal prosecution of alleged environmental violations of the Water Code, Health and Safety Code, or of any other statute, rule, order, permit, or other decision of the Texas Commission on Environmental Quality. The provisions of the bill apply only to cases in which the potential defendant holds a permit issued by the commission or is employed by a person holding such a permit. The bill requires a peace officer, before referring an alleged environmental violation to a prosecuting attorney for criminal prosecution, to notify the commission in writing of the alleged violation and to include a report describing the facts and circumstances of the alleged violation. The bill requires the commission to evaluate the report within a certain period of time and verify whether an alleged violation exists and if administrative or civil remedies would adequately address it. If the commission makes a determination that an alleged violation exists and that administrative or civil remedies are inadequate to address it, the commission is required to notify the peace officer in writing of the reasons why the remedies are inadequate, and the prosecuting attorney is authorized to proceed with criminal prosecution. The bill specifies that these provisions do not apply to an alleged violation that involves imminent danger of death or bodily injury under an endangerment offense and that nothing in the provisions limits the power of a peace officer to arrest a person for an alleged offense.

Waste Disposal

House Bill 253

Effective: 9-1-03

House Author: Chisum

Senate Sponsor: Armbrister

House Bill 253 amends the Health and Safety Code to authorize the Texas Department of Health to consider an applicant's technical competence, financial qualifications, and compliance history when granting, renewing, or amending a license or registration under the Texas Radiation Control Act. The bill requires the department to deny an application if the applicant's compliance history reveals a pattern of violations of the act or the department's rules.

House Bill 1567

Effective: 9-1-03

House Author: G. West et al.

Senate Sponsor: Bivins

House Bill 1567 amends the Health and Safety Code to authorize the Texas Commission on Environmental Quality to issue a license for a single compact waste disposal facility (compact facility) to dispose of low-level radioactive waste that is generated in a host or party state or has been approved for importation to this state under the Texas Low-Level Radioactive Waste Disposal Compact (compact). The bill authorizes the commission to license the compact facility license holder to dispose of federal facility waste at a separate and distinct facility that is operated exclusively for the disposal of federal facility waste and that is adjacent to the compact facility. The bill requires the commission to limit the overall capacity of the federal facility waste disposal facility (federal facility) to three million cubic yards during the first five years and to limit the total volume of Class A, B, and C low-level radioactive waste at the facility to 300,000 cubic yards. After five years, and upon making an affirmative finding that increasing the capacity of the federal facility will not pose a significant risk to human health, public safety, or the environment, the commission is required to increase the overall capacity of the federal facility to six million cubic yards and to increase the volume of Class A, B, and C low-level radioactive waste at the facility to 600,000 cubic yards. The bill prohibits the

commission from allowing commingling of compact waste and federal facility waste and prohibits the compact facility license holder from accepting federal facility waste at the federal facility until the license holder begins accepting compact waste at the compact facility. The bill establishes certain site restrictions, including location in a 100-year flood plain, and requires the license holder to dispose of Class A, B, and C waste within certain containers and in such a manner that the waste can be monitored and retrieved. It provides that the term of a license issued by the commission is 15 years and authorizes a license to be renewed for one or more terms of 10 years.

The bill requires the commission, by January 1, 2004, to provide notice in the Texas Register that the commission will begin accepting license applications for a certain period and that applications must include a nonrefundable \$500,000 application processing fee. The bill authorizes the commission to assess additional fees if necessary to recover costs. It authorizes the exercise of eminent domain to acquire fee simple interest in a mineral right required by the commission if an applicant cannot reach a surface use agreement with a private landowner. The bill establishes certain time frames for processing an application, including that the commission has 270 days to select an application. It requires the commission to consider as administratively complete an application that satisfies 11 technical elements, and it establishes and ranks criteria that the commission must consider in evaluating an application. It sets forth provisions relating to public notice, opportunity for a public hearing, and judicial review. Regarding financial assurance, the bill prohibits the amount of security required of a license holder from being set at less than \$20 million at the time the disposal site is decommissioned and requires the license holder's payment schedule to be sufficient to ensure that the amount of security at any time between the issuance of the license and the time at which the facility is decommissioned is sufficient to address any increase in the health and safety risk. The bill authorizes the commission to prohibit the license holder from accepting waste if the commission finds that the license holder violated a statute or rule in a manner that endangers public health or safety, and establishes requirements for denial of a license or license renewal based on the applicant's compliance history.

The bill requires the license holder each quarter to transfer to the commissioners court of the host county 5 percent of the gross receipts from compact and federal facility waste received at the disposal facility and 10 percent of the gross receipts to the state general revenue fund. It provides that the initial payment of \$12.5 million from each nonhost party state in the Texas compact is due by November 1, 2003.

House Bill 1678

Effective: 9-1-03

House Author: Chisum

Senate Sponsor: Armbrister

House Bill 1678 amends the Health and Safety Code to create the radiation and perpetual care account to replace the radiation and perpetual care fund in the general revenue fund. The bill authorizes, rather than requires, low-level radioactive waste shipment fees deposited to the credit of the account to be at or below \$10 per cubic foot of shipped waste and requires the fees to be collected by the Texas Department of Health rather than the Low-Level Radioactive Waste Disposal Authority, which was abolished. The bill also requires the Texas Department of Health or the Texas Commission on Environmental Quality to deposit into the account a surety bond or other security paid by a radioactive materials license holder.

House Bill 1765

Effective: 9-1-03

House Author: W. Smith

Senate Sponsor: Jackson

House Bill 1765 amends the Health and Safety Code to authorize the Texas Commission on Environmental Quality to require financial assurance as a condition of issuing a permit or registration for the collection, transportation, or processing of grit trap waste or grease trap waste. The bill specifies that the amount of financial assurance required must be consistent with the degree and duration of risk associated with the waste and that, if required, the financial assurance also satisfies any requirement for financial assurance under the law governing county regulation of transportation of waste.

House Bill 1791

Effective: 6-20-03

House Author: Chisum et al.

Senate Sponsor: Armbrister

House Bill 1791 amends the Health and Safety Code to prohibit a person from commercially composting grease trap waste unless the person has first obtained a permit from the Texas Commission on Environmental Quality. The bill specifies that the permit must meet the minimum standards of a permit issued for processes or facilities that produce solid waste compost. It requires the commission to adopt necessary rules by November 1, 2003, and to begin issuing permits by January 1, 2004. A person engaged in the business of composting grease trap waste on the effective date of the act must obtain a permit from the commission on or before June 1, 2004.

House Bill 1823

Effective: 6-20-03

House Author: Hamric

Senate Sponsor: Lindsay

House Bill 1823 amends the Health and Safety Code to require the Texas Commission on Environmental Quality to adopt rules to ensure that owners or operators of certain solid waste recycling facilities have in place sufficient financial assurance to satisfactorily operate and close the facility and to meet financial assurance requirements under the Solid Waste Disposal Act for solid waste facilities other than a hazardous waste disposal facility.

House Bill 2227

Effective: 9-1-03

House Author: Hughes

Senate Sponsor: Ratliff

House Bill 2227 changes the requirement that the board of directors of the Upper Sabine Valley Solid Waste Management District meet at least once each month to require a meeting at least once each quarter, except as otherwise provided by law.

House Bill 2546

Effective: 9-1-03

House Author: Bonnen et al.

Senate Sponsor: Janek

House Bill 2546 amends provisions of the Health and Safety Code relating to permits issued by the Texas Commission on Environmental Quality for land application of Class B sludge. The bill authorizes a person who holds a registration for the application of Class B sludge for a beneficial use approved by the commission and who has submitted an administratively complete application by a certain date to apply the sludge in accordance with the terms of the registration until the commission issues a final decision. The bill requires a permit applicant to notify by registered or certified mail each owner of land located within one-quarter mile of the proposed land application site and to include in the notice certain information, including the anticipated date of the first application of sludge. The bill also requires a permit applicant, unless the applicant is a political subdivision, to submit proof of

possessing commercial liability and environmental impairment insurance policies meeting certain requirements and to maintain insurance policies for the duration of the permit. The bill requires each permit to include a requirement that the permit holder submit certain information quarterly and annually to the commission and post a sign stating that a beneficial application site is located on the premises. A permit holder is prohibited from accepting Class B sludge unless the sludge has been transported to the site in a securely covered container. The commission is required to create and operate a tracking system to allow a permit holder to report sludge deliveries and applications electronically. Finally, the commission is prohibited from issuing a permit for a site that is located in a county that borders the Gulf of Mexico and that is 500 feet or less from any water well or surface water.

House Bill 2554

Effective: 6-20-03

House Author: W. Smith et al.

Senate Sponsor: Williams

House Bill 2554 amends the law to require the Texas Commission on Environmental Quality, as soon as practicable, to adopt rules governing all aspects of managing and operating a new commercial landfill facility that proposes to accept nonhazardous industrial solid waste for which a permit has not been issued. The bill requires the commission to suspend the permitting process for any pending application for such a facility until the rules take effect. The commission is also required to provide that the rules apply to every new and pending application for such a commercial landfill permit and authorized to allow an applicant to amend a pending application to conform to the new rules.

House Bill 2567

Effective: 9-1-03

House Author: Geren

Senate Sponsor: Armbrister

Rules of the Texas Commission on Environmental Quality (TCEQ) sort injection wells under its jurisdiction into classes based on the purpose of the well, proximity to drinking water sources, and other factors. House Bill 2567 amends the Injection Well Act to authorize the TCEQ to issue a permit for disposal of brine from a desalination operation in a Class I injection well, provided the applicant meets all requirements for a Class I injection well permit. The TCEQ must provide by rule for public notice and comment on the permit application, but the application is not subject to the hearing requirements of the Administrative Procedure Act.

Senate Bill 585

Effective: 9-1-03

Senate Author: Duncan

House Sponsor: Isett

Senate Bill 585 amends the Health and Safety Code to add the remediation, cleanup, and proper closure of unauthorized recycling sites that a responsible party is not immediately financially able to perform to the activities that qualify for funds appropriated to the state municipal solid waste superfund from solid waste disposal and transportation fees received by the Texas Commission on Environmental Quality. The bill also authorizes a municipality to provide certain landscaping services if the governing body of the municipality makes certain written findings. The limitations and requirements do not apply to a municipality in times of emergency or calamity.

Water Quality

House Bill 755

Effective: 9-1-03

House Author: Chisum et al.

Senate Sponsor: Jackson

The Water Code requires the owner or operator of an underground storage tank into which an environmentally dangerous substance is to be deposited to provide a copy of the certificate of compliance for the tank to the deliverer of the substance before accepting it into the tank. House Bill 755 amends the code to make a violation of this requirement an offense only if the violation is knowingly committed.

House Bill 1366

Effective: See below

House Author: Elkins

Senate Sponsor: Jackson

House Bill 1366 adds a new chapter to the Health and Safety Code to establish a dry cleaning regulation and remediation program at the Texas Commission on Environmental Quality until September 1, 2021. The bill requires the commission to adopt performance standards for dry cleaning facilities and requires dry cleaning facilities operating on or before January 1, 2004, to implement the standards by January 1, 2006. The commission is authorized by rule to exempt certain facilities on the basis of financial hardship. The bill requires each owner of a dry cleaning facility or drop station to register annually with the commission and pay a specified fee, unless the facility uses carbon dioxide as a dry cleaning solvent, and it requires fees to be deposited into the dry cleaning facility release fund. The bill also imposes a fee on the purchase of certain dry cleaning solvents, requires the fee revenue to be credited towards the fund, and requires the commission to use a specified percentage of the fund each fiscal year to pay the costs of corrective action at a contaminated dry cleaning site with certain exceptions, including that the facility owner did not apply for ranking of the site. The bill requires the commission, for a contaminated dry cleaning site that does not require emergency action, to assign a rank for the site relative to other sites previously ranked and awaiting corrective action. The bill establishes an advisory committee to assist the commission in ranking contaminated sites, developing rules, and preparing a biennial report to the governor and legislature about the program. A dry cleaning facility owner is authorized to file, before January 1, 2004, an option for the facility not to participate in fund benefits, which exempts the owner from paying certain fees, makes the facility ineligible for any cleanup expenditures, and requires the owner to post a \$500,000 bond to guarantee costs of any future corrective action that may be required at the facility. A dry cleaning facility owner who participates in fund benefits is exempt from certain claims related to corrective action that results from the release of dry cleaning solvent. A limitation on liability related to corrective action is also established for the state, the fund, the commission, and commission employees. The bill prohibits a person from intentionally allowing a release of dry cleaning solvent, and requires a person who knows of a release to report the release within 48 hours. A violation is an administrative penalty of up to \$5,000. A violation related to improper operation of a dry cleaning facility is an administrative penalty of up to \$1,000.

House Bill 1366 takes effect September 1, 2003, except for provisions relating to the report to the governor and legislature, exemption from certain claims by an eligible owner, limitation on liability for the state, and violations and penalties, which take effect January 1, 2004.

House Bill 1979**Effective:** 9-1-03**House Author:** Puente**Senate Sponsor:** Armbrister

House Bill 1979 adds Water Code provisions relating to the prevention of untreated wastewater discharges and sanitary sewer overflows resulting from grease blockage. It requires the Texas Commission on Environmental Quality (TCEQ) to adopt model discharge prevention standards for use by a wastewater collection system, separate and distinct from a storm sewer system, that conveys wastewater to a publicly owned treatment plant. The bill specifies various elements to be addressed by the standards, including grease traps, a uniform manifest system, and a schedule of penalties. It requires the TCEQ to establish criteria for evaluating whether to initiate an enforcement action related to sanitary sewer overflows, including consideration of whether a spill could reasonably have been prevented, was minimized, and was reported and was the subject of legally required notice. A separate system's adoption and enforcement of the model standards constitute evidence tending to show that reasonable prevention or minimization measures have been taken. The bill provides that when a home-rule municipality has a plan to control or minimize sanitary sewer overflows, its power to maintain, repair, relocate, or replace a water or sanitary sewer lateral or service line on private property without levying an assessment is not limited by certain other provisions of law.

House Bill 2031**Effective:** 6-2-03**House Author:** Puente**Senate Sponsor:** Madla

House Bill 2031 amends the Local Government Code to authorize a county with a population greater than 1.3 million, for which an aquifer is the primary source of drinking water, to take actions to comply with the requirements of the stormwater permitting program under the national pollutant discharge elimination system.

House Bill 2529**Effective:** 6-20-03**House Author:** Madden**Senate Sponsor:** Estes

House Bill 2529 amends the Water Code to authorize the Texas Commission on Environmental Quality to enter into a compliance agreement with a regional water supply, sewer, or solid waste service that is integrating a local service operated by or for a municipality or county. The agreement would provide that the commission would not initiate an enforcement action against the regional service for the local service's existing or anticipated violations. The bill requires the agreement to include provisions necessary to bring the local service into compliance.

House Bill 2661**Effective:** 9-1-03**House Author:** Puente**Senate Sponsor:** Armbrister

House Bill 2661 amends the Health and Safety Code and the Water Code to revise the definition for graywater, which consists of wastewater from showers and bathtubs, clothes washing machines, handwashing lavatories, and sinks that are not used for disposal of hazardous or toxic ingredients, to exclude water from sinks used for food preparation or disposal and water contaminated by human excreta. The bill removes the joint rulemaking authority of the Texas State Board of Plumbing Examiners relating to use of graywater, leaving this authority solely to the Texas Commission on Environmental Quality (TCEQ). It excludes TCEQ permitting requirements for domestic uses of residential graywater, in amounts less than 400 gallons per day, for gardening, composting, or landscaping by occupants of a private residence if the graywater conforms to certain standards for generation, collection, storage, piping, and

distribution. The bill encourages certain practices by builders of new housing. It requires the TCEQ, not later than June 1, 2004, to adopt new graywater standards and to address the separation of graywater in a residence served by an on-site sewage disposal system.

House Bill 2940

Effective: 9-1-03

House Author: McReynolds

Senate Sponsor: Jackson

House Bill 2940 amends the law to authorize the Texas Environmental Education Partnership Fund Board to use for administrative costs each fiscal year up to seven percent of money the board receives to administer supplemental environmental projects authorized by the Water Code.

House Bill 3030

Effective: 9-1-03

House Author: Van Arsdale et al.

Senate Sponsor: Lindsay

House Bill 3030 amends the Water Code to require the Texas Department of Agriculture, the Railroad Commission of Texas, the State Soil and Water Conservation Board, or another state agency with responsibilities relating to groundwater protection to notify the Texas Commission on Environmental Quality (TCEQ) if the agency documents a case of groundwater contamination that may affect a drinking water well. Not later than 30 days after the date the TCEQ is contacted by an agency or independently obtains knowledge of contamination, it must make every effort to give notice of the contamination by first class mail to each applicable groundwater conservation district and to each owner of a potentially affected private drinking water well.

House Bill 3152

Effective: 9-1-03

House Author: Bonnen

Senate Sponsor: Jackson

House Bill 3152 amends the Health and Safety Code to authorize the executive director of the Texas Commission on Environmental Quality to certify municipal setting designations (MSDs) to eliminate the need for response actions addressing contaminant impacts to groundwater that has been restricted from use as potable water by ordinance or restrictive covenant. The bill allows a person, including a local government, to submit an application for an MSD if the property is located within the corporate limits or extraterritorial jurisdiction of a municipality with a population of at least 20,000 and a public drinking water supply system exists that satisfies minimum standards of sanitation and supplies, or is capable of supplying, drinking water to certain property. The bill sets forth requirements for the application and requires the executive director to take certain action within 90 days. The bill requires the applicant, on or before the date of submitting the application, to provide notice to each municipality, private-water-well owner, and retail public utility meeting specified requirements and requires the notice to include certain information. The bill requires the executive director to deny the application under certain circumstances and to explain the reasons for denial. An applicant is required to submit resolutions of support from each affected city council and retail public utility governing board and copies of any ordinance or covenant restricting the groundwater from use as potable water. The bill requires an MSD certificate to include certain information and to be sent to affected persons and entities. It prohibits the executive director, if no potable water wells are located within a certain distance of the MSD, from requiring a person to investigate and respond to groundwater contamination unless it is necessary to protect human health or ecological resources. If potable water wells are located within a certain distance of the MSD, the bill requires the executive director to order an investigation of

groundwater contamination and to approve certain response actions, depending on whether the contamination has caused or is expected to cause harm. The executive director is authorized to require response actions in a larger area if necessary to protect human health and ecological resources.

The bill amends the Local Government Code to authorize a municipality, generally or for the purpose of establishing and enforcing an MSD, to regulate the pumping, extraction, and use of groundwater by persons other than retail public utilities, within its corporate limits or extraterritorial jurisdiction, to prevent the use of or contact with groundwater that presents an actual or potential threat to human health.

Senate Bill 619

Effective: 9-1-03

Senate Author: Armbrister

House Sponsor: G. West

Senate Bill 619 amends the Natural Resources Code to eliminate overlap with the federal government and consolidate oil spill prevention and response at the Texas General Land Office by removing the requirement that the commissioner of the General Land Office promulgate a state coastal discharge contingency plan and that the plan designate the Railroad Commission of Texas as the on-scene coordinator for oil spills of 240 barrels or less. The bill also removes the commissioner's authority to subject certain vessels to an audit, inspection, or drill related to the vessel's discharge prevention and response capabilities as a condition to being granted entry into any port in this state and removes the general authority to require vessels to show or report discharge prevention and response related information as a condition to being granted entry into a port. The bill credits interest or income on the coastal protection fund to the fund and authorizes the fund to be used for plugging abandoned or orphaned oil wells located on state-owned submerged lands. The bill repeals the requirement that \$5 million be transferred from the fund to the oil-field cleanup fund when the balance of the fund reaches a certain amount. It eliminates requirements for judicial review of an order or decision of the commissioner related to enforcement. It also repeals provisions creating the Oil Spill Oversight Council and a related interagency council.

Senate Bill 1053

Effective: 9-1-03

Senate Author: Duncan

House Sponsor: Geren

Senate Bill 1053 amends the Water Code to authorize the Texas Water Development Board (TWDB) to establish a linked deposit program to place state funds from the water pollution control revolving fund with lending institutions to be used for loans for nonpoint source pollution control projects. The maximum lending rate for a project loan is the interest rate paid the TWDB on the deposit plus four percent. A soil and water conservation district must certify an agricultural or silvicultural project proposed for that district, and the executive director of the Texas Commission on Environmental Quality must certify any other type of project.

The bill eliminates a pilot program for low-interest loans for agricultural water conservation equipment, except for continued administration pending repayment of pilot program loans. It eliminates a grant program for equipment purchases by water districts and political subdivisions. It eliminates the agricultural soil and water conservation program and abolishes the associated agricultural trust fund and agricultural soil and water conservation fund, transferring their assets to the agricultural water conservation fund. Those programs, through extensive code amendments and repealers, are consolidated into a single revamped program under the agricultural water conservation fund. The bill includes a linked deposit component under that program as well, for loans for agricultural water conservation projects certified by soil and water conservation districts.

Senate Bill 1633
Effective: 9-1-03

Senate Author: Wentworth
House Sponsor: Puente

Senate Bill 1633 amends the Health and Safety Code to allow the owner of a building or other property served by an on-site sewage disposal system to install and use a point-of-use reverse osmosis system that discharges effluent into the on-site system or to allow a point-of-entry reverse osmosis system if the calculated effluent volume does not cause hydraulic overloading or has been adequately addressed in the design of the on-site system. After September 1, 2003, the bill allows an owner to install and use a water softener that discharges effluent into an on-site system only if the softener conserves water by design and regenerates using a demand-initiated regeneration control device (DIR), the presence of which is noted clearly on a label affixed to the outside of the softener. A softener installed before that date does not have to meet those requirements unless the owner replaces the softener or installs a new on-site sewage disposal system for the building or property. The bill's provisions do not apply to an aerobic, nonstandard, or proprietary on-site system unless the water softener drain line bypasses the treatment system and flows into the pump tank or directly into the discharge method. The bill requires the Texas Commission on Environmental Quality to adopt and implement applicable standards for reverse osmosis systems and water softeners.

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

- HB 547 - Local Government
- HB 1195 - Oil and Gas
- HB 1457 - Property Interests
- SB 155 - Parks and Wildlife
- SB 759 - Occupational Regulation
- SB 854 - Agriculture
- SB 970 - Agriculture
- SB 1639 - Water

Family Law and Juvenile Justice

This chapter covers legislation relating to family law, including the marriage relationship, custody, child support, adoption, foster care, parental rights, paternity, and family violence. The chapter also includes legislation on issues relating to juvenile justice, juvenile delinquency, and the Texas Youth Commission. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 162**Effective:** 9-1-03**House Author:** Flores et al.**Senate Sponsor:** Averitt

House Bill 162 amends the Family Code to add to the list of requirements for a petition to change the name of an adult that the petition include a legible and complete set of the petitioner's fingerprints on a fingerprint card format acceptable to the Department of Public Safety and the Federal Bureau of Investigation.

House Bill 227**Effective:** 9-1-03**House Author:** Keel**Senate Sponsor:** Jackson

House Bill 227 amends the Family Code to require that a final order providing for the possession of or access to a child contain a prominently displayed statement that notifies a peace officer that the officer is entitled to immunity against certain claims regarding the performance of the officer's duties in enforcing the terms of the order. The statement must also contain notice that a person who knowingly presents an invalid order commits an offense punishable by confinement and a fine.

House Bill 729**Effective:** 9-1-03**House Author:** Goodman et al.**Senate Sponsor:** Shapiro

House Bill 729 amends the Family Code to authorize and regulate agreements between a gestational mother and the intended parents of a child conceived by means of assisted reproduction. The bill provides that a valid gestational agreement establishes the parent-child relationship and gives intended parents standing to adjudicate parentage. The bill sets out the required elements of a gestational agreement and establishes that the agreement must be entered into at least 14 days prior to the date of conception or implantation of eggs, sperm, or embryos. House Bill 729 authorizes and sets out the requirements of a hearing to validate gestational agreements. In addition, the bill provides for inspection and confidentiality of records, jurisdiction of a court conducting proceedings related to a gestational agreement, procedures for termination of an agreement, notice of birth by the intended parents, and court orders confirming parentage. The bill requires the Texas Department of Health not later than December 1, 2003, to develop and implement by rule a confidential reporting system that requires facilities that perform assisted reproduction procedures to annually report certain statistics.

House Bill 821**Effective:** 9-1-03**House Author:** Goodman**Senate Sponsor:** Harris

House Bill 821 amends the Family Code to permit notice of the substance of an associate judge's report in a suit affecting the parent-child relationship to be sent by a facsimile transmission. The bill provides for a rebuttable presumption that notice is received based on

either the date stated on a signed return receipt for certified mail or the confirmation page produced by a facsimile machine, and deletes the provision that notice is considered given on the third day after the date of mailing.

House Bill 823

Effective: 9-1-03

House Author: Goodman

Senate Sponsor: Harris

House Bill 823 amends provisions of the Family Code and Government Code to change a reference in law to appointees with jurisdiction over certain family law matters from a child support master to an associate judge. The bill amends the Family Code to allow enforcement services to be provided directly by county personnel, including judges and associate judges of the county courts, if the county has entered into a contract with the Title IV-D agency. The bill broadens the duties of a child support court monitor to include making certain recommendations to the court regarding an obligor's community supervision. House Bill 823 clarifies the duties of the office of court administration with respect to training, performance evaluations, and complaint investigation of associate judges, changes the time frame within which Title IV-D cases must be completed, and authorizes the presiding judge of the administrative judicial region to appoint a visiting associate judge to fill certain vacancies. The bill provides that a recommendation of an associate judge becomes an order of the referring court and provides for the appeal of an associate judge's recommendation.

House Bill 883

Effective: 9-1-03

House Author: Dutton

Senate Sponsor: Lucio

House Bill 883 amends the Family Code to expand the authority of an associate judge to include the ability to render and sign certain final orders agreed to in writing or a final default order, subject to certain limitations. The bill provides that an agreed or default order signed by an associate judge constitutes an order of the referring court and that the date such an order is signed is the controlling date for purposes of an appeal or request for other relief.

House Bill 884

Effective: 9-1-03

House Author: Dutton

Senate Sponsor: Lucio

House Bill 884 amends the Family Code to delete provisions relating to alternative dispute resolution statements that are required in a suit for dissolution of a marriage and a suit affecting the parent-child relationship.

House Bill 885

Effective: 9-1-03

House Author: Dutton

Senate Sponsor: R. West

House Bill 885 amends provisions of the Family Code relating to the rights of spouses in relation to separate and community property during a marriage. The bill amends the formula for determining the economic contribution made from one marital estate to property owned by another marital estate in a claim for economic contribution made against the benefited estate. The bill provides that a partition or exchange of community property includes certain earnings and income arising from the property and directs the court, in a decree of divorce or annulment, to award certain property to a spouse or to confirm the separation of property partitioned or exchanged by written agreement of the spouses.

House Bill 886

Effective: 9-1-03

House Author: Dutton et al.

Senate Sponsor: Averitt

House Bill 886 amends the Family Code to authorize a court to order a defendant in a proceeding to enforce an order for the possession of or access to a child to pay the attorney's fees and all court costs of the person bringing the action in addition to any other remedy if the court finds that the defendant has failed to comply with the order.

House Bill 887

Effective: 9-1-03

House Author: Dutton

Senate Sponsor: R. West

Previous law provided that a court in a suit affecting the parent-child relationship may order reasonable attorney's fees as costs and may order the fees to be paid to the attorney. House Bill 887 amends the Family Code to permit the court to render a judgment for reasonable attorney's fees and expenses and to order that the judgment and postjudgment interest be paid directly to an attorney. The bill permits enforcement of a judgment for attorney's expenses as for any judgment for debt.

House Bill 913

Effective: 9-1-03

House Author: Goodman et al.

Senate Sponsor: Harris

House Bill 913 amends provisions of the Family Code relating to the conservatorship of, and the possession of and access to, a child. The bill provides that a party to a suit affecting the parent-child relationship is entitled to a verdict by jury to determine matters related to the appointment of a sole managing conservator for the child, which joint managing conservator has the exclusive right to designate the primary residence of the child, and the geographic area within which the child's primary residence is designated. The bill repeals a provision requiring the court to designate the primary physical residence of the child when ordering a joint managing conservatorship. The bill prohibits the court from submitting to a jury questions related to certain issues of child support, provides an exception to providing the court with information related to a child's address or whereabouts if both parties to a suit reside in Texas, removes provisions related to the right of a parent appointed conservator to consent to certain medical treatment, and expands the duty to share information related to a child's health, education, and welfare to include nonparent conservators of the child. House Bill 913 limits the court's ability to restrict a child's primary residence to certain geographic areas in an order appointing joint managing conservators, changes the standard possession schedule for certain noncustodial parents from Wednesdays to Thursdays of each week, requires certain child custody proceedings to be transferred to the county of residence of the resident party if all other parties to the suit reside outside of Texas, and directs the court to consider the date certain settlement agreements are signed in determining when to modify an order establishing conservatorship of, or possession of and access to, a child.

House Bill 1391

Effective: 9-1-03

House Author: Hamric

Senate Sponsor: Gallegos

House Bill 1391 amends the Family Code to provide that in a county with a population of 3.4 million or more all pleadings and documents filed in a suit for the dissolution of marriage, all pleadings and documents filed in a suit affecting the parent-child relationship, and applications for certain protective orders are confidential and excepted from required public disclosure. The bill authorizes the release of the pleadings and documents after a certain date or under certain conditions.

House Bill 1536

Effective: 9-1-03

House Author: Reyna et al.

Senate Sponsor: Shapiro

House Bill 1536 amends the Family Code to authorize a court, in an order terminating the parent-child relationship, to provide for limited contact between a child and the biological parent who voluntarily relinquished parental rights. The bill authorizes specific forms of contact that may be included in an order of termination, provides for the enforcement of the terms of an order regarding post-termination contact, and prohibits an order from requiring that a subsequent adoption order include terms regarding post-termination contact. The bill also prohibits an affidavit for the voluntary relinquishment of parental rights from containing terms for limited post-termination contact as a condition of the relinquishment of those rights.

House Bill 1815

Effective: 9-1-03

House Author: Goodman et al.

Senate Sponsor: Harris

House Bill 1815 amends provisions of the Family Code relating to court-ordered representation in suits affecting the parent-child relationship. The bill reorganizes Chapter 107, Family Code, with respect to the powers and duties of amicus attorneys, attorneys ad litem, guardians ad litem, and volunteer advocates and clarifies the rules that apply to appointees based on the type of suit for which the appointment is made — a suit filed by the Department of Protective and Regulatory Services (DPRS) or a private custody suit. The bill creates a new category of appointment, the amicus attorney, whose role is to assist the court in protecting a child's best interest rather than providing services directly to the child and provides for the "dual role" of an attorney appointed to act as both guardian ad litem and attorney ad litem in a suit filed by DPRS.

House Bill 1833

Effective: 9-1-03

House Author: Goodman

Senate Sponsor: Harris

House Bill 1833 amends the Family Code to permit an administering entity to authorize a domestic relations office in a county that provides visitation services to assess and collect a reasonable fee at the time the services are provided.

House Bill 1885

Effective: 9-1-03

House Author: Goolsby

Senate Sponsor: Lucio

House Bill 1885 amends the Family Code to authorize the clerk of a court to collect a \$15 filing fee for filing a motion for modification or a motion for contempt in a suit affecting the parent-child relationship.

House Bill 1899

Effective: 6-20-03

House Author: Nixon et al.

Senate Sponsor: Nelson

House Bill 1899 amends the Family Code to authorize the court to protect a child from the risk of international abduction by a parent if a suit is presented to the court providing credible evidence of a potential risk. The bill lists factors the court is required to consider in evaluating the risk of abduction and determining a course of action, including previous actions or threats of the parent, the parent's ties to a foreign country and the laws, customs, and other traits of that country, and the immigration status of the parent. The bill also lists measures the court is authorized to take to protect a child from potential abduction, including requiring supervised visitation, ordering passport and travel controls, requiring a bond or other security deposit, and authorizing appropriate law enforcement agencies to take steps to prevent an abduction.

House Bill 2886
Effective: 9-1-03

House Author: Van Arsdale
Senate Sponsor: Lindsay

House Bill 2886 amends the Health and Safety Code and the Family Code to require the bureau of vital statistics to mail a certificate of adoption, report of divorce or annulment, or report of adoption that the bureau determines requires correction to the attorney of record with respect to the adoption, divorce, or annulment or, if there is no attorney of record, to the clerk of the court for correction. The bill also amends the Family Code to require petitioners for divorce, annulment, adoption, or revocation of adoption to file documentation to be used by a clerk of the court as a reference for correcting the certificates or reports.

Senate Bill 7
Effective: 9-1-03

Senate Author: Wentworth et al.
House Sponsor: Chisum

Senate Bill 7 amends the Family Code to declare that same-sex marriages and civil unions are contrary to state policy and are void in Texas. It defines a civil union as a non-marital relationship status that is intended as a marriage alternative or that applies primarily to cohabitating persons and that grants to the parties of the relationship the legal protections, benefits, or responsibilities that are granted to spouses. Neither the state nor agencies or political subdivisions of the state may give effect to a public act, record, or judicial proceeding that creates, recognizes, or validates a same-sex marriage or a civil union, nor may they give effect to a right or claim to any legal protection, benefit, or responsibility asserted as a result of a same-sex marriage or a civil union, whether originating in Texas or in any other jurisdiction. Senate Bill 7 retroactively covers same-sex marriages and civil unions entered into before the bill's effective date. The bill makes findings that, through private contracts, guardian designations, and the appointment of agents, relevant rights and matters relating to hospital visitation, property, and life insurance policies may be handled without the existence of a legally recognized familial relationship.

Senate Bill 1807
Effective: 9-1-03

Senate Author: Harris
House Sponsor: Dutton

Senate Bill 1807 amends the Family Code to expand the conditions that constitute a presumption of paternity to include a man's continuous residency in the child's home during the first two years of the child's life and representing to others that the child was his own. The bill provides that after the date a child with no presumed, acknowledged, or adjudicated father becomes an adult, the adult child is the only person with standing to maintain a proceeding to adjudicate the parentage of the person. The bill also includes guidelines relating to a proceeding to rescind or challenge acknowledgment of paternity.

Adoption and Foster Care

House Bill 233
Effective: 9-1-03

House Author: Goodman
Senate Sponsor: Harris

House Bill 233 amends the Family Code to authorize a pregnant woman or a parent of a child to confer standing to file a suit requesting termination of the parent-child relationship or adoption to a prospective adoptive parent. The statement may be signed at any time during the pregnancy of the mother and may be revoked at any time before the execution of an affidavit for voluntary relinquishment of parental rights. The bill provides further requirements of the statement to confer standing, and requires dismissal of a suit filed by a prospective adoptive parent on revocation of a statement to confer standing.

House Bill 980

Effective: 9-1-03

House Author: Goodman et al.

Senate Sponsor: Harris

House Bill 980 amends the Family Code to permit the adoption of a child, under certain circumstances and with the consent of a nonterminated parent, by the child's former stepparent or by a person who has been a managing conservator or who has had actual care, possession, and control of the child for a period of six months preceding the adoption.

House Bill 1050

Effective: 9-1-03

House Author: Olivo

Senate Sponsor: Gallegos

House Bill 1050 amends the Family Code to direct the Texas Department of Protective and Regulatory Services to ensure that a child returns to school not later than the third school day after the date an order is rendered providing for possession of the child by the department, except under certain circumstances. The bill requires the department to notify the school in writing that a child is unable to attend school if the child has a physical or mental condition of a temporary or remediable nature that makes the child's attendance infeasible. The bill amends the Education Code to require a school district to accept a child who is in the possession of the department for enrollment in a public school without the documentation normally required, but directs the department to furnish the documentation within 30 days of the child's enrollment.

House Bill 1497

Effective: 6-20-03

House Author: Dutton

Senate Sponsor: Gallegos

House Bill 1497 amends the Family Code to authorize the court to grant the adoption of an adult to one or both spouses joined in a petition for the adoption.

House Bill 1648

Effective: 9-1-03

House Author: Morrison

Senate Sponsor: Shapiro

Under previous law, a foster parent was required to wait a minimum of one year to gain standing to file a suit for adoption of a child for whom the person was providing foster care. House Bill 1648 amends the Family Code to permit a foster parent to adopt the child at any time after the person has been approved to adopt the child.

Senate Bill 151

Effective: 9-1-03

Senate Author: Jackson

House Sponsor: Hunter

Senate Bill 151 amends the Family Code to recognize and enforce adoption orders rendered by a foreign country to a Texas resident as if the order were rendered by a court of this state. The bill provides for the registration of a foreign adoption order, a petition for a name change, and the filing of a certificate of birth for the child.

Senate Bill 579

Effective: 9-1-03

Senate Author: Lindsay

House Sponsor: Dutton

Senate Bill 579 amends the Family Code to provide that the Department of Protective and Regulatory Services is not required to edit the adoption or other records of certain children to protect the identity of birth parents and other persons if it is determined that the information is already known to the adoptive parents or is readily available through other sources.

Senate Bill 1489

Effective: 6-20-03

Senate Author: Ogden

House Sponsor: Wohlgemuth

Senate Bill 1489 amends the Family Code to require the Department of Protective and Regulatory Services to develop a program to recruit and retain foster parents from faith-based organizations. The department is required to collaborate with faith-based organizations to provide certain information and training to prospective foster parents. The bill also includes provisions relating to the liability and immunity from liability of a faith-based organization that participates in the program.

Child Support and Spousal Maintenance

House Bill 234

Effective: 9-1-03

House Author: Goodman

Senate Sponsor: Harris

House Bill 234 amends the Family Code to clarify school enrollment and minimum attendance requirements relating to the continuation of child support payments after the child's 18th birthday. The bill provides that the payments terminate if the child fails to comply with the enrollment or attendance requirements.

House Bill 518

Effective: 9-1-03

House Author: Menendez

Senate Sponsor: Whitmire

House Bill 518 amends the Family Code to authorize a court to order service of citation in certain suits affecting the parent-child relationship by a method other than publication in a newspaper, including posting the citation at the courthouse door for a specified time. The bill also amends the Family Code to provide that a child support obligor or business entity ineligible to receive state grants or loans or payments on a state contract remains ineligible until the court with jurisdiction over the child support order has granted the obligor an exemption as part of a court-supervised effort to improve child support payments. Previous law allowed for only two instances that would relieve the obligor from being ineligible to receive payments: (1) paying all arrearages; or (2) being in compliance with a written repayment agreement or court order.

House Bill 529

Effective: 9-1-03

House Author: B. Brown

Senate Sponsor: Deuell

House Bill 529 amends the Family Code to prohibit a child support obligor who is more than six months delinquent in paying child support from receiving state-funded or state-administered student financial assistance that is paid directly to the obligor. The bill provides an exception for an obligor who submits to the comptroller a sworn affidavit stating that the obligor is current on child support payments and a written statement that the obligor has made a request to the Title IV-D agency to correct any errors in the obligor's payment records. The bill also provides that an obligor ineligible to receive the assistance remains ineligible until all arrearages have been paid or the obligor is in compliance with a repayment agreement or court order regarding the delinquency.

House Bill 674

Effective: 6-20-03

House Author: Madden

Senate Sponsor: Lucio

House Bill 674 amends provisions of the Family Code to provide for modification of a child support order for an obligor that has been called into active military service. The bill authorizes a modification if the active military service is for at least 30 consecutive days and

results in a decrease in the obligor's net resources during the period of service. The bill requires a motion for modification filed by an obligor to be accompanied by an affidavit from the obligor's commanding officer and also provides that the return of an obligor from military service constitutes grounds for an obligee to file a motion for modification of the child support order.

House Bill 889

Effective: 9-1-03

House Author: Dutton

Senate Sponsor: Lucio

House Bill 889 amends the Family Code to authorize the terms of an agreement pertaining to child support between parties to a suit affecting the parent-child relationship to be enforced by all remedies available for enforcement of a judgment and to prohibit the terms from being enforced as a contract.

House Bill 1878

Effective: 9-1-03

House Author: Dutton et al.

Senate Sponsor: Harris

House Bill 1878 amends provisions of the Family Code, Health and Safety Code, and Labor Code relating to establishing paternity, the enforcement of child support and medical support for a child, certain proceedings, papers, and orders being open to public inspection, and compliance with federal regulatory requirements. The bill specifies proceedings in which a court is required to render an order for medical support for a child and clarifies the liability of a parent ordered to pay additional child support to cover the cost of health insurance. House Bill 1878 requires a valid acknowledgment of paternity executed by certain fathers before items on a birth certificate relating to the father may be completed and provides that a presumption of paternity may be rebutted by the filing of a valid denial of paternity. The bill provides that proceedings under the Uniform Parentage Act are open, rather than closed, to the public as in other civil cases and authorizes the public inspection of records in those proceedings, as well as the final order adjudicating parentage. It includes provisions relating to a court rendering a new cumulative judgment to reflect changes in certain federal income tax filings, the authority of a Title IV-D agency to vacate or stay an order suspending various professional licenses, prohibitions on a child support lien being directed at an employer to attach to certain disposable earnings, compliance with a lien by financial institutions with headquarters based in another state, and withholding for child support obligations from workers' compensation benefits.

House Bill 1972

Effective: 6-20-03

House Author: Uresti

Senate Sponsor: Gallegos

House Bill 1972 amends the Family Code to provide for an administrative review process for child support payments. The bill requires the state disbursement unit to provide a copy of the child support payment record maintained by the unit on request of an obligor or obligee. If the obligor or obligee provides documentation to the Title IV-D agency of a discrepancy in the records maintained by the disbursement unit and requests an investigation, the agency is required to respond to the request within a certain amount of time. If after the investigation the agency determines a change should be made, the bill requires an immediate amendment of the disbursement unit's records and notification of the change to the person making the request.

House Bill 2001

Effective: 7-1-03

House Author: Dutton

Senate Sponsor: Harris

House Bill 2001 amends the Family Code to comply with federal requirements relating to national medical support notices. In cases enforced by the Title IV-D agency, the bill requires the agency to send a national medical support notice to an employer of an obligor to enforce health care coverage requirements in a child support order. In addition, the bill authorizes the use of the notice in child support cases not being enforced by the Title IV-D agency and requires an employer who receives a notice to comply with the requirements of the notice.

House Bill 2126

Effective: 9-1-03

House Author: Castro

Senate Sponsor: Janek

House Bill 2126 amends the Family Code to permit a local registry to accept child support payments made by credit card, debit card, or automatic teller machine card.

House Bill 2588

Effective: 9-1-03

House Author: Goodman

Senate Sponsor: Harris

House Bill 2588 amends the Family Code to authorize the Title IV-D agency to charge a \$25 annual fee for services provided in certain child support cases and a fee for each request for parent locator services and to recover other costs to the extent permitted by federal law. The bill allows the agency to deduct from support payments in a case for which the agency is not providing services a \$3 monthly service fee through the state disbursement unit. The bill prohibits a court from waiving the requirement that a person pay court costs and attorney's fees if the person is in contempt of court for failure to pay child support and owes \$20,000 or more in arrearages unless the person is involuntarily unemployed, disabled, or lacks the resources to pay.

House Bill 2856

Effective: 9-1-03

House Author: Farrar

Senate Sponsor: Gallegos

House Bill 2856 amends the Family Code to provide that the monthly service fee a domestic relations office is authorized to collect for certain services provided to a managing conservator and a possessory conservator is part of a child support obligation and may be enforced by any method available for enforcement of child support, including contempt. The bill clarifies that the monthly fee is for child support services provided by the office.

House Bill 3087

Effective: 9-1-03

House Author: Hodge

Senate Sponsor: Carona

House Bill 3087 amends the Family Code to authorize the Title IV-D agency to provide a release or satisfaction of a judgment for child support arrearages assigned to the agency under certain financial assistance programs.

House Bill 3114

Effective: 9-1-03

House Author: Dunnam

Senate Sponsor: Hinojosa

House Bill 3114 amends the Family Code to clarify the definition of "gross income" for purposes of determining payments for spousal maintenance under a suit for dissolution of marriage.

Senate Bill 1165

Effective: 9-1-03

Senate Author: Barrientos

House Sponsor: J. Moreno

Senate Bill 1165 amends the Family Code to provide that the fee to be paid by the Title IV-D agency to a sheriff, constable, or clerk for certain service of process in a child support case is in the amount authorized by law to be charged by sheriffs and constables, rather than \$45.

Senate Bill 1805

Effective: 9-1-03

Senate Author: Harris

House Sponsor: Dutton

Senate Bill 1805 amends provisions of the Family Code relating to the enforcement of child support obligations, including interstate enforcement, to comply with recent amendments to the federal Uniform Interstate Family Support Act. The bill includes provisions related to prohibitions on exercising the bases for personal jurisdiction over a nonresident to modify a child support order of another state, procedures for determining which child support order is the controlling order under certain circumstances, and the authority of the court to issue a temporary child support order. It authorizes the Title IV-D agency to issue administrative writs of withholding to direct payment of child support to the state disbursement unit of another state and requires the support enforcement agency or court of this state to direct that a child support payment be made to the support enforcement agency in the state in which the obligee is receiving services and to send notice to an obligor's employer regarding the redirected payments. The bill also clarifies that the uniform Interstate Family Support Act is not the exclusive method of establishing or enforcing a support order and does not grant a court of this state certain jurisdiction relating to child custody or visitation.

Domestic Violence; Child Abuse and Neglect

House Bill 263

Effective: 9-1-03

House Author: Goodman et al.

Senate Sponsor: R. Ellis

House Bill 263 amends provisions of the Family Code relating to the establishment and operation of children's advocacy centers. The bill adds community members to those executing a memorandum of understanding to establish advocacy centers and specifies that a center may serve a single county. It changes requirements relating to the composition of a center's governing board and to the composition of a center's multidisciplinary team and the team's duties, including regularly scheduled meetings to review child abuse cases and to coordinate the investigation and prosecution of those cases. House Bill 263 limits public entities that are eligible for certain state administrative contracts to those operating before November 1, 1995, and adds requirements relating to the operation of a center to the list of eligibility provisions. The bill amends the Government Code to add employees, volunteers, and applicant volunteers of a children's advocacy center to the list of persons about which the Department of Protective and Regulatory Services is entitled to obtain criminal history record information.

House Bill 297

Effective: 9-1-03

House Author: Goodman

Senate Sponsor: R. West

House Bill 297 amends provisions of the Code of Criminal Procedure relating to the authorization of a magistrate to issue an order for emergency protection after a defendant arrested for an offense involving family violence is brought before the magistrate. The bill specifies that if a condition imposed by a magistrate's order of emergency protection conflicts with a condition of a subsequent protective order under the Family Code relating to the marriage relationship or the parent-child relationship, the condition imposed by the order

issued under the Family Code prevails. House Bill 297 further specifies that if a condition imposed by an order of emergency protection conflicts with a condition of a temporary ex parte order issued under the Family Code, the order for emergency protection prevails, unless the court that issued the temporary ex parte order was informed of the existence of the order and made a finding that the court was superseding it.

House Bill 297 authorizes the court issuing the emergency protective order, after notice to each affected party and a hearing, to modify the order if the court finds that the order is unworkable and that the modification will not place the victim at greater risk or in any way endanger a person protected under the order. In addition, the bill authorizes the transfer of the emergency protective order to the court assuming jurisdiction over the criminal act giving rise to the issuance of the order and allows the criminal court to modify the order in the same manner as the issuing court.

House Bill 320

Effective: 6-20-03

House Author: Grusendorf et al.

Senate Sponsor: Fraser

House Bill 320 amends the Education Code to prohibit an employee of a school district from using or threatening to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of certain psychiatric or psychological treatment to a child as the sole basis for making a report of neglect except in certain circumstances. The bill requires a school district, on request and before obtaining the parent's consent to the testing, to provide to the parent certain information relating to any psychological test used to evaluate a child's need for special education. The bill sets out procedures for obtaining consent and providing information for additional tests, including time limits for each. House Bill 320 also amends the Family Code to make conforming changes relating to the refusal to administer or consent to the administration of certain psychiatric or psychological treatment to a child.

House Bill 1869

Effective: 9-1-03

House Author: Baxter et al.

Senate Sponsor: Williams

House Bill 1869 amends the Family Code to authorize a court to admit the testimony of a professional, such as a teacher, nurse, or doctor, by videoconference in a proceeding brought by the Department of Protective and Regulatory Services regarding a child who is alleged to have been abused or neglected. The bill sets conditions for the testimony and provides that a professional offering testimony by videoconference as permitted by the court may not be compelled to be physically present during the same proceeding except by order of the court.

House Bill 2099

Effective: 9-1-03

House Author: Dutton et al.

Senate Sponsor: R. West

House Bill 2099 amends the Family Code to direct a court, in determining if there is credible evidence of a history of certain types of family violence, to consider whether a protective order was rendered against a parent during the pendency of or during the two years preceding the filing of certain suits affecting the parent-child relationship.

Senate Bill 433

Effective: 9-1-03

Senate Author: Nelson

House Sponsor: Naishtat

Senate Bill 433 amends the Code of Criminal Procedure to provide that a person who is a victim of sexual assault or aggravated sexual assault may file an application for a protective order without regard to the relationship between the applicant and the alleged offender. The

bill prescribes the courts in which the application may be filed and requires the court to make certain findings related to the victim and the nature of a continuing threat to the victim and to include those findings in a protective order issued by the court. The bill provides that if the information contained in an application is sufficient to show a clear and present danger to the applicant, the court may issue a protective order without notice to the alleged offender and without a hearing. The bill permits a court to prohibit an alleged offender from certain conduct, including going to specific locations, communicating with or harassing a victim, and possessing a firearm. Senate Bill 433 requires that protective orders include statements of warning relating to what constitutes a violation and the penalty for violation of the order. The bill amends the Penal Code to establish the offense of violation of a protective order issued on the basis of sexual assault and to create a Class A misdemeanor for certain violations.

Senate Bill 669

Senate Author: Ogden

Effective: 9-1-03

House Sponsor: Woolley

Senate Bill 669 amends provisions of the Family Code relating to an investigation of certain reports of child abuse or neglect that is conducted jointly by the Department of Protective and Regulatory Services and a local law enforcement agency. The bill provides that reports assigned the highest priority by department rule and alleging an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child are required to be investigated jointly. Senate Bill 669 clarifies that the law enforcement agency participating in an investigation is to be represented by a peace officer, requires the department to immediately notify a law enforcement agency of the receipt of certain reports of abuse, and requires a peace officer to accompany the department investigator in initially responding to the report within a certain time frame.

Senate Bill 1050

Senate Author: Nelson

Effective: 5-28-03

House Sponsor: Mabry

Senate Bill 1050 amends the Human Resources Code to prohibit the Texas Department of Human Services from disclosing any information that would identify a family violence center location, a board member of a center or a family violence special project, or a person working at or receiving services through a family violence special project.

Senate Bill 1665

Senate Author: Averitt

Effective: 6-20-03

House Sponsor: J. Moreno

Senate Bill 1665 amends the Family Code to authorize an employee of or a volunteer with a law enforcement agency who has successfully completed a criminal history background check to assist a police officer or a juvenile probation officer with the temporary care of a child taken into possession by a governmental entity without a court order until arrangements regarding the child's custody can be made.

Juvenile Justice

House Bill 888

House Author: Dutton

Effective: 9-1-03

Senate Sponsor: Whitmire

House Bill 888 amends provisions of the Family Code relating to progressive sanctions programs for juvenile offenders. The bill changes references from progressive sanctions guidelines to a progressive sanctions model; eliminates the requirement that deviations from

the progressive sanctions by a juvenile court or probation department be reported to the juvenile board; and adds to the purposes of the progressive sanctions model the recognition that departures of a disposition from the model are in some cases desirable. House Bill 888 removes the limitation on terms of probation at levels four and five of the sanctions model and removes the upper limitation, making it not less than six months, for level three. The bill removes the requirement that the Criminal Justice Policy Council analyze compliance with progressive sanctions and the impact of sanctions on recidivism rates.

House Bill 1828

Effective: 9-1-03

House Author: Farabee

Senate Sponsor: Whitmire

House Bill 1828 amends the Code of Criminal Procedure to change the name of the county graffiti eradication fund to the county juvenile delinquency prevention fund and to add to the authorized uses of the fund. The bill authorizes the fund to be used to provide funding for teen recognition, recreation, and local teen court programs and for the local juvenile probation department and to provide certain educational and intervention programs designed to prevent juveniles from engaging in delinquent conduct.

House Bill 2002

Effective: 6-20-03

House Author: Dutton et al.

Senate Sponsor: R. West

House Bill 2002 amends the Human Resources Code to require that any unexpended proceeds from the sale or license of a treatment program developed by the Texas Youth Commission be carried over to the next fiscal year to the credit of the fund that was used to finance the development of the program.

House Bill 2319

Effective: 9-1-03

House Author: Dutton et al.

Senate Sponsor: R. West

House Bill 2319 amends provisions of the law relating to juvenile delinquency. The bill amends the Family Code to provide for the rights and responsibilities of the parent, guardian, or custodian of a child who is the subject of a proceeding in a juvenile court. It establishes procedures for issuing, enforcing, and appealing court orders against a parent or guardian and enumerates the responsibilities and rights of a parent or guardian in juvenile proceedings, including appointment of and payment for legal representation, compliance with conditional release requirements, payment for a child's participation in certain treatment programs, contempt of court proceedings, the right to certain information about the alleged offense, the right of access to the child, and the right to submit a written or oral statement about the needs of the child or any matter relevant to the disposition of the case in hearings that do not involve a jury.

The bill includes provisions relating to the use of contempt of court as enforcement of a court order and the juvenile court's discretionary powers in relation to the punishment for contempt. It authorizes a juvenile court to commit a person to the county jail on a finding of contempt and requires a justice or municipal court to provide notice and opportunity to be heard before holding a child in contempt.

House Bill 2319 amends provisions of the Family Code and the Code of Criminal Procedure relating to the registration of juvenile sex offenders and to excusing registration requirements in certain cases, including procedures for the transfer of authority to reexamine the need for registration and to excuse registration in cases involving probation, the filing of a motion for excusal for a person registered in this state because of an out-of-state adjudication, and the removal of registration information when a person's duty to register expires.

The bill sets out procedures relating to the detention of certain offenders in a juvenile detention facility or county facility pending transfer from the Texas Youth Commission (TYC) to the Texas Department of Criminal Justice. It authorizes the appeal by the state of certain court orders in cases involving a violent or habitual offender, provides for the expungement of certain DNA records, and includes provisions applicable to school-attendance-related offenses, credit for courses completed in TYC educational programs, the authority of judges related to community supervision in certain cases, and enforcement of juvenile child support orders.

House Bill 2895

Effective: 9-1-03

House Author: Allen

Senate Sponsor: Whitmire

House Bill 2895 amends the Human Resources Code to authorize the Texas Youth Commission (TYC) to disclose a child's records and other information concerning the child to the child and the child's parents or guardian only if the disclosure would not harm the treatment and rehabilitation of the child and would not substantially decrease the chance of the commission receiving further information. The bill prohibits releasing information concerning a person age 18 or older to the person's parent or guardian without the person's consent. The bill also authorizes the TYC to disclose information regarding a child's location and committing court to a person having a legitimate need for the information.

House Bill 2895 authorizes a hearing examiner, appointed by the TYC, to issue subpoenas requiring the attendance of a witness or the production of any material considered necessary for a determination of treatment for a child committed to the TYC. The bill establishes procedures for serving a subpoena and for compelling the attendance of a witness or the production of material. The bill requires the TYC to refer to the appropriate mental health authority a child who is being released and who requires outpatient psychiatric treatment.

House Bill 3584

Effective: 9-1-03

House Author: Swinford

Senate Sponsor: Bivins

House Bill 3584 amends the Human Resources Code to change the composition of the Moore County Juvenile Board by replacing Dumas City Commission and Dumas Independent School District appointees with Moore County Commissioners Court appointees.

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

- HB 21 - Human Services
- HB 2819 - Open Government and Privacy
- SB 146 - Criminal Justice
- SB 358 - Public Education
- SB 469 - Local Government
- SB 1038 - Public Education
- SB 1940 - Courts

Financial Institutions

This chapter covers legislation relating to banks, savings associations, credit unions, and other regulated lenders and to the products and services offered or administered by those institutions. The chapter also includes legislation relating to functions and operations of the Finance Commission of Texas. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 1307
Effective: 9-1-03

House Author: Marchant
Senate Sponsor: Averitt

House Bill 1307 amends Finance Code provisions relating to the administration, operation, and regulation of credit unions. Among its provisions, the bill authorizes a credit union to apply to the commissioner for status as an underserved-area credit union and, if so designated, to accept shares and deposits from nonmembers and issue secondary capital accounts. It adds requirements for credit union membership and establishes good-cause reasons for a person's expulsion from a credit union. The bill specifies that the commission may authorize credit unions to issue certificates of indebtedness and permits a credit union to sell and cash checks and money orders to members for a fee. The bill establishes guidelines for a credit union to follow in opening and administering a trust account, and authorizes a credit union to limit the number of shares owned by a member and to establish classes of those shares. The bill limits third-party claims made on a credit union and permits credit unions to take certain actions to avoid or mitigate a loss on a loan. The bill expands provisions relating to the confidentiality of information obtained by the department and specifies that the authority of an employee to comake, guarantee, or endorse a loan is limited to senior management. The bill provides requirements for a credit union's equity capital and net worth reserves, and sets out certain procedures relating to the liquidation of a credit union.

House Bill 1380
Effective: Vetoed

House Author: Thompson et al.
Senate Sponsor: Harris

House Bill 1380 amends the Finance Code to permit an authorized lender to offer noncredit insurance and certain other products contemporaneously with or subsequent to a non-real property loan and provides that those offerings are subject to all applicable insurance laws in Texas. The bill requires the lender to offer the borrower the option of purchasing any of those products separately and prohibits the lender from requiring such purchase as a condition for loan approval. The bill requires the Consumer Credit Commissioner to adopt rules providing for a version of the disclosure language in Spanish and to establish a disclosure form that meets statutory requirements for plain language and readability. The bill amends a provision relating to the payment for insurance from loan proceeds to authorize a lender to deduct a premium for noncredit insurance or other permitted product from the proceeds of the loan and to authorize the lender to pay that deducted amount to the vendor of the product.

Reason Given for Veto: "House Bill No. 1380 would fail to protect consumers from unreasonable interest rates. It would allow lenders to finance the charges for noncredit insurance covering life, disability income, accident, loss of income and mechanical breakdown. Lenders could also finance home security plans, club memberships, and service contracts. The rates for these types of noncredit insurance and other products are not regulated and only some of the policy forms have oversight."

House Bill 1493

Effective: 1-1-04

House Author: Solomons

Senate Sponsor: Harris

House Bill 1493 amends the Property Code to establish requirements and procedures relating to a mortgage foreclosure. The bill defines “book entry system,” “debtor’s last known address,” “mortgage servicer,” “mortgagee,” “mortgagor,” “security instrument,” “substitute trustee,” and “trustee” as they relate to the foreclosure process. The bill requires a debtor to inform the debtor’s mortgage servicer in a timely manner of a change in the debtor’s address and specifies that a trustee or substitute trustee is not a debt collector. The bill authorizes a mortgage servicer to administer a foreclosure on behalf of a mortgagee who meets certain requirements and authorizes a trustee or substitute trustee to set reasonable conditions for conducting a public sale of the property if those conditions are announced before bidding begins for the first sale the trustee or substitute trustee holds on that day. The bill authorizes a mortgagee to either appoint or permit a mortgage servicer to appoint a perpetual substitute trustee by certified power of attorney or other written instrument. The bill provides that a purchaser of real property under a contract lien acquires the property “as is” without any expressed or implied warranties and at the purchaser’s own risk and establishes that such a purchaser is not a consumer.

House Joint Resolution 23

For Election: 9-13-03

House Author: Hochberg et al.

Senate Sponsor: Carona

House Joint Resolution 23 proposes a state constitutional amendment to authorize the refinancing of a home equity loan with a reverse mortgage. If voters approve the proposed amendment, it takes effect September 13, 2003.

Senate Bill 324

Effective: 9-1-03

Senate Author: Armbrister

House Sponsor: Marchant

Senate Bill 324 amends the Finance Code to exempt from the requirement for possession of a mortgage broker or loan officer license a Texas political subdivision that is involved in an affordable home ownership program. The bill exempts from regulation as a credit services organization an electronic return originator who is an authorized Internal Revenue Service e-file provider and who facilitates a loan based on a person’s federal income tax refund on behalf of certain financial institutions.

Senate Bill 774

Effective: 9-1-03

Senate Author: Averitt

House Sponsor: Solomons

Senate Bill 774 amends the Finance Code to allow the maximum annual interest rate of a revolving credit account to be the greater of: (1) an applicable optional rate ceiling for open-end accounts, or (2) 18 percent, which was the limit permitted by prior law. The bill authorizes the creditor of a revolving credit account to take real or personal property as collateral and requires the creditor to hold a consumer loan license, unless specifically exempted, if the account is for personal, family, or household use.

The bill authorizes a creditor of a revolving credit account secured by an interest in real property to contract for, charge, or receive certain fees as if the account were a secondary mortgage loan. If the creditor makes a change to the account that adversely affects an existing or future balance, the bill requires the creditor to follow the customer notification procedures for an open-end account. The bill prohibits the creditor from accelerating or demanding immediate payment on the account unless the customer is in default.

Senate Bill 966**Effective:** 6-18-03**Senate Author:** Averitt**House Sponsor:** Grusendorf

Senate Bill 966 amends the Government Code to authorize the comptroller to enter into an agreement with a credit or debit card issuer to benefit public schools. Under the agreement, the issuer is required to pay to the comptroller an amount of money based on the use of the card by cardholders. An agreement between the comptroller and issuer must allow a cardholder to designate a particular school district or, to the extent practicable, a particular school as the recipient of the money generated. Money received by the comptroller is deposited to the credit of the foundation school fund if a particular district or school is not designated.

Senate Bill 1067**Effective:** See below**Senate Author:** Carona**House Sponsor:** Solomons

Senate Bill 1067 amends the Finance Code to authorize the Finance Commission to issue interpretations relating to home equity lending law applicable to lenders authorized to extend credit under Article XVI of the Texas Constitution and the Credit Union Commission (CUC) to issue interpretations applicable to lenders regulated by the CUC. The bill requires the commission and the CUC to attempt to adopt consistent interpretations or to provide justification for any inconsistency. Additionally, the bill prohibits a lender, in connection with a high-cost home loan, from charging a borrower for a service or product the borrower did not receive. It also eliminates the expiration date from a provision relating to disclosure in connection with certain home loans. Senate Bill 1067 takes effect contingent on voter approval of a constitutional amendment proposed by Senate Joint Resolution 42.

Senate Bill 1318**Effective:** 9-1-03**Senate Author:** Van de Putte**House Sponsor:** Menendez

Senate Bill 1318 amends provisions of the Government Code relating to investment of certain public funds to provide that a securities lending program is an authorized investment if it meets the following conditions: (1) the value of securities loaned under the program must be at least 100 percent collateralized, including accrued income; (2) a loan made under the program must allow for termination at any time and must be secured by certain authorized pledged securities, by pledged irrevocable letters issued by a bank that meets certain criteria, or by cash invested in commercial paper, mutual funds, investment pools, or obligations of or guaranteed by governmental entities; (4) the terms of a loan made under the program must require that securities held as collateral are pledged to the investing entity, held in that entity's name, and deposited at the time of investment with the entity or with a third party selected or approved by the entity; (5) a loan made under the program must be placed through a primary government securities dealer that meets certain requirements or by a financial institution doing business in Texas; and (6) an agreement to lend securities must have a term of one year or less.

Senate Bill 1429**Effective:** 6-21-03**Senate Author:** Averitt**House Sponsor:** Flynn

Senate Bill 1429 amends the Finance Code to authorize a lender to offer a borrower, in connection with certain non-real property loans or secondary mortgage loans, a debt suspension agreement or a debit cancellation agreement under similar terms and conditions as such an agreement offered by a bank or a savings association. If the loan is secured by a motor vehicle, the lender is authorized to offer the borrower a gap waiver agreement when the loan is made. The bill prohibits the lender from requiring the borrower to purchase any of these products and

Financial Institutions

must provide the borrower with a disclosure to that effect. The bill requires the lender to charge a reasonable amount for the product and provides that the income on these agreements or contracts is not considered additional interest or an additional charge on the loan.

Senate Bill 1430

Effective: 5-12-03

Senate Author: Averitt

House Sponsor: Gutierrez

Senate Bill 1430 amends the Finance Code to allow a secondary mortgage loan with simple interest to include a provision for additional interest on any portion of an installment left unpaid more than 10 calendar days past the due date, allowing the same interest charges on the default on such a loan as are allowed on a default on a secondary mortgage loan with precomputed interest or that uses the scheduled installment earnings method.

Senate Bill 1666

Effective: 9-1-03

Senate Author: Averitt

House Sponsor: Flynn

Senate Bill 1666 amends the Texas Savings Bank Act to expand the definition of “financial institution” to include a federal credit union and a credit union or trust company chartered in Texas or another state.

Senate Joint Resolution 42

For Election: 9-13-03

Senate Author: Carona

House Sponsor: Solomons

Senate Joint Resolution 42 proposes a constitutional amendment to allow a lender to issue a home equity line of credit to a homeowner that authorizes the borrower to request an advance from time to time to make purchases or to repay debt. The amount of advances outstanding at any time may not exceed 50 percent of the fair market value of the home as determined on the date the line of credit is established, and when added to any other debt secured by the home may not exceed 80 percent of the home’s fair market value, as provided by existing laws relating to home equity loans. No single advance can be less than \$4,000, and the borrower cannot use a credit card, debit card, preprinted solicitation check, or similar device to obtain an advance. The amendment allows the borrower to repay the advance in regular periodic installments not more often than every 14 days and not less often than monthly, beginning no later than two months after the extension of credit is established.

The amendment authorizes a lender to collect fees on a line of credit only at the time it is established and prohibits the lender from charging or collecting fees in connection with a debit or advance or from amending the extension of credit unilaterally. The amendment requires the written notice a lender must provide a borrower 12 days before closing to include information that describes the borrower’s rights regarding a home equity line of credit and adds a statement to the notice declaring that the notice is only a summary of the homeowner’s rights under the Texas Constitution. The amendment requires the closing for a home equity line of credit to occur no sooner than one business day after the date the borrower receives a final itemized disclosure of the actual fees, points, interest, and other closing costs. The amendment authorizes the lender, in the event of an emergency or other good cause and with the written consent of the owner, to provide such documentation to the borrower or to modify the previously provided documentation on the date of closing.

Senate Joint Resolution 42 requires the lender to forfeit all principal and interest if the lender fails to comply with legal obligations regarding the issuance of a home equity loan, unless the lender cures the noncompliance not later than 60 days after being notified of such noncompliance by: (1) refunding any overcharged amount; (2) sending the borrower a written

notice of the lender's failure to comply and acknowledging the lien's proper scope; (3) adjusting the borrower's account to ensure there is no overcharge; (4) delivering required documents and obtaining appropriate signatures; (5) sending the borrower an acknowledgment that the accrual of interest and all obligations under the loan are abated while any prior lien remains secured by the homestead; or (6) if the failure to comply cannot be cured by any of the above means, crediting the borrower \$1,000 and offering the borrower the right to refinance at no cost on the same terms, with modifications to correct the noncompliance. The amendment also requires the lender or any holder of the note to forfeit all principal and interest if the extension of credit was made by an unauthorized person or if it was not created under a written agreement with the consent of each owner and each owner's spouse, unless such individuals subsequently consented. The amendment permits a home equity line of credit to be refinanced before the first anniversary of its closing date in order to satisfy the lender's ability to cure a defect in the loan.

Senate Joint Resolution 42 allows a homeowner to refinance a home equity loan with a reverse mortgage. It adds a person regulated by this state as a mortgage broker to the list of persons who are permitted to make such loans, and permits the loan to be secured by a manufactured home that has been converted to real property. It makes a home equity loan, like a home equity line of credit, payable in substantially equal periodic installments not more than every 14 days and not less often than monthly.

Senate Joint Resolution 42 authorizes the legislature to delegate to one or more state agencies the power to interpret certain constitutional provisions relating to home equity lending and provides that an act or omission does not violate these provisions if it conforms to an interpretation that is in effect at the time the act or omission occurs and if it is made by a state agency to which the power of interpretation has been delegated or by a Texas or federal appellate court.

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

HB 2238 - Probate and Guardianship

HB 3308 - Labor and Employment

Government Purchasing

This chapter includes legislation affecting requirements and procedures for the procurement of goods and services and for contracting for public works projects by state and local governmental entities. It also includes legislation affecting vendors, contractors, and subcontractors providing goods and services under contracts with governmental entities as well as bidders for contracts. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 211

Effective: 6-18-03

House Author: F. Brown

Senate Sponsor: Ogden

House Bill 211 amends the Local Government Code to lower from 75,000 to 25,000 the population threshold for determining whether a municipality is required to use competitive sealed bidding for the purchase of insurance or whether it may use the competitive sealed proposal procedure. The bill requires cities with populations of less than 25,000 to use competitive sealed bids for insurance that would cost more than \$5,000. The bill allows cities with populations of 25,000 or more to use competitive sealed bids when purchasing insurance.

House Bill 845

Effective: 9-1-03

House Author: Howard

Senate Sponsor: Carona

House Bill 845 amends the Government Code to require the Texas Building and Procurement Commission and state agencies, in procuring services, to give preference to those offered by a Texas bidder if the services meet state quality and performance requirements and the cost does not exceed that of similar services of similar expected quality offered by a non-Texas bidder. A Texas bidder is one that is incorporated in the state or has its principal place of business or an established physical presence in the state. The bill also provides that a separate preference for recycled, remanufactured, or environmentally sensitive products includes recycled steel products.

House Bill 1061

Effective: 6-20-03

House Author: Griggs et al.

Senate Sponsor: Brimer

House Bill 1061 amends the Government Code to authorize a municipal officer or employee who is engaged in official municipal business to participate in the Texas Building and Procurement Commission's contract for travel services to obtain reduced airline fares and travel agent fees. The bill permits the commission to charge a participating municipality a fee for this service, not to exceed the costs incurred. It requires the commission to periodically review and adjust the fee to ensure cost recovery and directs the commission to adopt rules and make or amend contracts as necessary to administer the new provisions.

House Bill 1171

Effective: 9-1-03

House Author: Madden

Senate Sponsor: Ratliff

House Bill 1171 amends a Government Code chapter relating to public work performance and payment bonds to provide that if the state, a county, a municipality, or a school district fails to obtain the required payment bond from a contractor for a public works contract in excess of \$25,000, notice by a bond beneficiary to the governmental entity in a suit for recovery follows the same subchapter procedures as for notice given to a surety.

Government Purchasing

House Bill 2033

Effective: 9-1-03

House Author: Menendez

Senate Sponsor: Fraser

House Bill 2033 amends the Government Code to specify, for purposes of aiding in the attainment and measurement of state agency goals relating to purchases from and contracts with historically underutilized businesses, that a contract includes an arrangement under which an agency receives professional or investment brokerage services.

House Bill 2092

Effective: 6-18-03

House Author: Harper-Brown

Senate Sponsor: Wentworth

House Bill 2092 amends the Transportation Code to allow the Texas Department of Transportation to award a highway maintenance contract as a purchase of service under State Purchasing and General Services Act procedures if the contract is for less than \$15,000 and the department determines that the competitive bidding procedure is not practical.

House Bill 2242

Effective: 9-1-03

House Author: W. Smith

Senate Sponsor: Williams

House Bill 2242 amends provisions of the Local Government Code relating to a pre-bid conference conducted for the purpose of discussing contract requirements and answering questions of prospective bidders in a county with a population of 2.8 million or more. The bill allows the county, after a conference is conducted, to send any additional required notice for the proposed purchase by certified mail, return receipt requested, to the pre-bid conference attendees. The bill exempts notice under these provisions from other public notice requirements applicable to competitive bidding.

House Bill 2295

Effective: Vetoed

House Author: Thompson

Senate Sponsor: R. Ellis

House Bill 2295 amends the Local Government Code to allow a municipality with a population of 1.8 million or more to enter into a contract with a developer for certain public improvements without having to comply with competitive sealed bidding procedures if the municipality's participation in the contract does not exceed 70 percent of the total contract price. The bill clarifies that the municipality is liable only for the agreed payment of its share of the contract. The bill requires the municipality, when determining the best value for the contract, to consider the impact on its ability to comply with laws, rules, and programs relating to minority-owned and women-owned businesses, as well as those relating to historically underutilized businesses (HUBs) and to nonprofit organizations that employ persons with disabilities.

Reason Given for Veto: "A late amendment to House Bill No. 2295 is problematic and lacks the criteria needed to guide municipalities in establishing and administering a program similar to the state's Historically Underutilized Business (HUB) Program. Without criteria needed to certify and verify minority-owned and women-owned businesses, this bill would inject ambiguity into the bid selection process and could undermine the success of the state HUB program."

House Bill 2397

Effective: 9-1-03

House Author: Corte et al.

Senate Sponsor: Williams

House Bill 2397 adds a Government Code subchapter to establish rights and remedies for vendors and subcontractors who do not receive prompt payment of undisputed amounts under a contract with a governmental entity. The rights and remedies, however, are not exclusive of those available under other law. The bill allows a vendor to suspend work on giving the

governmental entity written notice of the entity's nonpayment and the vendor's intent to suspend. It gives a subcontractor with a vendor the right to suspend work, with similar prior notice to the vendor, if either the governmental entity has not paid the vendor or the vendor has not paid the subcontractor. The bill establishes the earliest dates, subsequent to the notice, at which suspension may occur. It includes procedures that apply if, between the notice and the intended suspension, there is counter-notice that payment has been made or that the governmental entity contends that a bona fide dispute exists. Other bill provisions, applicable to the entire chapter, state that rights and remedies relating to governmental payment for goods and services may not be waived and that any purported waiver is void.

House Bill 2444**Effective:** 9-1-03**House Author:** G. West**Senate Sponsor:** Armbrister

House Bill 2444 amends the Natural Resources Code to delegate to the Railroad Commission of Texas the authority to purchase goods and services if the purchase does not exceed \$300,000. The maximum threshold normally applicable to state-agency purchasing delegation is \$15,000. The bill exempts the commission, when purchasing in connection with well plugging or the environmental remediation of surface locations, from certain purchasing procedures relating to use of the master bidders list, use of electronic procurement methods, and purchasing from historically underutilized businesses. The bill also exempts the commission from certain fleet requirements relating to the purchase or lease of alternative-fuel vehicles except in areas of air quality nonattainment, where the requirements still apply.

House Bill 2493**Effective:** Vetoed**House Author:** Isett**Senate Sponsor:** Duncan

House Bill 2493 amends provisions of the Local Government Code relating to consideration of location of a bidder's principal place of business in awarding certain municipal and school district contracts. The bill revises the definition of local government in this section to include a municipality with a population of 225,000 or less, rather than 200,000 or less, and to remove the provision that previously excluded a school district. The bill increases from three percent to five percent the allowable difference between a local business's bid and the lowest bid from a non-local business, within which range the local government may contract with either bidder.

House Bill 2493 amends the Education Code to allow a school district awarding a contract using certain methods to consider a bidder's or offeror's principal place of business in accordance with the Local Government Code.

Reason Given for Veto: "In 1999, the Legislature allowed certain local governments to avoid purchasing goods from the lowest bidder and instead to buy from a local business which came within three percent of the best bid. Current law applies to municipalities with populations of 200,000 or less that wish to buy real property or goods from a seller whose principal place of business is in the municipality.

"Now, just two sessions later, House Bill No. 2493 would greatly expand the formerly limited exception. This bill would allow the local government to use the exception for services rather than just goods, increase the size of governments which could circumvent the lowest bid, further erode taxpayer protection by allowing local governments to purchase from a local bidder whose bid is five percent higher than the best bid and would extend the exception to school districts at a time when expenditures for schools are already straining local property taxpayers' ability to pay.

"With this veto message, I hope to discourage legislators from further attempts to bypass competitive bid requirements."

Government Purchasing

House Bill 3089

Effective: 9-1-03

House Author: Dukes

Senate Sponsor: Wentworth

House Bill 3089 amends the Local Government Code to authorize the commissioners court of a county or another governing body of a district or authority to require a principal, officer, or employee of each prospective bidder to attend a mandatory pre-bid conference conducted for the purpose of discussing contract requirements and answering questions of the prospective bidder. The bill deletes a provision that restricted this authority to the commissioners court or governing body of a district or authority in a county with a population of 2.8 million or more.

House Bill 3242

Effective: Vetoed

House Author: Pitts

Senate Sponsor: Estes

House Bill 3242 amends the Government Code to require that the reverse auction procedure be used for at least 10 percent of the dollar value of open market purchases that are made by an agency, or by the Texas Building and Procurement Commission on behalf of the agency, each fiscal year. The bill prohibits use of that procedure in purchasing services related to the construction, remodeling, repair, or maintenance of a building or other public work and excludes such purchases, as well as purchases of professional services, from the dollar value calculation. The bill requires an agency to submit to the governor and legislative presiding officers a written justification in September if it failed to comply with the 10 percent requirement for the preceding fiscal year.

Reason Given for Veto: "House Bill No. 3242 would mandate that all state agencies use a reverse auction to make 10 percent of all purchases, other than professional services. I believe the Texas Building and Procurement Commission, which generally makes state agency purchases, should have the flexibility to determine the most efficient and cost effective means of making purchases."

Senate Bill 719

Effective: 9-1-03

Senate Author: Madla

House Sponsor: Corte

In 2001, the legislature enacted a new Local Government Code subchapter to give municipalities, counties, and river authorities greater flexibility in contracting for certain projects by allowing competitive bidding, competitive sealed proposals, design-build contracts, construction manager use contracts, or job order contracts. Senate Bill 719 amends the code to place defense base development authorities under the same subchapter.

Senate Bill 726

Effective: 7-1-03

Senate Author: Wentworth

House Sponsor: Hill

Senate Bill 726 amends the Tax Code to conform the purchasing and contracting authority of an appraisal district to that of a municipality under the Local Government Code. Previously, appraisal districts operated under the same contracting and competitive bidding law as a county commissioners court. The bill deletes a provision that requires an appraisal district to use competitive bidding for contracts that exceed \$15,000. It allows a resident of an appraisal district to seek injunctive relief for contracts awarded out of compliance with competitive bidding requirements, and applies criminal penalties for noncompliance to appraisal district officers and employees.

Senate Bill 733

Effective: Vetoed

Senate Author: Ratliff

House Sponsor: Farabee

Senate Bill 733 amends the Local Government Code to allow certain local governments, located in a county with a population of 50,000 or less, to purchase an item from a local vendor without following competitive purchasing procedures as long as the vendor's price is equal to or less than the price provided through a government purchasing program of this state. The bill defines "local vendor" as a vendor who has a place of business located in a county, or contiguous to a county, in which any part of the purchasing local government is located.

Reason Given for Veto: "The intent of Senate Bill No. 733 was to allow local governments in rural areas to purchase an item from a local vendor without following competitive purchasing procedures if the vendor's price is equal to or less than the price provided by the state. However, a technical flaw in the bill's language would have broadened the bill's scope to cover every county in the state except Dallas County. Under this bill, local governments throughout the state would be free to buy an item without following competitive purchasing procedures from every county in the state, except Dallas. Therefore, Dallas vendors would be held at a competitive disadvantage. While this exemption to competitive purchasing may be appropriate in a rural area where there are few vendors offering the same item, it could open the door for abuse of state purchasing requirements. With this veto message, I hope to discourage legislators from further attempts to bypass competitive bid requirements."

Senate Bill 761

Effective: 5-12-03

Senate Author: Estes

House Sponsor: Berman

Senate Bill 761 amends the Natural Resources Code to increase from \$10,000 to \$25,000 the contract amount above which the Veterans' Land Board must solicit or obtain competitive bids for certain projects to make land more marketable or useable.

Senate Bill 850

Effective: 9-1-03

Senate Author: Lindsay

House Sponsor: Taylor

Senate Bill 850 amends the Local Government Code to authorize a municipality, county, or school district to establish regulations to permit the refusal to award a contract to or enter into a transaction with a bidder who is indebted to the municipality, county, or school district.

Senate Bill 1155

Effective: 6-18-03

Senate Author: Shapleigh

House Sponsor: Dukes

A law enacted in 1997 required the inclusion, in state contracts for the acquisition of an automated information system, of a technology access clause enabling access by the blind and visually impaired. Senate Bill 1155 amends the Government Code to provide that the requirement does not apply to the purchase of a wireless communication device to be used by peace officers, firefighters, and other emergency response personnel to respond to a public safety emergency.

Senate Bill 1331

Effective: 9-1-03

Senate Author: Ratliff

House Sponsor: Callegari

Senate Bill 1331 amends the State Purchasing and General Services Act to authorize the Texas Building and Procurement Commission to use the construction manager-agent method for a building construction project. The bill amends the act and the Education Code to align provisions relating to the use of the construction manager-at-risk method by the commission, school districts, and institutions of higher education other than junior colleges with existing

Government Purchasing

statutes governing the use of that method by counties, municipalities, and river authorities. A separate code change requires a school district, if it uses competitive bidding to choose a construction contractor, to select or designate an engineer or architect to prepare construction documents for the project.

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

HB 2528 - Public Education

HB 2887 - Water Districts

HB 3028 - Transportation

Health

This chapter covers legislation relating to health and safety, including diseases and medical conditions, immunizations, health code enforcement, abortion, prenatal care, asbestos, and rural health. The chapter also includes legislation relating to health care facilities and medical records and personal health information. Bills relating to nursing homes, assisted living facilities, veterans homes, and related facilities 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 15

Effective: 9-1-03

House Author: Corte et al.

Senate Sponsor: Williams

House Bill 15 enacts the Woman's Right to Know Act and other amendments to the Health and Safety Code relating to the regulation of abortions. The act prohibits performance of an abortion except by a physician licensed to practice medicine in Texas and allows abortion of a fetus age 16 weeks or more only at a licensed ambulatory surgical center or hospital.

An abortion may not occur without the voluntary and informed consent of the woman at least 24 hours in advance. The referring physician or performing physician must provide certain information to the woman, including the medical risks of the particular abortion procedure to be employed, the possibility of increased risk of breast cancer after an induced abortion, the natural protective effect of a completed pregnancy against breast cancer, and the medical risks of carrying a child to term. The performing physician or the physician's agent must inform the woman that medical benefits may be available for prenatal care, childbirth, and neonatal care; that the father is liable for assistance in support of the child; that public and private agencies provide pregnancy prevention counseling and medical referrals for obtaining pregnancy prevention medication or devices, including emergency contraception for victims of rape or incest; and that the woman has the right to review materials provided by the Texas Department of Health (TDH) that provide, in addition to the information on medical risks, child support, and pregnancy prevention, a description of the unborn child and a list of agencies that offer alternatives to abortion.

The bill requires the Texas Department of Health to publish in print form and make available on the Internet the specified materials. The materials describing the unborn child must include realistic color pictures representing its development at two-week gestational increments. The information on agencies that offer alternatives to abortion must include agencies that do not provide, and are not affiliated with organizations that provide, abortions, abortion-related services, or referrals to abortion providers and that are available to assist a woman through pregnancy, childbirth, and the child's dependency, including a comprehensive list of adoption agencies, their services, and information on how to contact them. The information can be provided through a geographically indexed list of agencies or through a toll-free, 24-hour telephone number to call for an oral list and description of agencies located near the caller.

The bill provides for the 24-hour waiting period following informed consent to run concurrently with the period of constructive notice under the Family Code chapter on parental notice. It also creates a misdemeanor offense, punishable by a fine not to exceed \$10,000, for a physician who intentionally performs an abortion in violation of the act.

Health

The remainder of House Bill 15 amends Texas Abortion Facility Reporting and Licensing Act licensing requirements. A facility that advertises itself publicly as an abortion provider or that performs at least 10 abortions per month, subject to certain adjustments, or 100 per year must be licensed. Under previous law the threshold was more than 300 per year. An ambulatory surgical center licensed under the Texas Ambulatory Surgical Center Licensing Act is not required to obtain an abortion facility license. Rules under the Texas Abortion Facility Reporting and Licensing Act must contain provisions requiring compliance with the Woman's Right to Know Act, and TDH fees under the Texas Abortion Facility Reporting and Licensing Act must also defray the costs of administering the Woman's Right to Know Act.

House Bill 341

Effective: 9-1-03

House Author: Uresti

Senate Sponsor: Lindsay

House Bill 341 adds a subchapter to the Health and Safety Code to require a hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman to give her a resource list of the names, addresses, and phone numbers of professional organizations that provide postpartum counseling and assistance to parents. The resource list must include contacts who provide counseling and assistance with respect to postpartum depression and other emotional traumas associated with pregnancy and parenting. The facility must document receipt of the list in the patient's records and must retain the documentation for at least three years. A facility is presumed to have complied with the requirements if the woman received prior prenatal care from another hospital, birthing center, physician, or midwife in Texas during the same pregnancy. The bill requires the Texas Department of Health to establish guidelines for the provision of the required information, and to make available on its website a printable list, updated monthly, of professional organizations that provide postpartum counseling and assistance to parents.

House Bill 1077

Effective: 9-1-03

House Author: J. Jones et al.

Senate Sponsor: R. West

House Bill 1077 amends the Health and Safety Code to provide for emergency removal of remains interred in a cemetery plot and to establish procedures by which cemeteries are allowed to transfer remains in emergency and other circumstances.

House Bill 1629

Effective: 9-1-03

House Author: J. Keffer

Senate Sponsor: Deuell

House Bill 1629 amends provisions of the Health and Safety Code relating to the regulation of chemical precursors used in the manufacture of controlled substances. The bill lists specific nonnarcotic products that are not subject to certain reporting and recordkeeping requirements for chemical precursors if they are sold with a prescription or over the counter in accordance with federal statute or rule. The bill provides that a person commits an offense if, with the intent to unlawfully manufacture a controlled substance, the person possesses or transports chemical precursors or chemical substances designated by the director of the Texas Department of Public Safety.

Under previous law, committing an offense within 300 feet of the premises of a public or private youth center automatically enhanced the punishment for the offense. House Bill 1629 changes the distance from 300 feet to 1,000 feet.

House Bill 1723**Effective:** 9-1-03**House Author:** Geren et al.**Senate Sponsor:** Averitt

House Bill 1723 amends the Texas Asbestos Health Protection Act to provide that renovation, construction, or other activity performed on a public building does not require a new asbestos survey if a valid survey exists. A valid survey is one that was performed in compliance with the laws in effect at the time the survey was completed and that identified the asbestos condition in the building.

House Bill 1952**Effective:** 6-20-03**House Author:** Truitt**Senate Sponsor:** Brimer

House Bill 1952 amends the Health and Safety Code to authorize a county or municipality to establish permit and inspection programs to regulate public swimming pools. The bill authorizes a county or municipality to impose and collect a fee to cover the cost of permitting and inspecting pools and to close a pool by order if the operation of the pool violates certain health and safety regulations. The bill makes it an offense to violate a permit or inspection requirement or an order for closure of a pool, provides for the assessment and recovery of a civil penalty, and grants a county or municipality the authority to enjoin a violation.

House Bill 2075**Effective:** 9-1-03**House Author:** Hilderbran**Senate Sponsor:** Fraser

House Bill 2075 amends the Texas Youth Camp Safety and Health Act to require an employee or agent of the Texas Department of Health who enters a youth camp to investigate and inspect conditions relating to the health and safety of the campers to notify the person in charge of the camp of any violations as they are discovered and to allow the camp to correct the violations during the investigation or inspection. It also reduces the penalty for certain violations. The bill includes provisions relating to the composition of the youth camp advisory committee to the Texas Board of Health and to the persons authorized to serve on the committee, removes a provision entitling committee members to reimbursement for certain expenses, and adds a specification concerning compliance with open meetings.

House Bill 2185**Effective:** 9-1-03**House Author:** Geren et al.**Senate Sponsor:** Brimer

House Bill 2185 amends the Health and Safety Code to direct a local registrar to issue and file a certificate of death by catastrophe on submission of an affidavit that contains certain information regarding the person who is the subject of the certificate of death or on submission of a written statement signed by an agent of a governmental authority that has conducted and concluded a search for the person. The bill defines "catastrophe," details the information required to be included in the affidavit, authorizes the Texas Department of Health to issue a certificate for certain minors or persons for whom a guardian has been appointed, and requires an insurer to accept the certificate as proof of death of an insured.

House Bill 2350**Effective:** 9-1-03**House Author:** Dawson**Senate Sponsor:** Nelson

House Bill 2350 amends the Texas Youth Camp Safety and Health Act to repeal the statutory amounts of fees for obtaining and renewing licenses to operate youth camps and require the Texas Board of Health by rule to establish the amount of the fees. The bill requires the board to solicit comments and information from the operators of affected youth camps before adopting or amending rules.

Health

House Bill 3264

Effective: 9-1-03

House Author: Hunter

Senate Sponsor: Deuell

House Bill 3264 enacts the Childhood Lead Poisoning Prevention Act to prioritize education, screening, and the overall prevention of childhood lead poisoning. The bill amends the Health and Safety Code to authorize the Texas Board of Health to adopt measures to reduce the incidence of poisoning, improve public awareness of lead safety issues, and encourage testing of certain children.

House Bill 3542

Effective: 9-1-03

House Author: Laubenberg

Senate Sponsor: Carona

House Bill 3542 amends the Health and Safety Code to provide that the Texas Food, Drug, and Cosmetic Act applies to milk and milk products and to a person who holds certain permits to process, produce, bottle, receive, transfer, or transport Grade A milk or milk products. The bill specifies that persons with such permits are not required to hold a license as a food manufacturer or food wholesaler and includes provisions relating to the administration of permits.

Senate Bill 160

Effective: 9-1-03

Senate Author: Nelson

House Sponsor: Capelo et al.

Senate Bill 160 amends the Health and Safety Code to require the Texas Department of Health, subject to the availability of funds, to develop a program to educate health care providers and attorneys regarding human organ donation. The bill requires the department to encourage attorneys to provide organ donation information to clients seeking legal advice for end-of-life decisions and to encourage inclusion of mandatory organ donation education in medical and nursing schools' curriculums and residency programs.

Senate Bill 185

Effective: 5-28-03

Senate Author: Janek

House Sponsor: W. Smith

Senate Bill 185 amends the Health and Safety Code to expand the list of public health nuisances to include a collection of water that is a breeding area for *Culex quinquefasciatus* mosquitoes that can transmit diseases regardless of the collection's location unless the collection is located on property used for certain agricultural activities.

Senate Bill 216

Effective: 9-1-03

Senate Author: Zaffirini et al.

House Sponsor: Hardcastle et al.

Senate Bill 216 amends the Occupations Code to authorize a veterinarian to dispose of medical waste associated with the remains of an animal by burial or burning along with the remains and sets out requirements relating to such disposal.

Senate Bill 381

Effective: 6-18-03

Senate Author: Armbrister

House Sponsor: Capelo et al.

Senate Bill 381 amends the Health and Safety Code to exempt a restaurant that provides food for immediate consumption to a political subdivision or to a licensed nonprofit organization from certain food manufacturer and food wholesaler licensing requirements under the Texas Food, Drug, and Cosmetic Act.

Senate Bill 474**Effective:** 9-1-03**Senate Author:** Lucio et al.**House Sponsor:** Capelo et al.

Senate Bill 474 establishes a joint interim committee to study nutrition and health in public schools. The bill requires the committee, subject to the availability of funds, to hold hearings throughout the state to determine the nutritional content and quality of foods served to public school children, evaluate the impact of obesity in public school children, assess the value of a universal breakfast and lunch program, and evaluate school contracts relating to competitive food products and vending machines. The committee is required, subject to the availability of funds and not later than October 1, 2004, to report to the governor, the lieutenant governor, and the speaker of the house of representatives on the committee's findings and recommendations.

Senate Bill 572**Effective:** See below**Senate Author:** Harris**House Sponsor:** Hartnett et al.

Senate Bill 572 amends provisions of the Health and Safety Code relating to the euthanasia of animals in the custody of animal shelters. The bill prescribes legal methods of euthanizing certain animals and requires the Texas Board of Health by rule to establish standards and procedures specifically for the use of sodium pentobarbital and commercially compressed carbon monoxide. Senate Bill 572 establishes a training course and curriculum for euthanasia technicians, requires the Texas Department of Health to approve the curriculum and sponsors of the course, and prohibits certain technicians who have not completed the training from euthanizing an animal in a shelter. The bill makes it a Class B misdemeanor to violate the subchapter or a board rule adopted relating to euthanasia of animals. The bill repeals the provision in previous law that listed prohibited methods of killing an animal in a shelter.

Senate Bill 572 takes effect September 1, 2003, except for provisions relating to the requirements for administering sodium pentobarbital and commercially compressed carbon monoxide, and the training for euthanasia technicians, which take effect January 1, 2005.

Senate Bill 599**Effective:** 9-1-03**Senate Author:** R. West**House Sponsor:** Corte

Senate Bill 599 amends the Government Code to require the Texas Building and Procurement Commission (commission) to refer all matters relating to the investigation and testing of indoor air quality, except for asbestos, in state buildings to the Texas Department of Health (department). The department is required to promulgate rules and procedures necessary for the investigation and testing of the buildings and to report all findings and test results to the State Office of Risk Management (office). The office is required to conduct an annual educational seminar on indoor air quality that certain persons charged with the control of state buildings must attend.

In addition, the bill requires the commission to contract with a private entity to conduct necessary air monitoring related to asbestos abatement services by the commission and to report the findings and test results to the office and the department. The bill requires the department, with the assistance of a nonstate entity, to provide a report and a plan of action for addressing indoor air quality issues in state buildings to the Legislative Budget Board, the Governor's Office of Budget and Planning, and the State Office of Risk Management.

Not later than December 31, 2003, the commission and the department are required to establish a transition plan for this transfer of responsibility.

Senate Bill 616

Effective: 6-20-03

Senate Author: Madla

House Sponsor: Coleman et al.

Senate Bill 616 amends the Health and Safety Code to change the composition of the Drug Demand Reduction Advisory Committee to include 25 members, rather than 20, by adding one representative from each of the following: the Texas Rehabilitation Commission, the Texas Workforce Commission, the Texas Department of Transportation, the comptroller of public accounts, and the adjutant general's department. The bill also adds the United States Drug Enforcement Administration as a federal agency with which the committee's statewide strategy to reduce drug demand is specifically required to coordinate.

Senate Bill 1225

Effective: 7-1-03

Senate Author: Nelson

House Sponsor: Capelo et al.

Senate Bill 1225 amends the Health and Safety Code to authorize a justice of the peace, county judge, or physician designated by the justice of the peace or county judge to permit the removal of organs and tissue from a decedent who died under circumstances requiring an inquest by the medical examiner. The bill requires that explanation be provided by certain persons authorized to consent or object to the removal of an organ, if the removal of an organ for donation as an anatomical gift is denied.

Senate Bill 1320

Effective: 6-20-03

Senate Author: Nelson

House Sponsor: Capelo et al.

Senate Bill 1320 amends provisions of the Advance Directives Act relating to a person's living will, do-not-resuscitate (DNR) orders, and consent for health care procedures. It specifies language for explaining a patient's right to transfer to another physician or health care facility when there is a disagreement about medical treatment, and it requires the Texas Health Care Information Council to maintain a registry for health care providers and referral groups that may consider accepting or may assist in locating a provider willing to accept a patient's transfer. The bill authorizes a licensed nurse or person providing health care services in an out-of-hospital setting to honor a physician's DNR order, but it provides that EMS personnel may only honor a properly executed or issued out-of-hospital DNR order or identification device. The bill also includes provisions clarifying the applicability of the act to children and relating to other notification and ethics procedures.

Senate Bill 1400

Effective: 9-1-03

Senate Author: Nelson

House Sponsor: Zedler et al.

Senate Bill 1400 amends provisions of the Health and Safety Code relating to the labeling of certain prescription drugs in accordance with requirements of the federal Food, Drug and Cosmetic Act. The bill removes provisions relating to the designation of certain drugs as misbranded and the exemption of certain drugs from certain labeling and packaging requirements.

Senate Bill 1419

Effective: 9-1-03

Senate Author: Janek

House Sponsor: Eiland et al.

Senate Bill 1419 amends the Health and Safety Code to provide the Anatomical Board of the State of Texas with authority over the donation, distribution, and redistribution of anatomical specimens in addition to bodies. The bill requires the board to keep identification records of each anatomical specimen distributed by the board, authorizes the board to redistribute bodies to medical or dental schools, and gives the board exclusive authority to be the donee of certain bodies and anatomical specimens for education or research purposes.

Senate Bill 1454
Effective: 9-1-03

Senate Author: Carona
House Sponsor: Dawson

Senate Bill 1454 amends the Health and Safety Code to provide that frozen dessert products are subject to the Texas Food, Drug, and Cosmetic Act. The bill provides for the applicability of inspection procedures and penalties, authorizes the commissioner of health to grant, suspend, or revoke a license, and exempts from food manufacturer or wholesaler licensing requirements license holders operating under the Frozen Desserts Manufacturer Licensing Act.

Senate Bill 1744
Effective: 9-1-03

Senate Author: Zaffirini
House Sponsor: Uresti

Senate Bill 1744 amends the Health and Safety Code to authorize a local registrar of vital statistics to collect a fee not to exceed \$1 for the preservation of certain records maintained by the registrar.

Senate Bill 1803
Effective: 9-1-03

Senate Author: Duncan et al.
House Sponsor: Truitt et al.

Senate Bill 1803 amends the Texas Food, Drug, and Cosmetic Act to distinguish between a warehouse operator and a food wholesaler. The bill clarifies the meaning of “manufacture” to include the relabeling of any food and expands the list of prohibited acts to include making a false statement or false representation in an application for a license or in certain statements or reports. The bill enhances the penalty from a Class A misdemeanor to a state jail felony for a violation if it is shown at the trial that the defendant was previously convicted of certain offenses. Senate Bill 1803 prohibits a warehouse operator from operating without a license and prohibits a food wholesaler from operating without a license or without being registered, as appropriate. The bill defines “warehouse operator,” provides licensing requirements and exceptions for warehouse operators and food wholesalers, and requires the Texas Department of Health to adopt rules for the registration of food wholesalers not required to be licensed.

Senate Bill 1826
Effective: 9-1-03

Senate Author: Van de Putte
House Sponsor: Reyna et al.

Senate Bill 1826 amends provisions of the Health and Safety Code relating to certain violations of the Texas Food, Drug, and Cosmetic Act. The bill includes the relabeling of any food within the meaning of the term “manufacture” for purposes of the act and creates a violation of making a false statement or false representation in an application for certain licenses or in certain statements or reports filed with the Texas Board of Health, the commissioner of health, or the Texas Department of Health. Senate Bill 1826 also enhances the punishment from a Class A misdemeanor to a state jail felony if a defendant was previously convicted of an offense under the act.

Diseases and Medical Conditions

House Bill 1097
Effective: 6-20-03

House Author: Capelo
Senate Sponsor: Gallegos

House Bill 1097 amends the Health and Safety Code to require rather than authorize the Texas Board of Health to establish in the Texas Department of Health a program to identify and investigate certain birth defects in children and to maintain a central registry of cases of birth defects. The bill also authorizes the board and the department to design the program to provide for the passive collection of birth defects information.

House Bill 1735

Effective: 6-20-03

House Author: Delisi et al.

Senate Sponsor: Janek

House Bill 1735 amends provisions of the Health and Safety Code, Insurance Code, and Government Code to require certain entities that provide state-funded or state-administered health plans to provide disease management services or coverage for disease management services to assist people who suffer from certain chronic health conditions. The bill also requires the entities to conduct a study to evaluate the savings to the state as a result of implementation of a disease management program and the clinical outcomes resulting from participation in the program. The entities are required to report the progress of the study not later than December 1, 2004, and the final results of the study not later than December 1, 2005, to the governor, lieutenant governor, and speaker of the house of representatives.

House Bill 2019

Effective: 9-1-03

House Author: Griggs et al.

Senate Sponsor: Harris

House Bill 2019 amends the Health and Safety Code to create the Texas Traumatic Brain Injury Advisory Council. The council is required to inform state leaders of issues and policies relevant to meeting the needs of people with a traumatic brain injury and their primary family caregivers and to make certain recommendations to the Texas Department of Health, including methods to promote education, training, and information about traumatic brain injury and programs and innovative approaches to providing services and support to persons with a traumatic brain injury and their families. The bill includes provisions related to the composition of the council and membership restrictions and sets out additional duties of the council and of the department.

House Bill 2692

Effective: 6-20-03

House Author: Guillen

Senate Sponsor: Zaffirini

House Bill 2692 amends the Health and Safety Code to require the Texas Diabetes Council, in consultation with the Texas Department of Health, to develop a pilot program to promote and facilitate the operation of diabetes groups. The council is required to operate the program in not more than two counties that are located on the border with the United Mexican States and that have a high proportion of low-income households and is prohibited from providing direct financial support to a diabetes group. The council is required to submit a report, not later than December 1, 2004, summarizing the results of the program to the governor, lieutenant governor, and speaker of the house of representatives. The pilot program expires September 2, 2005.

House Bill 2721

Effective: 9-1-03

House Author: Gutierrez et al.

Senate Sponsor: Van de Putte

House Bill 2721 amends the Health and Safety Code to add Texas Education Agency Regional Education Service Centers 4, 10, and 11 to the list of centers for which the executive council advising the Texas-Mexico Border Health Coordination Office of The University of Texas—Pan American is required to coordinate acanthosis nigricans screening of public and private school students.

Senate Bill 1226**Effective:** 6-20-03**Senate Author:** Nelson**House Sponsor:** Capelo et al.

Senate Bill 1226 amends the Health and Safety Code to form a statewide kidney sharing pool, to be made up of 20 percent of the kidneys from deceased donors of each blood type; kidneys in the pool are to be used for redistribution to patients who have been waiting the longest for transplantation. The bill sets out criteria for eligible patients and certain requirements of participating organ procurement organizations and provides for management of the pool.

Health Care Facilities**House Bill 418****Effective:** 9-1-03**House Author:** Martinez Fischer**Senate Sponsor:** Lindsay

House Bill 418 amends the Transportation Code to require a municipality or county to send 50 percent of the fines collected for violations of child safety belt laws to the comptroller for deposit in the tertiary care fund for use by trauma centers.

House Bill 1614**Effective:** 6-20-03**House Author:** Truitt et al.**Senate Sponsor:** Madla

House Bill 1614 amends the Health and Safety Code to require the Texas Department of Health to establish an information clearinghouse concerning best practices for patient safety programs for hospitals, ambulatory surgical centers, and mental hospitals. The bill requires each facility: (1) to submit an annual report to the department that lists the number of occurrences of medication errors that result in death or serious permanent injury, perinatal deaths, suicides, abductions of newborn infants, sexual assaults, hemolytic transfusion reactions, surgical procedures performed on the wrong patient or wrong body part of a patient, and other events; (2) to identify factors leading to such events; (3) to develop plans to reduce the risk of similar events occurring in the future; and (4) to provide to the department at least one report of the best practices and safety measures related to each reported event. The bill requires the department to compile and make available to the public annual summaries of the information reported by each facility in a manner that does not identify specific hospitals or centers. House Bill 1614 provides that all information obtained by or required to be compiled by the department or a facility is confidential and subject to absolute privilege, not subject to legal compulsion, and prohibited from use as evidence in any civil, criminal, or administrative proceeding.

House Bill 2952**Effective:** 6-20-03**House Author:** Kuempel**Senate Sponsor:** Wentworth

House Bill 2952 amends the Health and Safety Code to authorize the board of managers of a joint municipal and county hospital, after approval by the respective local governments, to borrow money to finance the acquisition, construction, rehabilitation, and equipping of a hospital facility and to secure the loan by a pledge of all or part of the revenues, income, or resources of the hospital or by a deed of trust or other security interest in any property of the hospital that is not otherwise pledged to pay a bonded indebtedness of the hospital.

Senate Bill 162**Effective:** 6-20-03**Senate Author:** Nelson**House Sponsor:** Capelo et al.

Senate Bill 162 amends the Health and Safety Code to authorize the Texas Department of Health to schedule certain health care facilities for probation, rather than for suspension or revocation of the facility's license, if the department finds that the facility is in repeated

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noncompliance with certain requirements of law but that the noncompliance does not endanger public health and safety. The bill authorizes the department to suspend or revoke the license of a facility that does not correct items in noncompliance. These provisions apply to hospitals, ambulatory surgical centers, birthing centers, abortion facilities, end stage renal disease facilities, and private mental hospitals and mental health facilities. The bill also authorizes the department to issue an emergency order to suspend a license of an end stage renal disease facility in situations that create an immediate danger to the public health and safety.

Senate Bill 253

Effective: 6-21-03

Senate Author: Staples

House Sponsor: Pitts

Senate Bill 253 amends the Health and Safety Code to exempt a facility or program operated by or on the campus of a public or private college or university that is subject to regular health and safety inspections by one or more local governmental entities from regulation by the Texas Department of Health under the Texas Youth Camp Safety and Health Act.

Senate Bill 564

Effective: 5-20-03

Senate Author: R. West

House Sponsor: Naishtat

Senate Bill 564 amends the Health and Safety Code to exempt treatment facilities funded by the Texas Commission on Alcohol and Drug Abuse from the Treatment Facilities Marketing Practices Act.

Senate Bill 610

Effective: 9-1-03

Senate Author: Nelson

House Sponsor: Capelo et al.

Senate Bill 610 amends the Health and Safety Code to authorize the Texas Department of Health to make grants to establish or expand certain facilities that can qualify as federally qualified health centers. This provision expires September 1, 2009.

Immunizations

House Bill 1920

Effective: 9-1-03

House Author: Capelo

Senate Sponsor: Zaffirini

House Bill 1920 amends the Health and Safety Code to require the Texas Department of Health to develop continuing education programs for providers relating to immunizations and the vaccines for children program. The bill requires the department to establish a work group to assist in developing the continuing education program and materials, to ensure that a provider can enroll in the vaccines for children program on the same form used to apply as a Medicaid health care provider, and to permit providers use of the immunization registry to report vaccinations and determine whether a child has already been immunized.

House Bill 1921

Effective: See below

House Author: Capelo et al.

Senate Sponsor: Zaffirini

House Bill 1921 amends provisions of the Health and Safety Code relating to the immunization registry maintained by the Texas Department of Health for children younger than 18 years of age. The bill requires written consent for a child's inclusion in the registry only once. It provides for the term of validity of the consent and prohibits the department from retaining certain personally identifiable information if consent has been withdrawn. House Bill 1921 establishes procedures relating to the submission by health care providers or certain

insurers of data elements about a vaccination, rather than the complete immunization history. The bill requires the department to verify consent before including information in the immunization registry and establishes other procedures for the administration of the registry. The bill authorizes health care providers to use information from the registry to provide notice that a child is overdue for immunization. The bill makes it a Class A misdemeanor to fail to exclude a child's immunization record if consent is not granted. The bill takes effect June 20, 2003, except for provisions relating to providers and insurers submitting data elements of vaccinations to the department, which take effect January 1, 2005.

Senate Bill 40**Effective:** 9-1-03**Senate Author:** Zaffirini**House Sponsor:** Capelo

Senate Bill 40 amends the Health and Safety Code to require the Texas Department of Health to establish a continuous statewide program to educate the public on the importance of fully immunizing children and the risks and contraindications of an immunization. The bill also requires the department to increase coordination among various public and private entities with an interest in immunizations.

Senate Bill 43**Effective:** 9-1-03**Senate Author:** Zaffirini**House Sponsor:** Capelo

Senate Bill 43 requires the Texas Department of Health to report to the legislature, not later than October 1, 2005, the results of the Educating Physicians in Your Community pilot program operated by the Texas Pediatric Society. The report must include the program's effect on immunization rates, its cost-effectiveness, and recommendations for expanding and funding the program.

Senate Bill 486**Effective:** 9-1-03**Senate Author:** Zaffirini**House Sponsor:** Capelo

Senate Bill 486 amends the Health and Safety Code to require the Texas Department of Health to develop partnerships and work with existing partnership programs to increase awareness of and support for early childhood immunization. The bill identifies specific methods by which the department is to work with the Texas Education Agency to increase immunization awareness and participation among parents of preschool and school-age children. The bill limits the civil and criminal liability of health care providers who furnish certain immunization information. The bill amends the Government Code to direct state agencies identified by the department as having contact with families to include strategies for increasing public awareness of immunizations in the agencies' strategic plans.

Medical Records and Personal Health Information

Senate Bill 330**Effective:** 9-1-03**Senate Author:** Nelson**House Sponsor:** Capelo

Senate Bill 330 repeals provisions of the Health and Safety Code requiring compliance with the federal Health Insurance Portability and Accountability Act and Privacy Standards relating to access, use, and disclosure of protected health information and repeals provisions regulating disclosure of protected health information to a person performing health research.

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Senate Bill 739

Effective: 6-20-03

Senate Author: R. Ellis

House Sponsor: Capelo et al.

Senate Bill 739 amends the Health and Safety Code to clarify that certain statistical or aggregated information obtained and managed through the newborn hearing, screening, and intervention program that cannot be used to identify an individual is not confidential.

Senate Bill 984

Effective: 5-28-03

Senate Author: Wentworth

House Sponsor: Dukes

Senate Bill 984 amends the Government Code to provide that a benefits appeals committee for a public self-funded health plan or a governmental body that administers a public insurance, health, or retirement plan is not required to deliberate the medical or psychiatric records of an individual applicant for a benefit, or a matter that includes consideration of information in the records, in an open meeting.

Senate Bill 1136

Effective: See below

Senate Author: Nelson

House Sponsor: Capelo et al.

Senate Bill 1136 amends the Health and Safety Code relating to access to certain private medical information to comply with changes to the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996. The bill clarifies the definition of “marketing” and requires a covered entity to obtain clear and unambiguous permission to use or disclose protected health information for marketing purposes, except in certain circumstances. The bill includes provisions relating to the introduction by a covered entity of mitigating evidence in proceedings to impose or assess certain penalties for disclosure of individually identifiable health information. It sets out the duties of the commissioner of health and human services and authorizes the commissioner, on determining that it is in the best interest of the state, to adopt rules that reflect changes to HIPAA. Senate Bill 1136 provides that the American Red Cross is not prohibited from accessing any information necessary to perform duties related to providing biomedical services. The bill requires the office of the attorney general to perform an analysis to determine which state laws are preempted by HIPAA and authorizes the attorney general to establish a task force to assist in performing the analysis. The bill takes effect September 1, 2003, except for the provisions related to the definition of “marketing” and the uses of health information for marketing purposes, which are effective January 1, 2004.

Rural

House Bill 1877

Effective: 9-1-03

House Author: Hardcastle et al.

Senate Sponsor: Madla

House Bill 1877 amends provisions of the Government Code, Health and Safety Code, and Education Code. It requires the Office of Rural and Community Affairs to create a rural physician relief program to provide affordable relief services to rural physicians practicing in general family, internal, and pediatric medicine. It requires the office to collect fees to fund the program and to seek available state and federal money to fund various programs administered by the office. It directs the recruitment and priority assignment of relief physicians and provides for the composition of the rural physician relief advisory committee. The bill also abolishes the Center for Rural Healthcare Initiatives and transfers certain responsibilities to the Office of Rural and Community Affairs.

Senate Bill 529**Effective:** 6-20-03**Senate Author:** Madla**House Sponsor:** McReynolds et al.

Senate Bill 529 amends the Health and Safety Code to authorize the Texas Department of Health to temporarily exempt emergency medical services (EMS) personnel who serve in certain rural areas from a statutory requirement or department rule relating to certification. The bill establishes conditions under which a temporary exemption may be granted and directs the department to require the EMS personnel or provider to adopt a written plan under which the exempted requirement will be met.

Senate Bill 530**Effective:** 9-1-03**Senate Author:** Madla**House Sponsor:** McReynolds et al.

Senate Bill 530 amends the Health and Safety Code to direct the Texas Department of Health to develop for regional advisory councils in trauma service areas performance measures relating to a minimum level of emergency medical services, quality care and service provided by emergency medical services and trauma care systems, and the accuracy of information provided by the council to the department or the department's bureau of emergency management. The bill requires the Texas Department of Health to develop the performance measures not later than January 1, 2004.

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

HB 587 - Occupational Regulation
 HB 627 - Emergency Response
 HB 727 - Human Services
 HB 1090 - Human Services
 HB 1095 - Health and Medical Occupations
 HB 2292 - Human Services
 HB 3014 - Human Services
 SB 356 - Criminal Justice
 SB 692 - Emergency Response
 SB 1012 - Human Services
 SB 1317 - Occupational Regulation
 SB 1357 - Public Education
 SB 1642 - Higher Education

Health and Medical Occupations

This chapter covers legislation relating to health and medical occupations, including occupational regulations, licensing and registration requirements, training, and criminal history record information and background checks. The chapter also includes legislation relating to nursing education programs, student grants, and the limited liability of certain health care practitioners. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 861**Effective:** 9-1-03**House Author:** McReynolds**Senate Sponsor:** Madla

House Bill 861 amends the Health and Safety Code to prohibit the Texas Department of Health from requiring that a person have a high school diploma or a high school equivalency certificate in order to be certified as an emergency care attendant if the person certifies to the department that the person will serve only as an emergency care attendant volunteer during the certification period.

House Bill 1886**Effective:** 9-1-03**House Author:** Zedler**Senate Sponsor:** Nelson

House Bill 1886 amends the Occupations Code to broaden the authority of the Texas Board of Health to set fees to cover the cost of administering the regulation of code enforcement officers and removes the cap on those fees.

House Bill 3109**Effective:** 6-20-03**House Author:** B. Keffer**Senate Sponsor:** Carona

House Bill 3109 amends the Insurance Code to designate as confidential any information that reveals the identity of a physician or individual health care provider who makes a review determination for an independent review organization.

House Bill 3213**Effective:** 6-20-03**House Author:** R. Cook**Senate Sponsor:** Armbrister

House Bill 3213 amends the Texas Professional Association Act to authorize one or more licensed veterinarians to form a professional association.

Senate Bill 333**Effective:** 9-1-04**Senate Author:** Zaffirini**House Sponsor:** Capelo et al.

Senate Bill 333 amends the Occupations Code to require a person seeking a license as a chemical dependency counselor to register with the Texas Commission on Alcohol and Drug Abuse as a counselor intern. The bill lists the information required to be submitted to the commission and authorizes the commission to obtain criminal history record information relating to a counselor intern or an applicant for registration as an intern. Senate Bill 333 changes the eligibility requirements for a chemical dependency counselor license to require a person to hold an associate's degree or a more advanced degree and to require the completion of 135 hours, or 9 semester hours, specific to substance abuse disorders and treatment and 135 hours, or 9 semester hours, specific or related to chemical dependency counseling.

Senate Bill 558

Effective: 9-1-03

Senate Author: Madla et al.

House Sponsor: Hardcastle et al.

Senate Bill 558 amends the Health and Safety Code to authorize the Texas Department of Health to request an immigration visa waiver for a qualified alien physician who agrees to practice in a federally designated medically underserved or health professional shortage area in Texas that has a current shortage of physicians and to charge a fee to cover the costs of administering such a visa waiver program. The bill amends the Occupations Code to delete certain requirements so that an applicant licensed to practice medicine in another state or country may receive an expedited license to practice medicine in Texas. Previously, expediting a license application required an applicant's stated intention to accept employment with an entity affiliated with or participating in a public university-sponsored graduate medical education program, serve on the faculty of the program, and help the program obtain or maintain professional accreditation. The bill requires only that the applicant request and be eligible for an immigration visa waiver and intend to practice medicine in a rural community or federally designated medically underserved or health professional shortage area that has a current shortage of physicians. The bill also repeals an Education Code provision that provided for similar immigration visa waivers for faculty physicians but that limited the number of waivers to not more than 20 per year and limited the area where the physicians could practice to certain counties in South Texas.

Senate Bill 923

Effective: 6-20-03

Senate Author: Zaffirini

House Sponsor: Miller

Senate Bill 923 amends the Health and Safety Code to require convalescent and nursing homes or assisted living facilities that hire an applicant on an emergency temporary or interim basis pending the receipt of a criminal history check to request the check within 24 hours of employment, rather than 72 hours. The bill prohibits persons who have been convicted of burglary from being employed by such facilities.

Agency Functions, Powers, and Duties

House Bill 1483

Effective: See below

House Author: Allen et al.

Senate Sponsor: Nelson

House Bill 1483 amends the Nursing Practice Act to abolish the Board of Vocational Nurse Examiners and transfer all of its functions to the Board of Nurse Examiners. The bill continues the Board of Nurse Examiners until September 1, 2007, and increases the membership of the board from nine to 13 members to include certain nurse members and an additional member who represents the public. The bill exempts certain vocational nurse organizations from liability for the payment of an occupation tax or license fee in certain circumstances, requires the board to prescribe certain programs of study for vocational nurses, authorizes the board to waive certain license requirements related to completion of nursing education by a vocational nurse applicant, requires license holders to participate in a bioterrorism response component as a part of continuing education requirements, and includes provisions related to peer review requirements of certain employers. The bill takes effect September 1, 2003, except that the transfer of functions from the Board of Vocational Nurse Examiners to the Board of Nurse Examiners and all related conforming changes to the law take effect February 1, 2004.

House Bill 2132

Effective: 6-20-03

House Author: Zedler et al.

Senate Sponsor: Madla

House Bill 2132 amends the Occupations Code to permit the executive director or presiding officer of the Texas State Board of Examiners of Psychologists to issue a subpoena in an investigation of a complaint filed with the board. The bill provides procedures for serving and enforcing a subpoena, payment and reimbursement for costs and expenses related to the subpoena, and disclosure of information subpoenaed.

House Bill 2985

Effective: 9-1-03

House Author: Capelo et al.

Senate Sponsor: Nelson

House Bill 2985 amends the Occupations Code to require the Health Professions Council to establish not later than January 1, 2004, an office of patient protection within the council. The office is required to provide to the public information about the complaint procedures and sanctions processes at each health occupation regulatory agency that is a member of the council, to adopt a standard complaint form for each agency, to review and evaluate certain rules proposed by each agency, and to recommend certain changes to the Sunset Advisory Commission. The bill provides for the appointment of an executive committee and a director of the office, enumerates other powers and duties of the office, and includes provisions relating to increasing licensing, registration, and license renewal fees to fund the office.

Senate Bill 104

Effective: 6-10-03

Senate Author: Nelson et al.

House Sponsor: Allen et al.

Senate Bill 104 amends the Occupations Code and Labor Code to provide additional enforcement provisions for the regulation of the practice of medicine by the Texas State Board of Medical Examiners. The bill amends provisions related to the information to be included in the physician profiles maintained by the board and the time within which certain updates to the profiles are to be made. It requires the board to include in its annual financial report information on certain pending complaints and investigations and to provide for an expert panel to assist with complaints and investigations relating to medical competency. The bill provides that priority is to be given to complaints involving sexual misconduct, quality of care, and impaired physician issues and clarifies the procedures for determining medical competency. It changes the registration permit renewal period from one to two years and establishes additional requirements for the issuance of a renewal permit. Senate Bill 104 requires the board to adopt a schedule of disciplinary sanctions, requires an insurer to provide certain information to the board related to certain lawsuits, adds to the list of offenses the conviction of which results in the suspension or revocation of a license, includes provisions related to certain licensing fees and surcharges, and amends the procedures for the temporary suspension or restriction of a license.

Senate Bill 161

Effective: 9-1-03

Senate Author: Nelson

House Sponsor: Capelo et al.

Senate Bill 161 provides for additional enforcement provisions and establishes uniformity in the regulation of certain licensing programs administered by the Texas Department of Health. The bill provides for the emergency suspension of licenses and the imposition of administrative, civil, and criminal penalties against certain license holders. The bill includes provisions relating to midwives, opticians, contact lens dispensing permit holders, athletic trainers, licensed professional counselors, speech language pathologists, hearing instrument fitters and dispensers, massage therapists, marriage and family therapists, social workers, medical physicists, perfusionists, orthotists and prosthetists, dietitians, sex offender treatment providers, medical radiologic technologists, code enforcement officers, and sanitarians.

Senate Bill 263

Effective: See below

Senate Author: Nelson

House Sponsor: Gallego

Senate Bill 263 amends the Occupations Code to continue the State Board of Dental Examiners until September 1, 2015. In addition to including across-the-board sunset provisions, the bill requires the board to enter into an agreement with the Health and Human Services Commission (HHSC) to improve coordination on issues related to the state Medicaid program, to include in the board's annual financial report certain information related to cases handled by the board under Medicaid, and to develop and implement a policy requiring use of appropriate technology to enhance the board's performance. The bill also changes from five years to three years the period for which an out-of-state applicant for a license to practice dentistry is required to have practiced preceding the date of application. Senate Bill 263 repeals the provision that proof of a completed cardiopulmonary resuscitation course required of certain license holders be issued by the American Heart Association or the American Red Cross. The bill amends the law relating to licensing requirements, exemptions, qualifications, renewal, and expiration for faculty members of dental or dental hygiene schools and includes provisions relating to board composition, informal settlement of complaints, cease and desist orders, and X-ray certification.

Provisions of Senate Bill 263 relating to the agreement between the board and HHSC, obtaining a certificate of registration, and certain licensing requirements take effect on various dates. Otherwise, the bill takes effect September 1, 2003.

Senate Bill 842

Effective: 9-1-03

Senate Author: Carona

House Sponsor: Capelo et al.

Senate Bill 842 amends provisions of the Occupations Code relating to the issuance of certain licenses to practice chiropractic by the Texas Board of Chiropractic Examiners. The bill deletes provisions authorizing application for and issuance of provisional licenses and instead requires the board to issue a license to an out-of-state applicant who meets certain conditions relating to education, disciplinary action against the applicant, examination, and years of practice or service as a chiropractic educator. Senate Bill 842 sets a fee for the issuance of a license to an out-of-state applicant.

Pharmacies and Pharmacists

House Bill 3486

Effective: 6-18-03

House Author: Delisi et al.

Senate Sponsor: Deuell

House Bill 3486 amends the Occupations Code to authorize a pharmacist who practices in or serves as a consultant for a health care facility to return to a pharmacy certain unused drugs purchased from the pharmacy. The bill requires the pharmacist for the pharmacy to examine returned drugs to ensure the integrity of the drug product, authorizes the pharmacy to restock and redistribute the returned drugs, and requires the pharmacy to reimburse or credit the state Medicaid program for the returned drugs. The bill requires the Health and Human Services Commission to adopt rules governing the amount of reimbursement or credit for restocking returned drugs and to provide an electronic system for issuing credit for returned drugs, and it limits the liability of pharmacists that return unused drugs. Pharmacies are not required to accept unused drugs before January 1, 2004.

Senate Bill 803

Effective: 9-1-03

Senate Author: Janek

House Sponsor: Capelo et al.

Senate Bill 803 amends the Occupations Code to permit a compounding pharmacist or pharmacy to advertise or promote nonsterile prescription compounding services and specific compounded drug products that are provided, dispensed, or delivered by the pharmacy or pharmacist.

Senate Bill 939

Effective: 9-1-03

Senate Author: Janek et al.

House Sponsor: Capelo et al.

Senate Bill 939 amends the Occupations Code to require a ratio of one pharmacist to every five pharmacy technicians in a Class A pharmacy that dispenses not more than 20 different prescription drugs and that does not produce intravenous or intramuscular drugs on-site.

Senate Bill 1315

Effective: 9-1-03

Senate Author: Van de Putte

House Sponsor: Capelo

Senate Bill 1315 amends the Occupations Code to authorize the Texas State Board of Pharmacy to establish additional classifications of pharmacy licenses.

Physicians, Dentists, and Other Health Care Professionals

House Bill 1095

Effective: 5-20-03

House Author: Capelo

Senate Sponsor: Nelson

House Bill 1095 amends the Occupations Code to authorize physicians to delegate to advanced practice nurses and physician assistants the carrying out or signing of prescription drug orders for certain dangerous drugs and certain controlled substances. A physician is permitted to delegate the carrying out or signing of a prescription only for certain controlled substances for a period not to exceed 30 days, and, with regard to a patient who is younger than two years of age or to a refill, after consultation with the physician as noted in the patient's chart. House Bill 1095 amends the Insurance Code to include definitions of "advanced practice nurse" and "physician assistant" and to provide that the commissioner of insurance shall include those professions on standardized forms for the verification of credentials.

House Bill 2131

Effective: See below

House Author: Zedler

Senate Sponsor: Deuell

House Bill 2131 amends the Occupations Code to authorize most registered nurses who meet certain experience requirements before September 1, 2003, to directly assist a physician, podiatrist, or dentist in performing surgery. The bill specifies what procedures the nurse can and cannot perform, prohibits the nurse from using titles and abbreviations that imply the nurse is qualified as a nurse first assistant, and prohibits separate billing to a patient or third-party insurer for the services performed by the nurse. The bill takes effect September 1, 2003, except for a provision limiting the authorization provided by the bill to surgery performed in a hospital with 100 or fewer beds, which takes effect January 1, 2007.

House Bill 2208

Effective: 9-1-03

House Author: Allen

Senate Sponsor: Nelson

House Bill 2208 amends the Occupations Code to authorize the Board of Nurse Examiners to request and receive criminal history record information from the Federal Bureau of Investigation (FBI) for holders of or applicants for a registered nurse license. The bill requires

applicants for an original license and for the renewal of an unexpired license to submit a complete set of fingerprints for the purpose of obtaining information from the Department of Public Safety and the FBI. The bill authorizes the board to deny a license or to refuse a renewal to an applicant who does not comply with the requirement to submit fingerprints and further provides that renewal of a license is conditioned on the board obtaining a person's criminal history record information. The board is also authorized to develop a process for requiring students enrolled in certain nursing programs to submit fingerprints. Criminal history record information is privileged and confidential and an applicant or license holder is entitled to a hearing if an application for a license is denied or if a license is suspended, revoked, or not renewed based on the information obtained.

House Bill 3126

Effective: 6-20-03

House Author: Truitt et al.

Senate Sponsor: Janek

House Bill 3126 amends provisions of the Education Code relating to certain professional nursing education programs and student grants. The bill requires the Texas Higher Education Coordinating Board to adopt procedures providing for the timely distribution and proper expenditure of certain funds appropriated to encourage enrollment in professional nursing programs. The bill amends the law to require certain grants to be awarded to nursing programs preparing students for initial licensure as registered nurses or preparing qualified faculty members with a master's or doctoral degree, and it authorizes the coordinating board to award additional health care profession student grants and give preference to students from underrepresented groups. House Bill 3126 amends the Health and Safety Code to change the composition of the statewide health coordinating council to include a registered nurse and to require that the representative from a junior or community college be from an institution with a nursing program. The bill requires the council to form a nursing advisory committee; to establish a nursing resource section within the comprehensive health professions resource center; to the extent feasible, to use a researcher with a doctorate in nursing to collect, analyze, and disseminate data relating to the supply of and demand for nursing personnel; and to publish reports relating to the information collected. The bill amends the Occupations Code to authorize a surcharge to certain fees established by the Board of Nurse Examiners and the Board of Vocational Nurse Examiners to implement the nursing resource section. The bill also repeals the Nurse Licensure Compact.

House Bill 3193

Effective: 6-20-03

House Author: Uresti

Senate Sponsor: Madla

House Bill 3193 amends the Occupations Code to authorize a licensed dentist to delegate the application of a pit and fissure sealant to a dental assistant if the dentist practices in an area determined by the Texas Department of Health to be underserved.

House Bill 3439

Effective: 9-1-03

House Author: Rose

Senate Sponsor: Carona

House Bill 3439 amends provisions of the Civil Practice and Remedies Code relating to limiting the liability of certain health care practitioners. A health care practitioner who conducts free physical examinations or medical screenings for students who participate in school-sponsored extracurricular or sporting activities is immune from civil liability for any act or omission resulting in the death or injury to the student under certain conditions. In order to receive the immunity protection, the bill requires the practitioner to have liability insurance coverage in effect for certain amounts to cover any act or omission. The bill does not limit the

liability of a practitioner for any act or omission that was intentional, wilful, or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others. The bill does not affect the liability limits or immunity of a school district or the liability limits of an insurer or insurance plan under certain circumstances and does not apply to a governmental unit or its employees.

Senate Bill 144

Effective: 9-1-03

Senate Author: Averitt

House Sponsor: Capelo et al.

Senate Bill 144 amends the Occupations Code to require the Texas State Board of Medical Examiners, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the Board of Nurse Examiners, the Board of Vocational Nurse Examiners, the Texas Optometry Board, and the Texas State Board of Pharmacy to provide information to health care practitioners regarding the use and abuse of prescription pain medication and the services provided by poison control centers.

Senate Bill 211

Effective: 9-1-03

Senate Author: Carona

House Sponsor: Laubenberg et al.

Senate Bill 211 amends provisions of the Occupations Code relating to the investigation and licensing of chiropractors, optometrists, and therapeutic optometrists. The bill provides for the confidentiality of investigation files of the Texas Board of Chiropractic Examiners and the Texas Optometry Board and sets out provisions for the release of information to other regulatory or law enforcement agencies and to affected license holders. It provides for the registration, rather than the licensing and regulation, of chiropractic facilities, sets out related procedures, and provides that a licensed chiropractor is subject to disciplinary action for practicing in a facility that the chiropractor knows is not registered. The bill authorizes the Texas Board of Chiropractic Examiners to renew without reexamination the expired Texas license of a person who has practiced chiropractic in a foreign country for two years preceding an application for renewal and who is currently licensed in good standing in that country and repeals a provision specifying college courses required by an applicant for a chiropractor's license.

Senate Bill 718

Effective: 6-20-03

Senate Author: Madla

House Sponsor: McReynolds

Senate Bill 718 amends provisions of the Occupations Code relating to the regulation of registered nurses and licensed vocational nurses. The bill includes provisions relating to restricting the use of certain nursing titles, peer review determination requirements, evaluation guidelines for the nurse peer review committee, and determining the extent to which a deficiency in care by a registered nurse was the result of factors beyond the nurse's control. It adds a provision specifying that a registered nurse may report situations of substandard care to the nurse's employer or another entity at which the nurse is authorized to practice. The bill authorizes the Board of Nurse Examiners to approve pilot programs for innovative applications in the practice and regulation of nursing and requires the board before January 1, 2004, to solicit proposals for pilot programs to evaluate elements of certain nurse reporting systems. Senate Bill 718 authorizes the board to recognize, prepare, or implement continuing competency programs, rather than continuing education programs, to allow nurses to demonstrate competency through various methods. The bill exempts certain minor incidents from mandatory reporting requirements, lists information required to be contained on insignia identifying a person as a registered nurse, adds licensed vocational nurses to standards of conduct requirements related

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to a nurse's duty to a patient, and prohibits reporting of certain conduct by a member of a peer review committee. The bill amends the Health and Safety Code to require the governing body of a hospital to adopt policies and procedures related to workplace safety for nurses not later than January 1, 2004.

Senate Bill 769

Effective: 9-1-03

Senate Author: Carona

House Sponsor: Capelo

Senate Bill 769 amends the Occupations Code to provide that a surgical assistant license expires on the second anniversary of the date the license is issued and to authorize a licensed surgical assistant to directly bill a patient or third-party payor for services provided.

Senate Bill 857

Effective: 9-1-03

Senate Author: Madla

House Sponsor: Wohlgemuth

Senate Bill 857 amends the Insurance Code to require a managed care plan that arranges for medical eye care services or procedures to allow a therapeutic optometrist who is listed as a participating provider for routine eye examinations to also be listed on the plan's medical panel as a provider for patients seeking diagnosis or treatment of a medical disease, disorder, or condition to the extent permitted by the therapeutic optometrist's license. A therapeutic optometrist included on a managed care plan's medical panel is required to abide by certain conditions, including the plan's credentialing standards, proof of license in good standing, compliance with the Controlled Substances Registration Program, and other terms. The bill authorizes a managed care plan to charge reasonable credentialing costs and a one-time administrative fee associated with inclusion on the medical panel.

Senate Bill 1356

Effective: 6-20-03

Senate Author: Nelson

House Sponsor: Capelo et al.

Senate Bill 1356 changes the date by which the director of the Department of Public Safety is required to adopt rules relating to a universal provider numbering system that is expected to be adopted by the U.S. Department of Health and Human Services and provides that the rules take effect upon adoption.

Senate Bill 1549

Effective: 9-1-03

Senate Author: Nelson

House Sponsor: Naishtat

Senate Bill 1549 amends the Health and Safety Code to require that the minimum standards adopted by the Texas Board of Human Services require nursing institutions, using an existing training program, to provide at least one hour of training each year in caring for people with dementia to registered nurses, licensed vocational nurses, nurse aides, and nursing assistants. It specifies that the intent of the legislature is that the rules will not cause the nursing institutions to incur additional costs.

Senate Bill 1571

Effective: 9-1-03

Senate Author: Carona

House Sponsor: Capelo

Senate Bill 1571 amends the Occupations Code to expand the exemptions from certain dental regulations to include manufacturers of materials or component parts used to fabricate certain dental prosthetic appliances. The bill also eliminates the requirement that a dental laboratory's application for registration with the State Board of Dental Examiners include the name and address of each dental technician employed by the laboratory and that prescriptions or work orders include the patient's address.

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

HB 23 (3rd C.S.) - Appropriations

HB 1420 - Higher Education

HB 1592 - Criminal Justice

SB 401 - Emergency Response

SB 529 - Health

SB 957 - Human Services

SB 1419 - Health

Higher Education

This chapter includes legislation affecting the governance of the state's public colleges and universities in general; the mission, operation, and funding of specific institutions; and the admission and continued enrollment of students at such institutions. The chapter also includes legislation affecting tuition, fees, student financial aid, the issuance of tuition revenue bonds, 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 256**Effective:** 6-18-03**House Author:** Hochberg et al.**Senate Sponsor:** Shapiro

House Bill 256 amends the Education Code to require a public college or university to excuse a student from attending classes or other required activities, including examinations, for the observance of a religious holy day, and it extends the cause for an excused absence to include travel for that purpose. The bill prohibits penalizing a student for an excused absence, and it deletes a requirement for the student to have notified each instructor not later than the 15th day after the start of the semester that the student would be absent for a religious holy day as a condition for being allowed to take an examination or complete an assignment from which the student has been excused.

House Bill 944**Effective:** 9-1-03**House Author:** King et al.**Senate Sponsor:** Estes

House Bill 944 amends the Education Code to require a public college or university to treat an applicant for undergraduate admission who presents evidence of having successfully completed a nontraditional secondary education according to the same general standards as other applicants who are public high school graduates. The bill defines "nontraditional secondary education" as a course of study at the high school level in a nonaccredited private school setting, including a home school. The bill prohibits a public college or university from requiring such applicants to (1) provide evidence of having obtained a general educational development certificate, high school equivalency certificate, or other similar credentials or (2) take an examination or meet any other entrance requirement not generally applicable to public high school graduates.

House Bill 1890**Effective:** 6-20-03**House Author:** Morrison**Senate Sponsor:** Williams

House Bill 1890 amends the Education Code to exempt nine hours of semester credit earned exclusively by examination from counting against the maximum total course credit hours that a student may attempt in order to be eligible, upon graduation, for a partial rebate of the undergraduate tuition paid.

Senate Bill 286**Effective:** 9-1-03**Senate Author:** Shapleigh**House Sponsor:** Morrison et al.

Senate Bill 286 amends the Education Code to continue the Texas Higher Education Coordinating Board until September 1, 2015, and to include or update across-the-board sunset provisions. The bill reduces the board from 18 to nine members.

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The bill requires a periodic rather than an annual review and revision of the five-year master plan for higher education and establishes review requirements; requires the board to provide for monitoring of the plan's implementation and identification of strategies to achieve the plan's goals; requires the board to prepare a biennial rather than an annual report to the legislature, including an assessment of the state's progress in meeting the goals and the degree to which the current higher education funding system supports the plan's implementation; and requires the board to provide in its funding policies incentives for supporting the master plan. It also requires the board to study and, not later than November 1, 2004, make recommendations for reducing administrative burdens and increasing participation in student financial aid programs to maximize the value of those programs to the state.

The bill replaces the Joint Advisory Council with the P-16 Council, composed of the commissioners of education and higher education and the executive directors of the Texas Workforce Commission and the State Board for Educator Certification; the P-16 Council retains the same charges as its predecessor with the added duty to study and make recommendations regarding the alignment of secondary and postsecondary education curricula and testing.

The bill requires the board to collect and make publicly available information regarding certain municipally created higher education authorities or nonprofit corporations and to administer a program to publish on the Internet performance data collected from public colleges and universities relating to the qualifications of their respective incoming freshman classes and to the institutions' efficiency in serving students as indicated on several specific performance measures.

The bill requires the board to approve an existing common course numbering system for lower-division courses to facilitate transfer of course credit among public colleges and universities, requires each institution to use the system unless exempted by the board for good cause, and requires the board to cooperate with those institutions in any additional system development or alteration. The bill revises eligibility criteria for assistance under several student loan repayment programs by requiring a person to have served for at least one year in the specified occupation or capacity and to be currently employed as such, and it deletes previous requirements under those programs for a service agreement that specified the terms of the assistance but provides for the provisions' continued effect until all prior agreements have been fulfilled. It also restructures the Teach for Texas financial aid program from a grant program to a loan repayment assistance program. The bill revises the deadline for progress reports by certain institutions receiving funds under the board's advanced research and advanced technology programs, revises the reporting deadline for the respective board-appointed program review committees, and provides for the confidentiality of research project-related information submitted to the board unless it is made public by board rule.

The bill replaces the Texas Academic Skills Program with the Success Initiative for student testing and development education to address identified skill deficiencies. The bill requires public colleges and universities to test each nonexempt entering undergraduate student to determine the student's readiness to undertake freshman-level course work, and it requires the board to designate one or more diagnostic tests for this purpose and, if practical and feasible, not later than September 1, 2005, to designate the public high school exit-level test as the primary test. It requires each institution to establish a program to advise students regarding preparation and development of the necessary skills for completing college-level work and to work individually with students who fail to meet institutional standards on the test to prepare them for freshman-level course work; it also allows the board to develop supplemental funding

formulas for developmental courses. The bill requires each institution to report annually to the board on its Success Initiative's effectiveness, and it requires the board to evaluate the initiative's effectiveness on a statewide basis.

The bill requires the board to distribute money to colleges and universities participating in the Texas Opportunity Plan Fund through the Texas Guaranteed Student Loan Corporation electronic funds transfer system, unless an institution requests another means of distributing funds. The bill restricts the board's issuance of new loans under the Federal Family Education Loan Program to borrowers who have been or will be issued a student loan under another program administered by the board, but it allows the board to service any such federally insured loans that remain outstanding. It also requires the board to establish a doctoral incentive loan repayment program for members of groups that are underrepresented in faculty and administrative positions at public and independent colleges and universities to increase their numbers on the faculty and administrations of such institutions. Program funding is to be provided through a \$2 per semester credit hour set-aside from the tuition charged for doctoral degree programs other than a law or health professional degree program.

The bill requires the board to establish a pilot project at three public junior colleges to study the feasibility of allowing junior colleges to offer bachelor's degree programs in applied science and applied technology, and it requires the board to prepare a progress report not later than January 1, 2009, and a final report with its findings and recommendations not later than January 1, 2011.

The bill requires the governing board of a junior college district in a county or counties with a substantial and growing Mexican American population to evaluate the demand for and feasibility of establishing a Mexican American studies program or other courses in that field and allows that board to establish the program or courses with coordinating board approval if desirable or feasible.

Senate Bill 315
Effective: Vetoed

Senate Author: Hinojosa
House Sponsor: Luna

Senate Bill 315 amends the Education Code to allow a junior college district that encompasses all or part of a coastal municipality of 250,000 or more residents and that has a service area that includes four or more whole counties to annex territory that is adjacent to the district and located entirely within the district's service area if the district receives a petition requesting the annexation from a specified number of voters residing in the territory to be annexed and the annexation is approved by a majority of the votes cast in an election ordered by the district's governing body in the area comprising the district and the territory to be annexed. The bill sets forth requirements for a valid petition, the order calling for an election, the ballot language, and, if the district's governing body is elected from single-member districts, the assignment of the annexed territory to one or more of those districts. If the proposal is not approved, the bill prohibits calling another election on the matter before the first anniversary of the earlier election. The bill also prohibits the annexation of territory that lies within the boundaries of another junior college district.

Reason given for veto: "Senate Bill No. 315 would allow one junior college to alter current state requirements for annexing counties into its taxing district."

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Senate Bill 437

Effective: 5-20-03

Senate Bill 437 amends the Education Code to include the Cypress-Fairbanks Independent School District territory within the North Harris Montgomery Community College District service area.

Senate Author: Lindsay

House Sponsor: Callegari

Senate Bill 814

Effective: 5-16-03

Senate Bill 814 amends the Education Code to exempt new categories of military personnel from testing requirements of the Texas Academic Skills Program that otherwise apply to undergraduate students who enroll at a public college or university. The bill exempts a student who is serving on active duty as a member of the Texas National Guard and exempts a student who, on or after August 1, 1990, was honorably discharged, retired, or released from active duty with the Texas National Guard, active duty with the armed forces of the United States, or service as a member of a reserve component of those armed forces. It also exempts a student who is currently serving, and has served for at least three years preceding the higher education enrollment, as a reserve component member.

Senate Author: Averitt

House Sponsor: Haggerty

Senate Bill 1128

Effective: 6-20-03

Senate Bill 1128 amends the Education Code to require the Joint Admissions Medical Program Council to establish procedures for the selection of an appropriate number of eligible students from the annual pool of applicants to serve as program alternates until the start of their senior year, with the alternates ranked according to their qualifications. The bill requires the council to select the highest-ranking alternate for admission to the program whenever a previously admitted student terminates participation in the program. The bill also requires the council to establish procedures for matching alternates to any required undergraduate mentoring program, to adopt criteria for continuing eligibility as an alternate, and to adopt rules for admission to the program or selection as an alternate of an otherwise eligible student who, for good cause, has not completed the required number of semester credit hours.

Senate Author: Bivins et al.

House Sponsor: F. Brown

Senate Bill 1343

Effective: 9-1-03

Senate Bill 1343 amends Education Code provisions relating to the regulation and operation of postsecondary institutions formerly known as proprietary schools, changing all references to such institutions to career schools and colleges. The bill clarifies criteria and procedures for applying and granting exemptions for institutions otherwise subject to regulation by the Texas Workforce Commission, and it provides for a hearing requested by a person who has been assessed an administrative penalty, to be conducted by the commission or by a hearing officer appointed by the commission rather than by an administrative law judge of the State Office of Administrative Hearings. The commission's order in a hearing is subject to judicial review and may be appealed to a district court in Travis County.

Senate Author: Jackson

House Sponsor: Morrison

The bill renames the Texas Workforce Commission depository bonds guaranty trust account as the career or college tuition trust account, limits the account balance to an amount not to exceed \$1 million, provides for the collection of an annual fee from each career school or college, and establishes requirements for the expenditure or disposition of funds in the account.

The bill also defines “distance education” to take into consideration the variety of communication technologies available to deliver synchronous or asynchronous instruction to a student who is separated from the instructor by physical distance.

Senate Bill 1588

Effective: 9-1-03

Senate Author: Whitmire

House Sponsor: T. Smith

Senate Bill 1588 amends the Property Code to exempt assets held in or benefits expected from a higher education savings plan from being attached, executed, or seized to satisfy debts. The bill specifies that the plans covered by these provisions include a Texas prepaid higher education tuition program, a Texas higher education savings plan, and a qualified tuition program of any state that meets requirements for such programs as set out in the Internal Revenue Code.

Senate Bill 1652

Effective: See below

Senate Author: Shapiro et al.

House Sponsor: Morrison

Senate Bill 1652 amends various statutes relating to institutions of higher education, including their administration, operation, governance, and financing.

The bill creates an interim committee to study higher education organization, operations, and funding, sets forth specific issues to be addressed by the committee’s investigation and recommendations, and requires the committee to submit a report on its findings and recommendations to the governor and legislature not later than November 1, 2004. The bill clarifies a tax exemption of property owned by higher education institutions that is used for both public and nonpublic purposes. It also exempts major consulting services contracts for higher education institutions other than public junior colleges from provisions requiring a university to obtain a finding of fact from the governor’s budget and planning office justifying the consulting services.

The bill sets forth the limited authority of municipally created higher education authorities and nonprofit instrumentalities to acquire, own, lease, and operate educational or housing facilities and to issue and execute revenue bonds or other obligations to finance their own or another entity’s activities regarding such facilities.

The bill extends a college tuition and fee exemption for students in foster or other residential care to adopted students who formerly were in such care, and it allows a public college or university to charge an additional transaction fee to process any tuition, fee, or other charge paid by means of an electronic funds transfer or credit card and to include a discount, convenience, or service charge or a service charge for a transaction dishonored or refused for insufficient funds.

The bill allows a public college or university to enter into contracts for legal services to protect intellectual property rights arising from a center for technology development and transfer and allows The University of Texas System board of regents to enter into an agreement to manage a national laboratory engaged in science and technology development, management, and transfer.

The bill allows higher education institutions to hire retired school teachers and faculty members after 30 days rather than one year of their retirement, allows them to use money appropriated for an across-the-board employee pay raise to give merit raises instead, and, effective January 1, 2004, allows institutions other than public junior colleges to establish deferred compensation plans for their employees. The bill increases from three to 10 years the

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service requirement for a person, other than a current employee or retiree, to become eligible as a retiree for coverage under the State University Employees Uniform Insurance Benefits Act, and, effective September 1, 2003, it extends coverage under that act to a postdoctoral fellow with an institution of either The University of Texas System or The Texas A&M University System. The bill also extends workers' compensation insurance coverage to out-of-state employees of those two systems.

The bill creates the Information Technology Council for Higher Education, and it requires the Department of Information Resources to consult with the council and prepare an impact analysis before adopting a rule that would apply to colleges and universities. The bill sunsets each rule currently applicable to colleges and universities on September 1, 2004, unless it is readopted by the department in a form expressly applicable to those institutions.

The bill allows the Board for Lease of University Lands to hold an open or closed meeting by telephone conference call if physically convening a quorum is difficult or impossible.

The bill protects from public disclosure the name or other identifying information relating to a private donor to a higher education institution.

The bill allows The Texas A&M University System board of regents to lease mineral interests under its control and requires the board to offer such leases at public auction, by sealed bid, by negotiated agreement, or through any other means the board considers in the system's best interest. Effective September 1, 2003, the bill establishes venue for a suit filed against the board or a board member in the member's official capacity in Brazos County; venue for a suit filed against the system, any component institution, or any system officer or employee is in the county in which the primary office of the chief executive officer of the system or component, as applicable, is located.

The bill exempts higher education institutions from reporting requirements relating to nonresident bidders awarded contracts, spending on recycled, remanufactured, or environmentally sensitive commodities or services, and the compilation of construction and maintenance information.

The bill allows The Texas A&M University System board of regents to charge students at Prairie View A&M University an intercollegiate athletics fee of up to \$10 per semester credit hour, with the initial fee and any fee increase subject to student body approval.

The bill limits general revenue funding to the University of North Texas at Dallas to the amount of its 2003 expenditures, with some exceptions, until its enrollment reaches 2,500 full-time equivalent students, at which time it also becomes eligible to receive the small school supplement in the General Academic Instruction and Operations Formula.

The bill also includes provisions relating to eminent domain, physician's liens, delinquent student loans, comptroller's payroll requirements, historically underutilized businesses, and posting of intellectual property policies.

Except as otherwise provided, Senate Bill 1652 takes effect June 21, 2003.

Revenue Bonds and Other Higher Education Funds

House Bill 1887
Effective: 6-18-03

House Author: Morrison et al.
Senate Sponsor: Ratliff

The Education Code allows a public college or university or medical or dental school to retain and deposit or invest funds received from a governmental or private entity to pay overhead expenses of research. Previously, the code also allowed the legislature to deduct up

to 50 percent of that research overhead funding from an institution's general revenue appropriation. House Bill 1887 amends the code to prohibit accounting for those funds in an appropriations act in such a way as to reduce the general revenue funds to be appropriated for that institution. The bill also applies to certain requirements for the expenditure of those retained funds that previously applied only to a portion of the funds that was not used to reduce an institution's general revenue appropriations. The provisions of the bill were contingent on the enactment of legislation providing for tuition deregulation, which passed.

House Bill 1941

Effective: 6-20-03

House Author: Woolley et al.

Senate Sponsor: Bivins

House Bill 1941 amends the Education Code to authorize the boards of regents of The University of Texas System, The Texas A&M University System, and the University of Houston System to issue additional revenue bonds not to exceed the amounts specified in the various provisions to finance specific capital improvements or acquisitions at component institutions. The bill also allows The University of Texas System board of regents to use previously authorized bond issues to finance capital improvements related to or expanding those identified in the original authorization.

House Bill 2522

Effective: 6-22-03

House Author: Krusee et al.

Senate Sponsor: Ogden

House Bill 2522 amends the Education Code to authorize the Texas State University System board of regents to issue revenue bonds in the aggregate principal amount not to exceed \$27 million to finance the acquisition of, the construction of, and capital improvements for a multi-institutional center in Williamson County for Southwest Texas State University.

House Bill 3526

Effective: 9-1-05

House Author: Hamric et al.

Senate Sponsor: Duncan

House Bill 3526 amends the Education Code to establish the research development fund as a fund outside the state treasury in the custody of and administered by the comptroller to promote increased research capacity at public colleges and universities other than The University of Texas at Austin, Texas A&M University, or Prairie View A&M University. The fund is to consist of a formula-derived portion of the first \$50 million that comes to the state unencumbered each fiscal year, legislative appropriations or transfers to the fund's credit, and all interest, dividends, and other income from the fund's investment. The bill provides for the annual distribution of the fund's assets to eligible institutions, apportioned on the basis of each institution's average annual expenditures of restricted research funds for the three preceding state fiscal years, and includes a temporary provision applicable to the fund's apportionment in the 2006-2007 fiscal biennium to ensure a certain level of support for institutions currently receiving support from the university research fund.

The bill requires the Texas Higher Education Coordinating Board to prescribe standards and accounting methods for determining each institution's annual expenditure of restricted research funds and to provide the comptroller with information regarding those expenditures as necessary to determine the apportionment of the research development fund. The bill abolishes the Texas excellence fund and the university research fund, whose respective functions are to be assumed by the research development fund.

Senate Bill 1297

Effective: 6-20-03

Senate Author: Ogden

House Sponsor: Krusee et al.

Senate Bill 1297 amends the Education Code to authorize the Texas State University System board of regents to issue additional revenue bonds in the aggregate principal amount not to exceed \$27 million to finance the acquisition and construction of and capital improvements for a multi-institutional center in Williamson County for Southwest Texas State University.

Specific Institutions

House Bill 85

Effective: 9-1-03

House Author: McClendon et al.

Senate Sponsor: R. West

House Bill 85 amends the Education Code to establish the Prairie View A&M Undergraduate Medical Academy under the control and management of The Texas A&M University System board of regents for the purpose of preparing students at Prairie View A&M University for medical school. The bill establishes student eligibility requirements and prescribes specific program elements the academy must provide to prepare future medical school applicants. The bill requires the academy to consult with Texas medical schools to ensure its curriculum and practices are consistent with current medical school requirements, enter into cooperative agreements with those medical schools to help achieve academy goals, and incorporate current medical school educational practices into its curriculum. The bill also requires the university to enhance its facilities as necessary to achieve the academy's purposes.

House Bill 1566

Effective: 9-1-03

House Author: Telford

Senate Sponsor: Ratliff

House Bill 1566 amends the Education Code to remove Texas A&M University—Texarkana's designation as an upper-level institution and to remove a prohibition against its offering of freshman or sophomore programs. The bill allows the university to offer lower-division courses but does not require it to do so in any year for which the legislature does not appropriate money for that purpose. The bill allows the university to offer lower-division courses on the campus of Texarkana College or in a permanent building on land acquired by the university for a permanent campus site, but it prohibits the university from offering such courses on the Texarkana College campus without the college's prior approval.

House Bill 3552

Effective: 6-20-03

House Author: Gallego et al.

Senate Sponsor: Lucio

House Bill 3552 amends the Education Code to name the pharmacy school at Texas A&M University—Kingsville the Irma Rangel School of Pharmacy and to require that "Irma Rangel" be made part of the official name of the primary building in which the school must operate.

Senate Bill 800

Effective: 6-20-03

Senate Author: Madla et al.

House Sponsor: Corte et al.

Senate Bill 800 amends the Education Code to establish Texas A&M University—San Antonio and Texas A&M University—Central Texas as component institutions of The Texas A&M University System under the management and control of the system's board of regents. In each case, however, the authority to operate as a general academic teaching institution is deferred until the Texas Higher Education Coordinating Board certifies that enrollment at the system center that currently serves the same community has reached the equivalent of 2,500 full-time students.

The bill also authorizes The Texas A&M University System board of regents to issue revenue bonds to finance The Texas A&M University System Health Science Center's development of a biosciences research center in the City of Temple. The bill provides that, if the Temple Health and Bioscience Economic Development District is created, the district is responsible for the debt service on the bonds issued to finance any related facility in the district.

Senate Bill 1127**Effective:** 9-1-03**Senate Author:** Van de Putte**House Sponsor:** Mercer

Senate Bill 1127 amends the Education Code to require the San Antonio Life Sciences Institute to establish a coaching education program to be administered by The University of Texas Sports Sciences Institute. The bill sets out specific issues that the program is required to address.

Senate Bill 1245**Effective:** 9-1-03**Senate Author:** Armbrister et al.**House Sponsor:** Kolkhorst

Senate Bill 1245 amends the Education and Government codes to transfer the Crime Victims' Institute from the office of the attorney general to Sam Houston State University and to place it under the supervision and direction of the president of the university. The bill also transfers the authority to appoint members of the Crime Victims' Institute Advisory Council from the attorney general to the governor, provides for the terms of all current council members to expire on the bill's effective date, and requires the governor to appoint new members as soon as practicable thereafter.

Senate Bill 1642**Effective:** 6-20-03**Senate Author:** Staples et al.**House Sponsor:** Merritt et al.

Senate Bill 1642 amends the Education Code to allow The University of Texas System board of regents to establish the East Texas Center for Rural Geriatric Studies at The University of Texas Health Science Center at Tyler to research issues in geriatrics, gerontology, and long-term care for the elderly, with an emphasis on the elderly in rural and nonmetropolitan areas, and to provide related resources in East Texas and other rural areas for training and research for health care professionals, caregivers and advocates, and employees of agencies that provide services for the elderly. The bill makes the center's establishment subject to the availability of federal funding, gifts, grants, or other funding for that purpose and allows the center to enter into an agreement with a public or private entity to operate the center or participate in its operation.

Senate Bill 1942**Effective:** 9-1-03**Senate Author:** Wentworth**House Sponsor:** Luna et al.

Senate Bill 1942 amends the Education Code to change the name of Southwest Texas State University to Texas State University—San Marcos.

Student Financial Aid**House Bill 1420****Effective:** 6-18-03**House Author:** Hardcastle et al.**Senate Sponsor:** Madla

House Bill 1420 amends the Education Code to require the governing board of each public medical school to set aside two percent of the tuition charged each student registered in a medical branch, school, or college to fund the Physician Education Loan Repayment Program. The bill amends the loan repayment program's purpose to target assistance to physicians

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serving either in a designated state agency, in an economically depressed area of the state, or in a medically underserved area or health professional shortage area that has a current physician shortage.

The bill also requires the comptroller to prepare an annual report for the Texas Higher Education Coordinating Board, the governor, the lieutenant governor, and the speaker of the house of representatives detailing the number of medical school students registered in the preceding fiscal year, the total amount of tuition collected by each school, the amount set aside and transferred to the loan repayment program, and the total amount available for that purpose.

House Bill 1882

Effective: 9-1-03

House Author: Deshotel et al.

Senate Sponsor: Lucio

House Bill 1882 amends Education Code provisions relating to the Early High School Graduation Scholarship program to increase the amount of assistance available to eligible students and to revise the eligibility requirements. The bill extends the time required to graduate from a Texas public high school from 36 to 41 consecutive months or, if the person graduates with at least 30 hours of college credit, 45 consecutive months, but it also requires a student to complete the recommended or advanced high school program to be eligible. The bill waives the latter requirement and a provision that terminates a student's eligibility after six years for certain good causes.

The bill allows the state credit provided by the program to be applied to both tuition and mandatory fees, and it provides a credit of \$2,000 if the person graduates in 36 consecutive months or less and an additional \$1,000 if the person graduates with at least 15 hours of college credit, a credit of \$500 if the person graduates in more than 36 but not more than 41 consecutive months and an additional \$1,000 if the person graduates with at least 30 hours of college credit, and a \$1,000 credit if the person graduates in more than 41 but not more than 45 consecutive months with at least 30 hours of college credit. The bill also provides one-time credits of varying amounts to school districts for each graduate of a district high school who uses any part of the individual credit earned.

Senate Bill 4

Effective: 6-20-03

Senate Author: Zaffirini et al.

House Sponsor: Morrison

Senate Bill 4 amends the Education Code to establish the Texas B-On-time loan program to provide no-interest loans to eligible students to attend any Texas public, private, or independent college or university, junior college, or technical institute. The bill requires the Texas Higher Education Coordinating Board to administer the program, determine repayment and other loan terms, and adopt implementation rules. The bill establishes criteria for a student's initial and continuing loan eligibility, and it sets the loan amount as an amount determined by the board to be the average statewide amount of tuition and required fees charged a full-time resident undergraduate student at comparable institutions.

The bill requires the board to publish, not later than January 31 of each year, the loan amount for each type of institution for the following academic year. If available funds in the Texas B-On-time student loan account in any academic year are insufficient to provide loans to all eligible students in the amount specified, the board must allocate the amount available among eligible institutions in proportion to their respective full-time equivalent student enrollments, and those institutions must award loans to eligible students selected according to financial need.

The bill allows a student to defer repayment as long as the student remains continuously enrolled in an undergraduate degree or certificate program, and it requires the loan's forgiveness if the student graduates with a cumulative grade point average of at least 3.0 on a 4.0 scale or its equivalent within a specified number of years and with no more than a specified number of semester credit hours, depending on the degree or certificate program completed.

The bill establishes the Texas Be-On-time student loan account consisting of gifts and grants, legislative appropriations, tuition set aside, and other money required by law to be deposited in the account. The bill requires each eligible institution to set aside for deposit in the account five percent of the amount of tuition above the tuition charged in the 2002-2003 academic year. The board also raises the cap on the amount of general obligation bonds the board may issue in a state fiscal year by \$25 million, and it allows the board to issue bonds, the proceeds of which also are to be deposited in that same account, and to establish a related interest and sinking fund for program purposes.

The bill also requires the board to develop a "Freshman SUCCESS Program" as a pilot program to focus on retaining high-risk students who are first generation in college, low-income, or educationally underprepared by providing proactive intervention to meet the demands of college and addressing those students' particular needs and cultural barriers that may affect their success in college. The bill requires the board to identify and evaluate potential benefits of such a program, evaluate and make recommendations concerning legal, administrative, or practical problems, and indicate the impact on the goals in the state master plan for higher education. The bill requires the board to complete the study and report its results to the legislature not later than December 1, 2004.

Senate Bill 968

Effective: 6-20-03

Senate Author: Shapleigh

House Sponsor: Naishtat

Senate Bill 968 amends the Education Code to require the Texas Higher Education Coordinating Board to establish and administer a program to provide student financial aid offices at public junior colleges with information and other assistance to enable them to provide students with information and referrals regarding the availability of and services offered by individual development account programs.

Senate Bill 1007

Effective: 6-20-03

Senate Author: R. West

House Sponsor: Giddings et al.

Senate Bill 1007 amends the Education Code to allow a public college or university to award a TEXAS grant to an otherwise eligible student who has not yet completed high school or whose final high school transcript is not yet available if the transcript that is available indicates that, at the time it was prepared, the student was on schedule to graduate and to complete the recommended or advanced high school curriculum, or its equivalent, in time to be eligible for the academic year for which the grant is being awarded. The bill allows the Texas Higher Education Coordinating Board or the college or university awarding the grant to require the student to forgo a grant or repay the amount awarded if the student subsequently fails to complete that curriculum. A student may later become eligible for an initial grant or a subsequent grant by satisfying the alternative initial eligibility requirement for an associate degree plus any other applicable requirement for such grant.

Senate Bill 1007 also requires the coordinating board's rules for continued eligibility in the event of a hardship that may affect a student's academic performance to allow a student to continue receiving a grant if the student's grade point or course completion rate falls below the

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satisfactory academic progress requirement. It also prohibits any grant reduction on the basis of any gift aid for which the student is eligible unless the combined gift and grant total exceeds the student's financial need, and it limits the total amount of grants that a student may receive per academic year to the total amount of tuition and fees charged for the academic periods covered by the grants.

Senate Bill 1876

Effective: 9-1-03

Senate Author: Ratliff

House Sponsor: Coleman

Senate Bill 1876 amends the Education Code to revise the student eligibility criteria for financial assistance under the Texas Department of Transportation's conditional grant program so that the program targets economically disadvantaged Texas residents who agree to work for the department as engineers or in another capacity in which the department determines there is a need. The bill requires the department to give highest priority to students who demonstrate the greatest financial need when awarding grants under the program, and it allows the department to consider whether an applicant would be the first member of the applicant's family to attend or graduate from an undergraduate, graduate, or professional degree program.

Tuition and Fees

House Bill 261

Effective: 6-20-03

House Author: Hupp et al.

Senate Sponsor: Fraser

House Bill 261 amends the Education Code to provide that a member of the United States armed forces or his or her spouse or child, if entitled to pay in-state tuition and fees at a public college or university, retains that entitlement in any subsequent term or semester while continuously enrolled in the same degree or certification program. The student need not enroll in a summer term to be considered continuously enrolled, and the entitlement does not end if the student is no longer a member of the armed forces or is no longer the spouse or child of a member of the armed forces.

House Bill 882

Effective: 6-20-03

House Author: Christian

Senate Sponsor: Staples

House Bill 882 amends the Education Code to allow the Stephen F. Austin University board of regents to charge students a student center fee of \$9 per semester credit hour, with a minimum of \$35 and a maximum of \$85 per semester or summer session.

House Bill 1055

Effective: 5-20-03

House Author: Luna et al.

Senate Sponsor: Hinojosa

House Bill 1055 amends the Education Code to allow The Texas A&M University System board of regents to impose an intercollegiate athletics fee of up to \$8 per semester credit hour on students at Texas A&M University—Corpus Christi. The initial levy and any increase in the fee amount from one academic year to the next are subject to approval by a majority of the students voting in an election held for that purpose or, if the amount of a proposed increase does not exceed five percent, by a majority vote of the legislative body of the student government on campus. The bill caps the fee for students taking more than 13 semester credit hours in a semester or summer session.

House Bill 1537**Effective:** 6-20-03**House Author:** Dukes et al.**Senate Sponsor:** Barrientos

House Bill 1537 amends the Education Code to allow The University of Texas System board of regents to charge students at The University of Texas at Austin a fee of \$2 for any semester or summer session to fund the construction of statues of Barbara Jordan and Cesar Chavez on the university campus and to establish student scholarships in their names. The bill provides for the disposition of fee revenue into two separate accounts, with the funds in each account dedicated primarily for the construction of a statue and the remainder, if any, to be used to establish the student scholarships. The authority to charge the fee expires August 31, 2007.

House Bill 1621**Effective:** 6-20-03**House Author:** Flores**Senate Sponsor:** R. West

House Bill 1621 amends the Education Code to allow a junior college to waive all or part of the tuition and fees for a high school student enrolled in a course for joint high school and junior college credit. The bill also allows each junior college district governing board that issues revenue bonds to pledge up to 25 percent of the tuition charges collected from each enrolled student toward the payment of such bonds, and it exempts out-of-district tuition charges from the requirement for each community or junior college's governing board to set aside a portion of tuition charges for academic or vocational-technical courses to fund the Texas Public Education Grant Program.

House Bill 1649**Effective:** 6-20-03**House Author:** Mercer et al.**Senate Sponsor:** Van de Putte

House Bill 1649 amends the Education Code to allow The University of Texas System board of regents to impose a transportation fee of up to \$50 per semester, or up to \$25 per summer session term, on students at The University of Texas at San Antonio (UTSA) to finance student transportation services. The bill establishes a UTSA transportation fee account specifically for the deposit and expenditure of fee revenue.

The bill also allows the board of regents to charge UTSA students a mandatory intercollegiate athletics fee not to exceed \$7 per semester credit hour, up to a total of \$84 per semester. The bill allows the board to prorate the fee amount for a summer session.

For both fees, the initial levy and any increase in the fee amount in any academic year are subject to approval by a majority of the students voting in an election held for that purpose.

House Bill 1650**Effective:** 6-20-03**House Author:** Mercer et al.**Senate Sponsor:** Van de Putte

House Bill 1650 amends the Education Code to raise the cap on the amount of the student union fee and the recreational facility fee that The University of Texas System board of regents may impose on students at The University of Texas at San Antonio. The bill increases the maximum allowable student union fee from \$75 to \$150 per semester or summer session and the maximum allowable recreational facility fee from \$30 to \$100 per semester or summer session. The bill also makes any increase in either fee in any academic year subject to approval by a majority of the students voting in an election held for that purpose.

House Bill 1817

Effective: 6-20-03

House Author: Ritter

Senate Sponsor: Duncan

House Bill 1817 amends the Education Code to raise the cap on the medical services fee, bus service fee, student center fee, and recreational sports fee that are charged students at component institutions of the Texas State University System. The bill raises the cap on all of these fees to \$100 per regular semester or per summer session of a specified duration and to \$50 per summer session of shorter duration.

The bill also prohibits the Texas State University System board of regents from increasing the medical services fee more than once in an academic year and makes any increase of more than 10 percent subject to approval by a majority vote of the students voting in an election held for that purpose.

House Bill 2379

Effective: 6-20-03

House Author: Hill

Senate Sponsor: Shapiro

House Bill 2379 amends the Education Code to raise the cap on the recreational facility fee charged students at The University of Texas at Dallas from \$40 to \$65 per regular semester or summer session of 12 weeks or longer and from \$26.77 to \$43.33 per summer session of less than 12 weeks.

House Bill 2457

Effective: 6-18-03

House Author: Rangel et al.

Senate Sponsor: Lucio

House Bill 2457 amends the Education Code to allow The Texas A&M University System board of regents to impose an intercollegiate athletics fee of up to \$12 per semester credit hour on students at Texas A&M University—Kingsville. The initial levy and any increase in the fee amount from one academic year to the next are subject to approval by a majority of the students voting in an election held for that purpose. The bill caps the fee for students taking more than 13 semester credit hours in a semester or summer session.

House Bill 3015

Effective: 9-1-03

House Author: Morrison et al.

Senate Sponsor: Shapiro

House Bill 3015 amends the Education Code to allow the governing board of a public college or university to charge any student, in addition to the statutory tuition otherwise prescribed by the code, an amount the board deems necessary for the effective operation of that institution. The bill allows the board to set different tuition rates by program and course level to increase graduation rates, encourage efficient use of facilities, or enhance employee performance. The bill requires each board to set aside a specified minimum percentage of any designated tuition above \$46 per semester credit hour to provide financial aid for students at those respective levels or programs; the requirement is 20 percent for resident undergraduates and for resident graduate school or professional degree program students.

The bill requires the Texas Higher Education Coordinating Board to publicize the tuition assistance available from the set aside funds at each public or accredited private high school. The bill also requires the chief executive officer of each public college or university to provide the institution's governing board a statistical report on the institution's affordability and access, and it establishes certain content requirements for that report.

The bill amends the prepaid college tuition program to require a senior college or university to accept as payment in full of a senior college plan beneficiary's tuition and mandatory fees the lesser of the actual tuition and mandatory fees charged by the institution or an amount paid

by the board under the contract equal to the weighted average of tuition and mandatory fees at all public senior colleges and universities for that semester. The bill also establishes the Legislative Oversight Committee on Higher Education to monitor and regularly report to the legislature on each higher education institution's performance with respect to certain goals and performance criteria.

Senate Bill 258**Effective:** 6-20-03**Senate Author:** R. West**House Sponsor:** Deshotel

Senate Bill 258 amends the Education Code to allow a public college or university governing board to waive all or part of the college tuition and fees for a student taking a course for which the student receives concurrent high school and college credit.

Senate Bill 1230**Effective:** 6-21-03**Senate Author:** Wentworth**House Sponsor:** F. Brown

Senate Bill 1230 amends the Education Code to allow the Texas State University System board of regents to charge each student at Southwest Texas State University an environmental services fee, sets amounts for the fee and for allowed increases, and requires a majority vote at a student government election in which at least 1,000 votes are cast.

The bill allows fee revenue to be used only to provide environmental improvements through certain services.

Senate Bill 1367**Effective:** 9-1-03**Senate Author:** Duncan**House Sponsor:** Isett

Senate Bill 1367 amends the Education Code to allow the Texas Tech University System board of regents to charge each student at a component institution a student union fee to finance maintenance and operation of and capital improvements to student union facilities. The board may change the fee amount at a campus as necessary, or prorate it on the length of a session or term, but any increase of more than 10 percent is subject to approval either by a majority vote at a general student election on that campus or by a majority vote of the student government's legislative body.

Senate Bill 1521**Effective:** Vetoed**Senate Author:** Zaffirini**House Sponsor:** Morrison

Senate Bill 1521 amends the Education Code to allow the governing board of a public college or university to set tuition for a graduate school of business at a rate that is up to three times the statutory minimum rate.

Reason Given for Veto: "I support the goal of increased tuition flexibility for institutions of higher education and have signed House Bill No. 3015 to accomplish that goal. Senate Bill No. 1521, which would allow institutions to raise the tuition for graduate schools of business to the same level as law schools, does not achieve the comprehensive deregulation already provided in House Bill No. 3015. For that reason, Senate Bill No. 1521 is unnecessary."

Senate Bill 1546**Effective:** 6-20-03**Senate Author:** Janek**House Sponsor:** Nixon

Senate Bill 1546 amends the Education Code to raise the cap on junior college laboratory fees by allowing a public junior college to charge a laboratory fee in an amount not to exceed the lesser of \$24 per semester credit hour of laboratory course credit for which the student is enrolled or the cost of materials and supplies used by the student. The bill also includes provisions relating to a fee for an aerospace mechanics certification course.

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

HB 219 - Public Education

HB 2425 - Miscellaneous Taxes and Tax Administration

HB 3126 - Health and Medical Occupations

SB 160 - Health

SB 253 - Health

SB 976 - Public Education

SB 1366 - Public Education

Hospital Districts

This chapter covers legislation relating to hospital districts and municipal hospital authorities, including the authority to issue and sell revenue bonds and to borrow money. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 940

Effective: 6-20-03

House Author: Chisum

Senate Sponsor: Bivins

House Bill 940 amends state law relating to the Hemphill County Hospital District. The bill modifies provisions relating to candidacy for election to the board of directors and the board's powers and duties, including its ability to determine the facilities, services, and equipment needed inside and outside the district and its authority to acquire or dispose of facilities, supplies, or equipment by lease or purchase. The bill authorizes the board to enter into joint ownership arrangements with a public or private entity for management or operating services, adds ancillary health care system to the range of care services provided by the district, and allows the administrator or manager to take action in an emergency to preserve district assets or protect patient health and safety. House Bill 940 revises procedures relating to indigent care, the annual audit, and the imposition and collection of taxes within the district.

House Bill 1030

Effective: 6-20-03

House Author: Hardcastle

Senate Sponsor: Duncan

House Bill 1030 amends state law relating to the Hardeman County Hospital District to authorize the hospital district board of trustees to secure and make payments on district bonds using a combination of property taxes and revenue from the issuance of those bonds; bond proceeds also may be used to pay various expenses and costs related to the issuance of those bonds. The bill also allows the district to sponsor and create a nonprofit corporation to provide health care services and other services that the district is authorized to provide. House Bill 1030 validates previously issued notes, warrants, and other obligations of the district and allows the obligations to be refunded. The bill also clarifies the application of Government Code provisions to district investment of its operating, depreciation, or building reserves; district bond elections; and issuance of refunding bonds, and the application of Local Government Code provisions to the district's entering into contracts subject to competitive bidding.

House Bill 1234

Effective: 9-1-03

House Author: Menendez et al.

Senate Sponsor: Van de Putte

House Bill 1234 amends the Health and Safety Code and the Local Government Code to authorize the board of directors of certain hospital districts, with the approval of the commissioners court, to issue certificates of obligation payable from and secured by debt service property taxes.

House Bill 1251

Effective: 9-1-04

House Author: Hope et al.

Senate Sponsor: Williams

House Bill 1251 amends state law relating to calling an election to dissolve the Montgomery County Hospital District. The bill lowers the minimum number of signatures required on a petition to the district's board of directors for an election to dissolve the district from 15 percent of the registered voters in the district to 15 percent of the total vote cast in the district for all candidates for governor in the most recent gubernatorial general election that occurs

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more than 30 days before the date the petition is submitted to the board. The bill prohibits a petition from being submitted before the third anniversary of the date an invalid petition was submitted, and it increases the minimum interval between elections from three years to four years.

House Bill 1631

Effective: 6-20-03

House Author: Hilderbran

Senate Sponsor: Fraser

House Bill 1631 changes the date of election of the Kimble County Hospital District board of directors from April to May and increases the term of office from two years to three years. The bill also authorizes the board to issue and sell revenue bonds and to borrow money.

House Bill 1959

Effective: 6-20-03

House Author: Smithee

Senate Sponsor: Bivins

House Bill 1959 allows the board of directors of the Dallam-Hartley Counties Hospital District to construct and maintain an assisted living facility and a related facility that is necessary to operate and maintain the assisted living facility. The bill also allows the board to lease any real or personal property or equipment and to acquire property, facilities, supplies, or equipment by an option to purchase.

House Bill 2029

Effective: 6-20-03

House Author: Miller

Senate Sponsor: Fraser

House Bill 2029 amends state law to allow the Hamilton County Hospital District additional power to provide for the security and payment of district bonds from a pledge of a combination of property taxes and revenues from the hospital system's operation and other sources. The bill requires that bonds, other than refunding bonds, that the board proposes to secure wholly or partly by a property tax be approved at an election held in the district.

House Bill 2073

Effective: 6-18-03

House Author: Hilderbran

Senate Sponsor: Fraser

House Bill 2073 amends the Health and Safety Code to authorize the governing body of a hospital district that has a maximum ad valorem tax rate of less than 75 cents on the \$100 valuation of all taxable property in the district, if petitioned by registered voters of the hospital district, to order an election to increase the tax rate to not more than 75 cents on the \$100 valuation of all taxable property in the district. The bill's provisions expire September 1, 2008.

House Bill 2764

Effective: 6-20-03

House Author: Garza

Senate Sponsor: Madla

The Health and Safety Code previously allowed a hospital authority created by a municipality with a population of less than 5,000 to borrow money from a federally insured lender for any of the authority's purposes. House Bill 2764 amends the code to extend this permission to borrow money to municipal hospital authorities created by municipalities with a population of less than 25,000.

House Bill 3011

Effective: 9-1-03

House Author: Capelo

Senate Sponsor: Hinojosa

House Bill 3011 amends the Health and Safety Code to authorize a medical peer review committee or medical committee formed by the governing body of a hospital district to compile a report, information, or record about the medical and health care services provided by

certain facilities that contract with the hospital district to provide those services. The bill authorizes the compilation to be submitted to the facility's medical peer review committee or medical committee and provides for the confidentiality of the information.

House Bill 3102**Effective:** 6-20-03**House Author:** Garza**Senate Sponsor:** Madla

House Bill 3102 changes the fiscal year of the Maverick County Hospital District so that it starts September 1, rather than July 1, and continues through August 31, rather than June 30, of the following year.

House Bill 3561**Effective:** 6-20-03**House Author:** Bonnen**Senate Sponsor:** Jackson

House Bill 3561 provides that the Angleton-Danbury Hospital District has all of the powers and duties conferred on municipalities with respect to contracting for the construction of a public works facility.

Senate Bill 200**Effective:** 5-15-03**Senate Author:** Shapiro**House Sponsor:** Hodge

Senate Bill 200 amends the Health and Safety Code to authorize countywide hospital districts created pursuant to Section 4, Article IX, Texas Constitution, and having a voter-approved property tax rate not greater than 75 cents per \$100 of assessed valuation, to pledge hospital system revenues and tax revenues to pay for combination tax and revenue bonds or other obligations if approved at an election called by the county commissioners court. The election must be requested by the district's board of managers based on findings that such obligations are the best method to fund certain improvements to the hospital system. The bonds or obligations, if approved by voters, are to be issued by the commissioners court on behalf of the district.

Senate Bill 567**Effective:** 5-20-03**Senate Author:** R. West**House Sponsor:** Branch

Senate Bill 567 amends the Government Code to authorize nonprofit hospitals and hospital districts to access and use, in the same manner as public hospitals and hospital districts, criminal history record information maintained by the Texas Department of Public Safety relating to an applicant for employment or a volunteer position with the hospital or district, an employee or volunteer of the hospital or district, or an applicant or employee of a person or business that contracts with the hospital or district.

Senate Bill 821**Effective:** 5-20-03**Senate Author:** Fraser**House Sponsor:** Miller

Senate Bill 821 amends state law to authorize the Comanche County Consolidated Hospital District to secure and repay district bonds from a pledge of a combination of ad valorem taxes, revenues, and other sources, and requires bonds, other than refunding bonds, secured wholly or partly by an ad valorem tax to be approved at an election held in the district. The bill allows the district to use the proceeds of bonds to pay for certain expenditures and provides that a period of acquisition or construction of a project or facility to be provided through the bonds may not exceed five years.

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Senate Bill 948

Effective: 9-1-03

Senate Author: Lindsay

House Sponsor: Callegari

Senate Bill 948 amends the Health and Safety Code to add provisions relating to ad valorem taxes imposed for the benefit of a hospital district. The bill allows the commissioners court of the county in which a hospital district is located to adopt forms of tax relief, elect to tax property that would otherwise be exempt, and collect delinquent property taxes. A hospital district is prohibited from exercising the powers granted by the bill to a commissioners court.

Senate Bill 1019

Effective: 6-20-03

Senate Author: Duncan

House Sponsor: Hilderbran

Senate Bill 1019 amends state law relating to the Ballinger Memorial Hospital District. The bill requires a notice of an election be published one time in a newspaper with general circulation in the district in accordance with current state law, rather than at least 35 days before the date of an election for directors. The bill requires a person who wishes to have his or her name printed on the ballot as a candidate for director to file an application, rather than a petition signed by at least 10 voters, with the secretary of the board of directors. The bill allows the board to spend district funds, enter into agreements, and take other necessary action to recruit physicians and other persons to serve as medical staff members or employees of the district. The bill also allows the board to sponsor and create a nonprofit corporation and contribute funds to or solicit funds for the corporation, which the corporation may use only to provide health care or other authorized district services or to make authorized district investments. The bill allows the board to enter into construction contracts on behalf of the district only after competitive bidding if the amount is in excess of \$25,000 as provided by current state law, rather than in excess of the previous threshold of \$10,000. The bill requires the district to adopt an application procedure to determine eligibility for assistance for indigent health care not later than the first day of each operating year, rather than the beginning of each operating year.

Senate Bill 1019 authorizes the board to order an election to raise the maximum tax rate of the district, not to exceed 75 cents on each \$100 of valuation on all taxable property in the district, and sets out procedures for the election. The bill updates statutory citations relating to bonds and sets out procedures for the dissolution of the district.

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

HB 2453 - Civil Remedies and Procedures

SB 121 - Open Government and Privacy

Housing

This chapter covers legislation relating to local and regional housing authorities, housing permits and licenses, the funding of housing development projects and programs, and the regulation of manufactured housing. Bills relating to tenants and landlords and to property owners' associations are in the **Property Interests** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 424

Effective: Vetoed

House Author: Christian

Senate Sponsor: Staples

House Bill 424 amends the Local Government Code to require that a tenant resident be appointed as a commissioner of a municipal housing authority that has 300 or more housing units under its jurisdiction. The bill further requires a municipal, county, or regional housing authority each year to notify the Texas Department of Housing and Community Affairs, in writing, of whether a tenant resident serves as a commissioner and, if applicable, of the name and mailing address of that resident. The bill defines "public housing unit" as a dwelling unit for which the owner receives a public housing operating subsidy from the U.S. Department of Housing and Urban Development and excludes a unit for which payments are made to the landlord under the federal Section 8 Housing Choice Voucher Program. The bill exempts a small municipal housing authority, defined as one having fewer than 300 units under its jurisdiction or one with no units that administers only Section 8 housing assistance, if it is unsuccessful in its attempts to recruit an eligible tenant resident. The bill prohibits a municipal or county housing authority from using any money under its control to pay lobbying expenses, and establishes that a violation is a Class A misdemeanor. The bill establishes that such restriction is in addition to that of Section 556.0055, Government Code, under which a violation would render the authority ineligible to receive additional state funds.

Reason Given for Veto: "As originally filed, House Bill No. 424 would have appropriately provided local public housing authority boards with more flexibility and would have made state standards for tenant representation conform with current federal standards. An amendment added to House Bill No. 424 would have imposed a restriction on a housing board's ability to hire legal counsel. This overly broad and unnecessary restriction could lead to the boards receiving less effective, and more costly, legal representation."

House Bill 543

Effective: 6-20-03

House Author: J. Jones

Senate Sponsor: Lindsay

House Bill 543 amends the Occupations Code to require a consumer seeking to acquire a manufactured home to provide satisfactory evidence, such as a copy of any required permit to install a septic tank on the homesite, that the home will not be located in a federally designated flood hazard area and prohibits a retailer from delivering or installing a manufactured home in such an area. The bill does not apply to a manufactured home located on real property that was zoned before a certain date for developing homesites in a flood hazard area.

House Bill 2308

Effective: 9-1-03

House Author: J. Jones

Senate Sponsor: R. West

House Bill 2308 amends the Government Code to authorize the governing board of the Texas Department of Housing and Community Affairs (TDHCA) to allocate low-income housing tax credits to more than one housing development in a single community in the same calendar year only if those developments are or will be located more than one linear mile apart. The bill

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requires TDHCA to provide appropriate incentives to reward an applicant who agrees to locate a development in a census tract in which there are no other existing developments supported by housing tax credits, in addition to meeting other previously established criteria. The bill renders an application ineligible for consideration under the low-income housing tax credit program if the applicant proposes to construct a new development one linear mile or less from a development that: (1) serves the same type of household as the new development; (2) has received housing tax credits for new construction during the three years preceding the date the application round begins; and (3) has not been withdrawn or terminated from the program. The bill exempts from these restrictions a development that uses certain federal or locally approved funds, is located outside a metropolitan statistical area, or has been specifically allowed by vote of a local government to construct a new development within one linear mile of a development that is ineligible under the program.

House Bill 2801

Effective: 9-1-03

House Author: Giddings

Senate Sponsor: R. West

House Bill 2801 amends the Local Government Code to add the Urban Land Bank Demonstration Program Act. The bill authorizes a home-rule municipality with a population of at least 1.18 million located predominantly in a county of less than 1,000 square miles to adopt an urban land bank demonstration program, which allows the private sale of tax-foreclosed property to a municipally created land bank for the purpose of affordable housing development. A municipality adopting a program must establish or approve a land bank to acquire, hold, and transfer unimproved real property, and it must adopt an annual plan, subject to a public hearing, for the program's operation. The bill allows an officer charged with selling property foreclosed on a tax lien to sell a property directly to the land bank if certain conditions are met, and it requires the land bank to resell the property for construction of affordable housing within three years of taking ownership. The bill establishes eligibility criteria for qualified participating developers and conditions the number of properties a developer may acquire from the land bank on the extent of the developer's recent housing production experience. The developer must apply for a building permit, and construction financing must be in place within 24 months of acquiring the property or it reverts to the land bank. The bill requires that each property sold by the land bank be deed restricted for the development of affordable housing, and it specifies various limits on the household income of homebuyers and renters of housing developed under the program based on the area median family income as determined by the U.S. Department of Housing and Urban Development for the area in which the property is located. If the property is sold for development of rental housing, the rental property owner must file annual occupancy reports. The bill authorizes either the land bank or the governing body of the municipality to modify or add to deed restrictions, with such changes to be included in the municipality's plan. The bill gives the right of first refusal on the purchase of the property to a nonprofit community housing development organization that provides housing within the same area as the land bank's properties. If no qualified organization exercises that right within a specified period after the date the property is deeded to the land bank, the property may be sold to another qualified developer. The bill requires the land bank to comply with open meetings and open records requirements for governmental bodies and to meet certain recordkeeping and reporting requirements.

Senate Bill 264
Effective: 9-1-03**Senate Author:** Lucio
House Sponsor: Callegari et al.

Senate Bill 264 amends the Government Code to continue the Texas Department of Housing and Community Affairs (TDHCA) until September 1, 2011, and to include and update standard sunset language. The bill modifies TDHCA's scoring criteria for applications for tax credit projects and requires a tax credit applicant to provide TDHCA with evidence that the applicant has notified certain elected officials, governmental entities, and local organizations. The bill prohibits TDHCA from awarding tax credits to certain proposed projects based on their location or proximity to other affordable housing projects, and it authorizes TDHCA to provide incentives to developers that apply to build projects in census tracts with no existing tax credit projects. The bill requires a market analysis submitted with a housing tax credit application to be prepared by a TDHCA-approved market analyst, and it requires the department to develop a methodology for determining the market area to be examined in a market analysis. It requires TDHCA's board to adopt rules that require the department to address specific topics at public hearings for each proposed housing project, and it requires the department to appoint an employee as the information officer and public liaison for each project application and to provide written notice of application filings to certain elected officials, governmental entities, and local organizations.

The bill requires the annual integrated state low-income housing plan that the board submits to the governor and the legislature's presiding officers to include a biennial action plan for colonias. It includes members of the colonia resident advisory committee in the planning process, and it excludes reimbursement of expenses for members of the colonia initiatives advisory committee as a permissible use of the colonia set-aside fund. It establishes broad eligibility and allocation requirements for set-aside funds available under the Cranston-Gonzalez National Affordable Housing Act. The bill requires TDHCA to subdivide the housing funds allocated to each uniform state service region into urban/exurban areas and rural areas based on the needs and availability of alternate resources in those areas, and it establishes that, under the department's funding priorities, funds are awarded based in part on the project applicant's ability to use local funding sources to minimize the state subsidy needed to complete the project. The bill authorizes a department employee to communicate with certain persons about an application during the approval process, but any such communication must be restricted to technical or administrative matters regarding the application, it must take place under restricted circumstances, and a detailed record must be kept and included with the application for board review; the bill allows a department employee to communicate with such person without restriction at a board meeting or public hearing on the application. The bill establishes notification procedures the department must follow on receipt of an application or proposed application. The bill requires developers receiving multifamily housing development funds from TDHCA to meet certain building maintenance requirements, including making mandatory annual deposits in a reserve account maintained by the first lien lender to fund necessary repairs for the multifamily rental developments and contracting for periodic third-party physical needs assessments. It eliminates certain functions of the housing resource center. The bill redefines the criteria for the funding priorities used by the Bond Review Board to award private activity bond reservations allocated to TDHCA and to local housing finance corporations. The bill requires a joint interim investigation by the House Urban Affairs and Senate Intergovernmental Relations committees to determine the impact of dividing uniform state service regions into urban and exurban communities on the provision of state and federal

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assistance to meet rural area housing needs. The bill eliminates TDHCA's community development division, and it requires TDHCA to make tax credit applications available on its Internet website and to submit required information to certain entities and publications.

Senate Bill 284

Effective: 9-1-03

Senate Author: Lucio

House Sponsor: Callegari et al.

Senate Bill 284 amends the Government Code to continue the Texas State Affordable Housing Corporation (TSAHC) until September 1, 2009, and to include and update standard sunset language. The bill redistributes the portion of the state ceiling on private activity bonds that is available for reservations by issuers of qualified residential rental project bonds by reducing the portion that is available exclusively to the Texas Department of Housing and Community Affairs from 25 percent to 20 percent, reducing the portion that is allocated to local housing finance corporations from 75 percent to 70 percent, and making the remaining 10 percent available exclusively to TSAHC for issuing bonds for multifamily affordable housing. The bill adds as a primary purpose of TSAHC the issuing of qualified 501(c)(3) bonds and qualified residential rental project bonds and provides that TSAHC must require a community housing development organization that receives qualified 501(c)(3) bonds from TSAHC to invest at least one dollar in projects and services that benefit income-eligible persons for each dollar's worth of abated property taxes. The bill also requires TSAHC to review its qualified 501(c)(3) bond issuance policies annually and to submit proposed revisions to the secretary of state for posting in the *Texas Register*.

The bill modifies provisions relating to the Teacher Home Loan program by changing its name to the Professional Educators Home Loan Program; expanding the eligibility criteria to include a full-time paid teacher's aide and a full-time librarian, certified counselor, or school nurse; and eliminating the five-year residency and three-year work experience requirements. The bill also eliminates a requirement that TSAHC give priority to applications of teachers from areas of the state with a teacher shortage and stipulates that the portion of the state ceiling made available for the program be allotted annually until August 1. The bill requires TSAHC to recommend to the Bond Review Board which projects should be funded with TSAHC's share of private activity bonds and requires TSAHC's board of directors to adopt guidelines and criteria for each step of this process and hold public hearings before making final award recommendations to the Bond Review Board.

The bill requires the department's director to provide TSAHC with needs assessment information and requires TSAHC to review that information and develop a low-income housing plan, which must include specific proposals to help serve rural and other underserved areas of the state. The bill requires the department to include TSAHC's low-income housing plan in the department's resource allocation plan and to consider and incorporate results of TSAHC's programs in the department's estimate and analysis of the housing supply in each uniform state service region. The bill requires TSAHC and the department to share project compliance information. TSAHC must consider the department's compliance information before approving a housing development application, and the department's governing board must also consider that information when assessing the compliance of a project, applicant, or affiliate. The bill replaces unlimited terms for TSAHC board members with staggered six-year terms and requires TSAHC to annually review its multifamily bond policies.

Senate Bill 521**Effective:** See below**Senate Author:** Staples et al.**House Sponsor:** Hardcastle et al.

Senate Bill 521 relates to the acquisition and regulation of manufactured homes. The bill amends the Occupations Code to authorize the owner of a manufactured home to treat the home as either personal property or real property. It defines a “statement of ownership and location” to mean a statement issued by the Texas Department of Housing and Community Affairs (TDHCA) that establishes the ownership and location of a manufactured home sold at a retail sale or installed in this state, and sets out requirements and procedures for obtaining a statement of ownership and location. The bill provides that, effective September 1, 2003, any outstanding document of title is considered a statement of ownership and location. The bill revises the written statement that must accompany a credit application a retailer or agent provides to a consumer. It requires TDHCA to adopt rules addressing consumer protection disclosures required in chattel mortgage transactions and to prescribe the form for that disclosure statement. A retailer must deliver an installment contract and certain disclosure statements to a consumer at least 24 hours before an installment contract is fully executed. The consumer may not waive the right to receive disclosure statements and may rescind a contract without penalty or charge not later than the third day after the contract is signed. The bill provides that a retailer may require a deposit on a specially ordered manufactured home. It authorizes the director of the Manufactured Housing Board to assess an administrative penalty against a retailer who fails to provide certain information to a consumer and requires that a nonbinding estimate made by a retailer must be in writing and in good faith. The bill establishes procedures for converting personal property to real property and for obtaining a new statement of ownership and location due to a change in the use of a manufactured home. The bill expands the continuing education requirements for retailers licensed to sell manufactured homes.

The bill amends the Finance Code to waive an escrow requirement for a transaction involving a manufactured home if certain conditions are met and amends provisions of the Property Code to conform to the new Occupations Code requirements. It amends Tax Code provisions relating to homestead exemptions and tax considerations for manufactured homes and amends Transportation Code provisions relating to offenses and penalties relating to illegally moving a manufactured home. The bill takes effect June 18, 2003, except that the Occupations Code provisions relating to certification and continuing education and the Tax Code provisions take effect January 1, 2004.

Senate Bill 1326**Effective:** 6-18-03**Senate Author:** Carona**House Sponsor:** J. Jones et al.

Senate Bill 1326 amends the Occupations Code to require single-family or duplex industrialized housing to have the same local permits and licenses that are applicable to other single-family or duplex dwellings. The bill authorizes a municipality to adopt regulations that require single-family or duplex industrialized housing: (1) to have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot where the industrialized housing will be located and to have certain exterior features compatible with those dwellings; (2) to comply with certain municipal site requirements applicable to single-family dwellings; and (3) to be secured to a permanent foundation. The bill prohibits a municipality from adopting a regulation, except for those above, that is more restrictive for industrialized housing than for a new single-family or duplex dwelling constructed on-site. The bill establishes that this provision does not affect deed restrictions nor does it limit the authority of a municipality to adopt regulations to protect historic properties or districts.

Senate Bill 1663
Effective: 9-1-03

Senate Author: Lindsay et al.
House Sponsor: Hopson

The Government Code provides for an annual allocation of the state ceiling on tax-exempt private activity bonds among various categories of bond issuers, including issuers of bonds approved by voters in a statewide election, and it allows issuers to reserve a portion of the state ceiling by applying to the Bond Review Board within the time allotted. If, before January 2, the board receives applications for reservations for state-voted issues that exceed a specified percentage of the available state ceiling for that year, the difference is made available for those applications by removing that percentage difference from the state ceiling available to other issuers on January 2. Senate Bill 1663 amends the code to lower that percentage point threshold for state-voted issues from 13 percent to 8 percent of the available state ceiling for a program year.

The bill also authorizes the Bond Review Board, beginning June 1 of each year, to offer partial reservations once to each applicant in each issue category until an applicant in the category accepts the partial reservation or until the volume returned is sufficient to grant a full reservation. It advances the period for applying for a reservation for a program year by moving the start of that period from October 10 to October 5 of the preceding year. The bill requires the board to grant reservations to issuers of qualified residential rental projects bonds in the order determined by lot, as it does for other categories of issuers, if more than one issuer in that category applies for a reservation for the next program year. Additionally, the bill specifies that the limitation on the amount of the state ceiling set aside for housing finance corporation bond issues for proposed projects in qualified census tracts applies to bonds for proposed projects in tracts as defined in the most recent publication by the U.S. Department of Housing and Urban Development; exempts the Texas State Affordable Housing Corporation from a requirement that an issuer of qualified mortgage bonds reserve a certain amount of funds to provide mortgage loans to individuals and families with incomes below a specified threshold; and requires the Bond Review Board to publish state ceiling information at least weekly on its Internet site, rather than biweekly in the *Texas Register*.

Senate Bill 1664
Effective: 9-1-03

Senate Author: Averitt et al.
House Sponsor: Christian et al.

Senate Bill 1664 amends the Government Code to revise the allocation of the state ceiling for private activity bonds. The bill requires the issuer of a qualified residential rental project bond to pay the Bond Review Board a nonrefundable fee of \$5,000 with its application for a bond reservation. It requires the board to retain \$1,000 of that fee to offset the costs of the private activity bond allocation program and to transfer the remaining \$4,000 to the Texas Department of Housing and Community Affairs (TDHCA) for its affordable housing research and information program. The bill also sets out the requirements for TDHCA's program.

It changes the prioritization of reservations among issuers of qualified residential rental project bonds and qualified student loan bonds. It authorizes the Bond Review Board to grant the Texas Water Development Board a reservation of up to \$100 million of the state ceiling for a water development issue. The bill also makes a number of other changes relating to the administration of these provisions.

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

HB 1247 - Public Officials and Employees
Hb 3546 - Property Taxes

Human Services

This chapter covers legislation 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, veterans homes, intermediate care facilities, employee dependent care benefits, child care, the CHIP program, Medicaid, and Medicare. The chapter also contains the bill reorganizing the state health and human services agencies. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 111

Effective: 6-18-03

House Author: Chavez et al.

Senate Sponsor: Zaffirini

House Bill 111 amends the Human Resources Code to require that Health and Human Services Commission rules provide that a person denied payment for ambulance services rendered is entitled to payment from the nursing facility, health care provider, or other responsible party that requested services if payment under the medical assistance program is denied because of lack of prior authorization and the person provides the facility, provider, or other party with a copy of the bill for which payment was denied. The bill also requires the commission to incorporate physician-oriented instruction on the appropriate procedures for authorizing ambulance service into current medical education courses.

House Bill 1090

Effective: 6-20-03

House Author: Miller et al.

Senate Sponsor: Averitt

House Bill 1090 amends the Human Resources Code to authorize the Texas Department on Aging to establish and operate a program to provide eligible persons with information regarding the availability of, and assistance in enrolling in, discount drug price programs offered by pharmaceutical companies.

House Bill 1364

Effective: 6-2-03

House Author: Dukes

Senate Sponsor: R. Ellis

Under previous law, an emergency shelter facility was authorized to provide care and shelter in certain emergency situations to a minor mother who was the sole financial support of her child or children. In addition, providing care beyond 15 days required either consent from the minor's parent or guardian or qualification for certain financial assistance. House Bill 1364 amends the Family Code to authorize emergency shelters to provide care to any minor whether or not the minor has a child and removes the provision requiring consent from a parent or guardian for care provided beyond 15 days. The bill sets out circumstances that determine a minor's capacity to consent to emergency shelter or care. The bill also provides that a shelter facility is not liable for providing emergency care to minors if the minor provides consent as outlined in the bill, except for negligence.

House Bill 2058

Effective: 9-1-03

House Author: Villarreal

Senate Sponsor: Zaffirini

House Bill 2058 requires the Department of Protective and Regulatory Services to conduct a study of certain contracts through which the department provides program services for children to determine the extent to which each contractor is achieving the goals, outcome standards, and federally mandated and state-mandated objectives of the program. The bill requires the department, not later than December 31, 2004, to report the results of the study, including recommendations to improve program services for children in future contracts, to the governor, the legislature, the Legislative Budget Board, the Sunset Advisory Commission, and the State Auditor's Office.

House Bill 2292

Effective: See below

House Author: Wohlgemuth et al.

Senate Sponsor: Nelson

House Bill 2292 provides for the reorganization of health and human services agencies. It eliminates the (1) Interagency Council on Early Childhood Intervention, (2) Texas Department on Aging, (3) Texas Commission on Alcohol and Drug Abuse, (4) Texas Commission for the Blind, (5) Texas Commission for the Deaf and Hard of Hearing, (6) Texas Department of Health, (7) Texas Department of Human Services, (8) Texas Department of Mental Health and Mental Retardation, (9) Texas Rehabilitation Commission, and (10) Texas Health Care Information Council. It creates the Department of Aging and Disability Services, the Department of State Health Services, and the Department of Assistive and Rehabilitative Services. It also makes changes to the organization and administration of the Department of Protective and Regulatory Services and the Health and Human Services Commission.

The bill transfers total responsibility to the Health and Human Services Commission (HHSC) for the operation of the Children's Health Insurance Program (CHIP), Temporary Assistance for Needy Families (TANF), Medicaid, food stamps, and other health and human services programs, as appropriate; it transfers the authority for determining eligibility for benefits under these programs and for long-term care and community-based support services; and it transfers authority for programs intended to prevent family violence and programs providing services to victims of family violence. The commission has all rulemaking and policymaking authority for the provision of health and human services and is required to perform information systems duties and administrative support services for the health and human services agencies operating under the direction of the commission. The bill also moves the sunset date for the commission to September 1, 2009.

House Bill 2292 establishes the executive commissioner of the Health and Human Services Commission, who has the authority to adopt rules and policies for the operation of, and provision of services by, the health and human services agencies and to appoint agency directors, with the approval of the governor. The executive commissioner is also required to establish certain divisions and the offices within the commission, including the eligibility services division and the office of the inspector general to perform fraud and abuse investigation and enforcement. The governor appoints the inspector general for a one-year term. The bill creates the Health and Human Services Council, composed of nine members appointed by the governor with the advice and consent of the senate, to assist the executive commissioner in developing rules and policies for the commission. The presiding officer of the council is designated by the governor.

The bill eliminates the agencies listed above and consolidates certain functions into the three new health and human services agencies: the Department of Aging and Disability Services responsible for providing long-term care, community care, and services for the aging

and mentally retarded; the Department of State Health Services responsible for basic health, mental health, and substance abuse services; and the Department of Assistive and Rehabilitative Services responsible for early childhood intervention and services for the disabled (other than developmental delay and mental retardation), for persons who are blind, and for persons who are deaf or hard of hearing. The Department of Protective and Regulatory Services is renamed the Department of Family and Protective Services. The bill creates a council for each agency, under the same terms of membership and appointment as the Health and Human Services Council, to assist each agency director in developing rules and policies.

The bill creates a Health and Human Services Transition Legislative Oversight Committee, to be made up of two senators, two members of the house, and three public members to be appointed by the governor, to facilitate the transfer of powers, duties, functions, programs, and activities of the affected agencies without interrupting the delivery of services and to advise the executive commissioner regarding those transfers. The executive commissioner is required to submit a transition plan and schedule to the governor and the Legislative Budget Board not later than December 1, 2003.

The bill changes income eligibility for benefits under the CHIP program to gross, rather than net, family income at or below 200 percent of the federal poverty guidelines, eliminates income reductions for offsets for certain expenses, such as child care and work-related expenses, and provides for a six-month eligibility period, rather than 12-month continuous eligibility, for the biennium ending September 1, 2005. The bill authorizes the commission, if it is cost-effective, to limit the outpatient brand-name prescription drugs for children enrolled in the program and changes the calculation of the starting point of the 90-day waiting period for CHIP coverage to be after CHIP enrollment, rather than after the last date of coverage under another health benefits plan.

House Bill 2292 requires the Health and Human Services Commission to adopt preferred drug lists for the Medicaid vendor drug program that includes only drugs provided by manufacturers or labelers that reach an agreement with the commission on supplemental rebates and requires prior authorization, with certain exceptions, for the reimbursement of a drug that is not included on the appropriate preferred drug list. The bill permits the use of third-party information to assist in determining Medicaid eligibility, including information from consumer reporting agencies, appraisal districts, and the vehicle registration record database maintained by the Texas Department of Transportation. It also permits the use of tobacco settlement funds to provide certain preventive medical and dental services to children and reduces the personal needs allowance from \$60 to \$45 for Medicaid recipients in a convalescent or nursing home or similar institution, including an intermediate care facility for the mentally retarded (ICF-MR). The bill requires Medicaid recipients to share the cost of medical assistance through enrollment fees, deductibles, coinsurance, or payment of a portion of the plan premium, to the extent permitted by federal law. House Bill 2292 establishes a Medicaid fraud pilot program to address provider fraud and certain cases of third-party and recipient fraud and requires the program to include participant smart cards and biometric readers and a secure finger-imaging system. The bill includes the same authorization for the commission to limit certain brand-name prescriptions to beneficiaries as under CHIP.

The bill changes the eligibility requirements for assistance under TANF by reducing from \$2,000 to \$1,000 the amount the department is required to exclude from an applicant's available resources when determining eligibility. This provision is specifically applied to households in which there is a person with a disability or over the age of 60. Under previous law, the department excluded \$3,000 from the resources of such households. The bill requires a payee,

defined as a person who resides in a household with a dependent child and who is within the degree of relationship with the child that is required of a caretaker, but whose needs are not included in determining the TANF benefit, to sign a responsibility agreement; it requires the cooperation, rather than compliance, with an applicable responsibility agreement, and it requires the immediate application of a sanction terminating the total amount of financial assistance for a person and the person's family if, after an investigation, it is determined that a person is not cooperating with a requirement of a responsibility agreement. The bill requires the adoption of rules governing sanctions and penalties to be applied to the family of a person who fails to cooperate with the agreement. To the extent allowed by federal law, sanctions may include the denial of Medicaid benefits for a person who is eligible for TANF but is not receiving assistance because of a failure to cooperate. Medicaid may not be denied to the person's family or to a person who is under 19 years of age or who is pregnant. On determination that a recipient of TANF has committed fraud, the person will lose eligibility for one year for the first violation and will lose eligibility permanently for the second violation. On conviction of a state or federal offense or if a person is granted deferred adjudication or placed on community supervision for the conduct determined to constitute fraud, the person permanently loses eligibility for financial assistance under TANF. The bill requires certain postemployment strategies to assist TANF recipients in making a transition to stable employment, including an employment services referral program. The bill also provides for a temporary exclusion of a new spouse's income for purposes of determining eligibility for certain assistance for the support of dependent children.

House Bill 2292 authorizes contracts for the privatization of state schools and state mental hospitals after August 31, 2004, and before September 1, 2005, subject to a determination by HHSC that the private service provider will operate the facility at a cost that is at least 25 percent less than the cost of the department operating the hospital and to certain quality of service requirements. The bill provides that a local mental health and mental retardation authority may serve as a provider only as a provider of last resort and only under certain circumstances. It also requires the development and implementation of a plan to privatize all services by intermediate facilities for persons with mental retardation and related waiver services programs operated by an authority. The transfer of services may not occur on or before August 31, 2006.

The bill requires clearly defined minimum standards that relate directly to the quality of care for residents of certain nursing facilities and requires that contracts with those facilities include specific performance measures for evaluating whether those standards are being met. It requires certain Medicare-certified long-term care providers, including nursing facilities and home health services providers, to seek reimbursement for services provided from Medicare before billing Medicaid. It also repeals a provision requiring convalescent and nursing homes and related institutions to maintain certain liability insurance coverage for health care liability claims.

House Bill 2292 is an omnibus bill, and it also includes many other provisions relating to the provision of health and human services in Texas that are not specified in the summary above.

The bill takes effect September 1, 2003, except as follows: (1) the Department of Aging and Disability Services, the Department of State Health Services, and the Department of Assistive and Rehabilitative Services are created on the date the executive commissioner appoints the director or commissioner of each agency (SECTION 1.29); (2) certain provisions relating to third-party billing vendors under CHIP take effect January 1, 2006 (SECTION 2.44); (3) provisions relating to the privatization of state schools and state mental hospitals

take effect September 1, 2004 (SECTIONS 2.77 and 2.78); (4) certain provisions relating to community centers take effect September 1, 2006 (SECTION 2.82); (5) certain provisions relating to local mental health and mental retardation authorities take effect September 1, 2006 (SECTION 2.82A); and (6) certain provisions relating to third-party billing vendors under Medicaid take effect January 1, 2004 (SECTION 2.111).

House Bill 2866**Effective:** 9-1-03**House Author:** Swinford**Senate Sponsor:** Madla

House Bill 2866 amends the Human Resources Code to prohibit the Department of Protective and Regulatory Services from inspecting certain child-care facilities for compliance with the department's fire safety or sanitation standards if the facility provides documentation that an inspection performed by a political subdivision concluded that the facility is in compliance with the applicable standards of the political subdivision.

House Bill 2970**Effective:** 6-20-03**House Author:** Naishtat**Senate Sponsor:** Zaffirini

Recipients of benefits under the federally funded Temporary Assistance for Needy Families (TANF) program must meet certain work participation requirements imposed by federal law. The state may be subjected to penalties for a recipient's failure to meet those requirements. Federal law currently imposes stricter work participation requirements on two-parent families than it imposes on one-parent families, which results in a higher rate of noncompliance for two-parent families. The 77th Legislature established a state-funded temporary assistance program for two-parent families that is substantively identical to the federal TANF program. The Texas Department of Human Services places two-parent families in the state-funded program to avoid incurring penalties imposed under the federal program. House Bill 2970 amends the Human Resources Code to authorize the department to provide for the eligibility of two-parent families under TANF, rather than the state program, if federal law changes the work participation requirements for two-parent families to be substantively identical to those of one-parent families.

House Bill 3014**Effective:** 6-20-03**House Author:** Capelo**Senate Sponsor:** Janek

House Bill 3014 amends the Government Code to authorize a health and human services agency, subject to the written approval of the commissioner of health and human services, to accept a gift or grant of money, drugs, equipment, or any other item of value from a pharmaceutical manufacturer, distributor, provider, or another entity engaged in a pharmaceutical-related business. The commissioner is authorized to adopt rules that ensure the acceptance of a gift or grant is consistent with federal law or regulation and does not adversely affect federal financial participation in any state program, including the Medicaid program.

Senate Bill 100**Effective:** 9-1-03**Senate Author:** Van de Putte et al.**House Sponsor:** Uresti

Senate Bill 100 amends the Human Resources Code to require each day-care center, group day-care home, and family home, in accordance with Department of Protective and Regulatory Services rules, to be equipped with carbon monoxide detectors. A facility is not required to be equipped with a detector before January 1, 2004. A day-care center is exempt from the carbon monoxide detector requirement if the center is located in a school facility that is subject to certain safety standards.

Senate Bill 153

Effective: 9-1-03

Senate Author: Zaffirini

House Sponsor: Capelo

Senate Bill 153 amends the Government Code to change the name of the voucher payment program work group to the consumer directed services work group and to continue the work group until September 1, 2007. The bill also adds representatives of the Texas Workforce Commission and any other state agency considered necessary by the commissioner of the Health and Human Services Commission to the membership of the work group.

Senate Bill 602

Effective: 9-1-03

Senate Author: R. Ellis et al.

House Sponsor: Goodman

Senate Bill 602 amends the Government Code to expand the list of persons about whom the Department of Protective and Regulatory Services is entitled to obtain criminal history record information to include employees, volunteers, or applicant volunteers of a children's advocacy center.

Senate Bill 1024

Effective: 9-1-03

Senate Author: Madla

House Sponsor: Uresti

Senate Bill 1024 amends the Health and Safety Code to permit certain patients who have tuberculosis but who are not Texas residents to be admitted to state chest hospitals. The bill authorizes the Texas Department of Health to enter into an interstate agreement to provide for the care of nonresident patients with tuberculosis subject to certain conditions relating to availability of space and payment of the costs of hospitalization and treatment. Senate Bill 1024 also provides for the filing and enforcement of a court order from a state with which an interstate agreement exists that authorizes the commitment of a resident of that state to a hospital for inpatient care.

Senate Bill 1065

Effective: 9-1-03

Senate Author: Shapiro

House Sponsor: Hartnett

The 77th Legislature enacted a pilot project that was established in Dallas and Tarrant counties to address the need for more child protective services caseworkers. Senate Bill 1065 extends that pilot project until September 1, 2005, subject to available funding.

The bill directs the Department of Protective and Regulatory Services to remove limitations on the number of authorized caseworker positions in the region, to increase the number of trainee positions and maintain the number of trainers and training positions in certain training academies, and to provide funds to accomplish these directives.

Agency Functions, Powers, and Duties

House Bill 1322

Effective: 5-23-03

House Author: Naishtat

Senate Sponsor: Shapleigh

House Bill 1322 amends Human Resources Code provisions relating to the functions and responsibilities of the Texas Commission for the Deaf and Hard of Hearing. The bill adds a definition of deaf-blind and adds persons who are deaf-blind to the list of populations that the commission is required to serve under its advocacy and education program. House Bill 1322 directs the commission to work with the Texas Higher Education Coordinating Board instead of the Texas Education Agency to develop standards for evaluating interpreter training programs at institutions of higher education. The bill deletes the provision requiring the commission to adopt an annual fee schedule for interpreter services; authorizes the commission to establish

fees for interpreter training; and requires the commission to charge fees for performance examinations, certification, and certificate renewal. House Bill 1322 requires the commission to develop certification guidelines and makes certain other changes relating to the certification of interpreters. The bill also requires that funds allocated by the commission to provide direct services be distributed by a formula based on population and region.

House Bill 1322 requires the commission to develop rules and guidelines for the use of revenue collected from the sale of the commission's specialized license plates and appropriated to the commission for direct services programs, training, and education. The bill also amends the Government Code to provide the commission with access to criminal history record information relating to an applicant for a position at an outdoor training program under the auspices of the commission.

House Bill 3124

Effective: 9-1-03

House Author: Truitt

Senate Sponsor: Zaffirini

House Bill 3124 amends the Human Resources Code to remove provisions authorizing the Texas Rehabilitation Commission to contract to provide and pay for certain rehabilitative services under the extended rehabilitation services program. The bill changes provisions relating to transition planning under the program to authorize rather than require the commission to assess the need for transition services, establish certain collaborative relationships, and develop certain strategies to assist vocational rehabilitation counselors. House Bill 3124 repeals other provisions of the Human Resources Code relating to the extended rehabilitation services program.

House Bill 3125

Effective: 6-20-03

House Author: Truitt

Senate Sponsor: Zaffirini

House Bill 3125 amends the Human Resources Code to direct the Texas Commission for the Blind to operate rather than develop a Blindness Education, Screening, and Treatment Program and makes the operation of the program specifically subject to the availability of funds. The bill adds transition services to certain blind disabled individuals to the list of services required to be included in the program.

House Bill 3194

Effective: 9-1-03

House Author: Uresti

Senate Sponsor: Janek

House Bill 3194 amends the Human Resources Code to exempt the Department of Protective and Regulatory Services from paying certain county fees.

Senate Bill 261

Effective: 9-1-03

Senate Author: Shapleigh

House Sponsor: Dunnam

Senate Bill 261 amends the Human Resources Code to continue the Texas Council on Purchasing from People with Disabilities until September 1, 2015. In addition to including across-the-board sunset provisions, the bill requires, rather than authorizes, the council to establish a formal certification procedure for community rehabilitation programs and authorizes the council to delegate the administration of the procedure to a central nonprofit agency. It provides for the inspection of community rehabilitation programs for compliance with certification criteria and requires the council to review and analyze information relating to a program's compliance. The state auditor is required to include in its audit of a state agency its assessment of the agency's compliance with provisions of the code relating to the Texas Council on Purchasing from People with Disabilities.

Human Services

Senate Bill 285

Effective: 9-1-03

Senate Author: Nelson

House Sponsor: Chisum

The Department of Human Services (DHS) underwent sunset review in 1998. The 76th Legislature did not pass the sunset bill for the department in 1999, but DHS was continued for 12 years. In 2001, the 77th Legislature passed Senate Bill 309, which required the Sunset Advisory Commission to conduct a special-purpose review of DHS. Senate Bill 285 responds to that review. In addition to including across-the-board sunset provisions, the bill requires the department to develop a business plan for each service region and requires the commissioner's annual report to include certain information relating to client-centered outcome measures. The bill includes provisions related to service referrals for certain clients and procedures for determining eligibility for community care services for elderly persons or persons with disabilities. Senate Bill 285 requires DHS, in coordination with the Texas Workforce Commission (TWC) and local workforce development boards, to conduct a survey of best practices used to transition clients between local department offices and workforce centers and to revise and update the memorandum of understanding and coordinated interagency case management plan between DHS and TWC.

Senate Bill 1051

Effective: 5-28-03

Senate Author: Nelson

House Sponsor: Uresti

Senate Bill 1051 amends the Human Resources Code to authorize the Texas Department of Human Services to solicit and accept gifts, grants, and donations of money or property from public or private sources for use in assisting needy persons or otherwise carrying out any of the department's functions.

Medicaid

House Bill 727

Effective: 6-16-03

House Author: Delisi et al.

Senate Sponsor: Janek

House Bill 727 amends the Human Resources Code to provide a mechanism for the Health and Human Services Commission to contract with providers of disease management programs, including certain comprehensive hemophilia diagnostic treatment centers, to offer services to Medicaid beneficiaries who have a disease or chronic health condition and are not otherwise eligible for those services under a Medicaid managed plan. House Bill 727 prescribes procedures and minimum requirements for requesting, awarding, and developing contracts; determining cost savings; and identifying who needs disease management services. The bill requires the commission to identify certain beneficiaries who are eligible to participate in federally funded disease management research programs and to assist and refer those persons to the programs. The bill also requires the commission to conduct a study, to be completed not later than December 31, 2003, on the potential cost savings of using disease management programs.

House Bill 728

Effective: 5-30-03

House Author: Delisi

Senate Sponsor: Duncan

Previous law required the Health and Human Services Commission to adopt rules providing for a period of continuous eligibility for a child under 19 years of age who is eligible for Medicaid. The child would remain eligible until the earlier of 12 months from the date on which eligibility was determined or the child's 19th birthday. The rules were to take effect not earlier than September 1, 2002, and not later than June 1, 2003. House Bill 728 changes the date by which the rules become effective to not earlier than September 1, 2005.

House Bill 1743**Effective:** See below**House Author:** Delisi et al.**Senate Sponsor:** Nelson

House Bill 1743 amends provisions of the Human Resources Code, Government Code, Penal Code, and Code of Criminal Procedure relating to the investigation and prevention of fraud and abuse under Medicaid.

The bill brings the statutes current with federal requirements by adding “abuse” to provisions related to fraud detection and prevention and establishes the punishment for certain violations as a state jail felony. The bill authorizes the Health and Human Services Commission (HHSC) to prescribe criteria under which certain people who commit certain violations are not prohibited from providing services under Medicaid and makes specific exceptions for generally accepted business practices. The Health and Human Services Commission is authorized to perform a prepayment review of a claim for reimbursement by a provider, to withhold payment while performing the review, and to impose a postpayment hold on future claims under certain circumstances. The Health and Human Services Commission is required to adopt rules to allow providers to seek an informal resolution of issues resulting in a postpayment hold and to require certain providers under Medicaid to file a surety bond with the commission.

On receipt of a complaint of Medicaid fraud or abuse, the commission is required to conduct an integrity review to determine if a full investigation by the commission’s office of investigations and enforcement is warranted. The bill sets out procedures for the integrity review and the actions required of the commission in the event a provider is suspected of fraud or abuse, including referral to the state’s Medicaid fraud control unit, a hold on payment of claims for reimbursement without notice, and, on request of a provider, filing a request with the State Office of Administrative Hearings for an expedited hearing on the hold.

House Bill 1743 requires third-party billing vendors to enter into a contract with HHSC authorizing the vendor to submit claims under Medicaid and specifies certain provisions to be contained in the contracts. On receipt of a claim by a third-party billing vendor, HHSC is required to send a notice to the provider referenced in the claim to verify the claim’s accuracy.

The Health and Human Services Commission and the attorney general’s office are required to amend the memorandum of understanding between the two agencies relating to the referral of cases to the state’s Medicaid fraud control unit, and the bill includes provisions relating to the jurisdiction of the attorney general to prosecute cases involving Medicaid fraud and abuse.

House Bill 1743 increases the membership of the Medicaid and Public Assistance Fraud Oversight Task Force to include a representative of the Texas Department of Health. The bill takes effect September 1, 2003, except for provisions relating to third-party billing vendors which take effect January 1, 2004.

House Bill 3122**Effective:** 9-1-03**House Author:** Truitt**Senate Sponsor:** Lindsay

House Bill 3122 amends the Government Code to require the commissioner of health and human services to establish a task force on local health initiatives. The bill authorizes the commissioner and the task force jointly to create two locally based demonstration projects that coordinate efforts between certain local governmental entities and small business employers to extend Medicaid coverage to certain low-income parents and offer health care coverage to certain low-income working parents.

House Bill 3484

Effective: 9-1-03

House Author: Delisi et al.

Senate Sponsor: Deuell

House Bill 3484 amends the Government Code to establish a work group to assist the Health and Human Services Commission to identify, recommend, and develop policy options to improve access to health care coverage and services for employed persons with disabilities. The bill lists a number of determinations the work group is required to make in examining policy options, including the extent to which employers offer benefits to disabled employees and the adequacy of those benefits to the use of existing employment incentive programs under the Supplemental Security Income programs and Social Security disability insurance programs. The bill requires the work group to develop a proposal for a Medicaid buy-in program based on the group's determinations. The commission is directed to use the federal grant awarded to the commission in 2001 under the Ticket to Work and Work Incentives Improvement Act of 1999 to accomplish the purposes of the bill, and the provisions of the bill, including the establishment of the work group, expire September 1, 2005.

Senate Bill 240

Effective: 9-1-03

Senate Author: Averitt

House Sponsor: Wohlgemuth

Senate Bill 240 amends the Health and Safety Code to make changes to the health insurance premium payment reimbursement program for children eligible for the child health plan program (CHIP). Under previous law, the reimbursement program was administered by the Texas Department of Health and required children otherwise eligible for CHIP to apply for a group health benefit plan if it was determined to be cost-effective. The program provided for the payment of premiums for coverage of a child enrolled in a plan and authorized additional payments to cover the premiums of a parent or family member if that person's enrollment was necessary for the child to be eligible for the plan. Senate Bill 240 transfers administration of the program to the Health and Human Services Commission and authorizes the commission to determine the cost-effectiveness of the program on an aggregate basis. (Previous law required that the cost-effectiveness be determined for each child.) On determination of cost-effectiveness, the commission is to inform the child and the child's parent or guardian of the premium assistance program, to offer a payment to assist with premiums for a group health benefit plan, and to determine the amount of the premium assistance payment. Senate Bill 240 provides that an assistance payment may be used for the payment of a premium that includes a member of the child's family. The bill deletes the provision that enrollment in a group health benefit plan does not affect eligibility for benefits under CHIP.

Senate Bill 245

Effective: 9-1-03

Senate Author: Zaffirini

House Sponsor: Wohlgemuth

Senate Bill 245 amends the Human Resources Code to direct the Health and Human Services Commission by rule to require that respiratory therapy services provided to ventilator-dependent persons under Medicaid be provided by a respiratory therapist authorized to practice respiratory care when respiratory therapy is determined to be the most effective treatment and when the use of a respiratory therapist is practicable and cost-neutral or cost-effective. The bill repeals a provision allowing a recipient to select a respiratory therapist.

Senate Bill 691**Effective:** 9-1-03**Senate Author:** Madla**House Sponsor:** Delisi

Senate Bill 691 amends the Government Code to require the Health and Human Services Commission to periodically review policies regarding reimbursement under the Medicaid program for telemedicine medical services to identify variations from reimbursements under Medicare and authorizes the commission to modify rules and procedures to provide for a comparable reimbursement system. Senate Bill 691 also authorizes the review of, and the modification of rules related to, telemedicine services provided through any other government-funded health program subject to the commission's oversight.

Senate Bill 1522**Effective:** 6-18-03**Senate Author:** Zaffirini**House Sponsor:** Luna

Senate Bill 1522 amends the Human Resources Code to allow the Texas Department of Health to develop procedures requiring that an application for medical assistance or a recertification review of eligibility for medical assistance for a child who is under 19 years of age be conducted through a personal interview only if the department determines that information needed to verify the child's eligibility cannot be obtained in any other manner. The department may use third-party information obtained from a consumer reporting agency, an appraisal district, or the Texas Department of Transportation's vehicle registration record database to verify the assets and resources of a person for purposes of determining the person's eligibility and need to receive medical assistance. Senate Bill 1522 extends the deadline for the Health and Human Services Commission to put into effect rules relating to continuous eligibility under the medical assistance program from June 1, 2003, to September 1, 2005.

Mental Health and Mental Retardation**House Bill 21****Effective:** 6-20-03**House Author:** Corte et al.**Senate Sponsor:** Nelson

House Bill 21 amends the Health and Safety Code to change from younger than 16 years to younger than 18 years the maximum age of a person for whom a parent, managing conservator, or guardian, or a person or agency appointed as a guardian and acting as an agent of the state, may request admission to an inpatient mental health facility without the person's consent. House Bill 21 provides for evaluation by a physician at regular intervals to determine the need for continued inpatient treatment of the person and requires a facility to notify a patient's parent, managing conservator, or guardian on receipt of a written request for discharge.

House Bill 2609**Effective:** 9-1-03**House Author:** Coleman et al.**Senate Sponsor:** Nelson

House Bill 2609 amends the Health and Safety Code to authorize a commissioners court to establish a mental health court program for persons arrested for or charged with a misdemeanor and suspected by law enforcement or a court of having a mental illness or mental retardation. The bill enumerates the characteristics of a mental health court program and permits a program to require a participant to pay the cost of all treatment and services received while participating in the program, based on ability to pay. It authorizes the lieutenant governor and speaker of the house to assign duties relating to the oversight of the mental health court programs to appropriate legislative committees, which may request certain audits.

Senate Bill 464

Effective: 9-1-03

Senate Author: Nelson

House Sponsor: Delisi

Senate Bill 464 amends Health and Safety Code provisions relating to the appointment of a manager to operate a community center for mental health or mental retardation services. The bill provides that the filing of a notice of appeal stays the appointment by the commissioner of mental health and mental retardation of a manager or management team to operate a community center unless the appointment is based on a finding of misuse of state or federal money. Senate Bill 464 removes a provision permitting the appointment of a manager or management team if the commissioner finds that contract sanctions and intervention with the center's board of trustees failed to bring the center into compliance with the center's plan or contract with the department. The bill also removes the provision that the manager's authority may continue until the department cancels its contract with the center.

Senate Bill 490

Effective: 5-15-03

Senate Author: Shapleigh

House Sponsor: Uresti

Senate Bill 490 amends the Health and Safety Code to require the Texas Department of Mental Health and Mental Retardation and the Interagency Council on Early Childhood Intervention to jointly develop and coordinate certain agency services and activities involving mental health care for children younger than seven years of age.

Senate Bill 591

Effective: 9-1-03

Senate Author: Duncan

House Sponsor: Allen

Senate Bill 591 amends the Health and Safety Code to reassign the duties of the Texas Council on Offenders with Mental Impairments to the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments (committee) and to the Texas Correctional Office on Offenders with Medical or Mental Impairments (office). The bill increases the committee from 30 to 31 members and changes the composition of the committee. The committee is required to advise the Texas Board of Criminal Justice (board) and the director of the office on matters related to offenders with medical or mental impairments. The bill requires the office to perform duties imposed on or assigned to by the law, the board, and the executive director of the Texas Department of Criminal Justice. The bill requires the office to review competency examinations of defendants in criminal trials and to report its findings to the legislature and the court of criminal appeals. The bill authorizes the office to maintain at least one community-based diversion program to divert from the criminal justice system and rehabilitate offenders with mental impairments or offenders who are identified as elderly, physically disabled, or terminally or significantly ill.

Senate Bill 1145

Effective: 9-1-03

Senate Author: Madla

House Sponsor: Uresti

Senate Bill 1145 amends provisions of the Health and Safety Code requiring rules adopted by the Texas Board of Mental Health and Mental Retardation relating to a local mental health authority's recommended treatment for individuals in need of mental health services to include those in contact with the criminal justice system and detained in jails and juvenile detention facilities. Senate Bill 1145 authorizes an authority to develop and prioritize funding for: a system to divert people from the criminal justice system to appropriate services before incarceration; specialized training of law enforcement or court personnel to identify suspects or offenders who may need to be diverted; and other programs such as crisis intervention. A program may not be implemented without approval by the department.

Senate Bill 1182
Effective: 6-18-03

Senate Author: Deuell et al.
House Sponsor: Farabee

Senate Bill 1182 amends provisions of the Health and Safety Code and Government Code relating to local mental health or mental retardation authorities and to certain services and proceedings related to mental health. The bill requires local mental health or mental retardation authorities to develop a local service area plan to maximize the authority's services, sets out objectives an authority must consider in developing the plan, and requires local authorities and the Texas Department of Mental Health and Mental Retardation by contract to enter into a performance agreement for programs administered by the authority. Senate Bill 1182 directs the Health and Human Services Commission to regularly evaluate contractors and subcontractors that provide services under the Medicaid managed care program and the state child health plan program. The bill also authorizes a judge or magistrate, under certain circumstances, to permit a physician or mental health professional to testify by closed-circuit video teleconferencing in a hearing or proceeding related to court-ordered health services.

Senate Bill 1764
Effective: 5-28-03

Senate Author: Deuell
House Sponsor: Farabee

Senate Bill 1764 amends the Health and Safety Code to require the administrator of a mental health facility or the superintendent of a residential care facility to release to a cemetery organization or funeral establishment certain identifying information for purposes of preparing a grave marker for a person who dies while a patient or resident at a facility, unless there are written instructions to the contrary.

Senate Bill 1862
Effective: 6-20-03

Senate Author: Bivins
House Sponsor: Wohlgemuth

Senate Bill 1862 amends provisions of the Health and Safety Code and the Human Resources Code relating to health and human services. The bill imposes a quality assurance fee on each intermediate care facility owned by the Texas Department of Mental Health and Mental Retardation. It changes the method for determining the number of patient days for an intermediate care facility by eliminating the number of beds on hold for hospitalized patients from the daily total, and it extends the deadline for filing a monthly report on patient days with the Health and Human Services Commission or the Texas Department of Human Services from the 10th to the 20th day after the end of the month covered by the report. Senate Bill 1862 authorizes the use of money in the quality assurance fund to increase the reimbursement rate for waiver programs for persons with mental retardation or for any other health and human services purpose approved by the governor and the Legislative Budget Board. The bill repeals a provision requiring the commission or the department to adopt the formula by which amounts received from the quality assurance fund increase the reimbursement rates paid to intermediate care facilities and waiver programs under the Medicaid program. It changes the method for determining whether an applicant is eligible for financial assistance and services to families with dependent children by reducing the amount of financial resources for the applicant's household that must be excluded from the applicant's available resources; the reduced exclusion applies uniformly regardless of whether the household includes a disabled or aged member.

Senate Bill 1862 makes the department's establishment of a program that serves pregnant women, children, and caretakers who have high medical expenses subject to the appropriation of state funds. The provision of foot health care services and the services provided by a licensed psychologist or a licensed marriage and family therapist are also made subject to the

appropriation of state funds. Senate Bill 1862 requires the department to consider a nationally recognized, unbiased pricing standard for prescription drugs in determining reimbursement amounts under the vendor drug program. Senate Bill 1862 changes the earliest effective date allowed for rules adopted by the Health and Human Services Commission or the appropriate state agency providing for a 12-month period of continuous eligibility for children under 19 years of age; as amended, the rules must take effect not earlier than September 1, 2005, instead of not earlier than September 1, 2002, or later than June 1, 2003. The bill also authorizes each health and human services agency to reduce expenditures by taking certain efficiency measures.

Nursing Home, Assisted Living, and Related Facilities

House Bill 776

Effective: 9-1-03

House Author: Naishtat et al.

Senate Sponsor: Nelson

House Bill 776 amends the Health and Safety Code to require the Texas Board of Human Services to include in the minimum standards adopted for convalescent and nursing homes the requirement that each institution, as part of an existing training program, provide certain individuals who render nursing services in the institution at least one hour of training each year in caring for people with dementia. The bill clarifies that it is not the intent of the legislature that the training requirement cause an institution to incur additional costs.

House Bill 867

Effective: 9-1-03

House Author: J. Jones et al.

Senate Sponsor: Deuell

House Bill 867 requires the Texas Department of Human Services to review and, if necessary and not later than January 1, 2004, amend the rules and minimum standards for nursing and convalescent homes and assisted living facilities to ensure that those institutions are required to use a central air conditioning system or similar system to maintain a temperature suitable for the comfort of the residents. The act applies to institutions for which construction is begun after the effective date of the amended rule or minimum standard but not later than January 1, 2004, and includes facilities converted for use as an institution.

House Bill 1686

Effective: 6-20-03

House Author: Chisum

Senate Sponsor: Deuell

House Bill 1686 amends the Occupations Code to allow Class E pharmacies located not more than 20 miles from a convalescent or nursing home or an intermediate care facility to maintain controlled substances and dangerous drugs in an emergency medication kit for use at the home or facility.

House Bill 1749

Effective: See below

House Author: Hupp

Senate Sponsor: Fraser

House Bill 1749 is the enabling legislation for the constitutional amendment proposed by House Joint Resolution 68, relating to the use of excess from three funds administered by the Veterans' Land Board. The proposed amendment expands use to include veterans nursing home purposes. The bill, consistent with that change and with other provisions of the amendment, amends the Natural Resources Code to remove provisions that limit the pledging of excess receipts and assets as security for bond payments to only those bonds that are issued for land and home mortgage loan purposes. The bill takes effect contingent on voter approval of the constitutional amendment proposed by House Joint Resolution 68.

House Bill 1971**Effective:** 9-1-03**House Author:** Uresti**Senate Sponsor:** Nelson

House Bill 1971 amends the Health and Safety Code to expand the list of convictions which bar employment in positions with direct patient contact at a facility serving the elderly or persons with disabilities before the fifth anniversary of the date the person is convicted of the offense.

House Bill 3200**Effective:** 9-1-03**House Author:** Hegar et al.**Senate Sponsor:** Armbrister

House Bill 3200 amends the Health and Safety Code to provide that if the Texas Board of Human Services, under its authority to prescribe minimum standards for assisted living facilities, does not prescribe standards for facilities serving nongeriatric residents, it must develop procedures for considering and approving alternate methods of compliance with the board's standards by those facilities.

Senate Bill 957**Effective:** 6-20-03**Senate Author:** Van de Putte**House Sponsor:** Noriega

Senate Bill 957 amends the Occupations Code to allow a U.S. Department of Veterans Affairs or other federally operated pharmacy to maintain controlled substances and dangerous drugs in an emergency medical kit used at a licensed state veterans home solely for the emergency medication needs of home residents.

Senate Bill 1012**Effective:** 5-28-03**Senate Author:** R. West et al.**House Sponsor:** Raymond et al.

Senate Bill 1012 amends the Health and Safety Code to allow the placement of electronic monitoring devices in the rooms of residents in assisted living facilities.

Senate Bill 1073**Effective:** 9-1-03**Senate Author:** R. West et al.**House Sponsor:** Miller

Senate Bill 1073 amends the Health and Safety Code to prohibit a person from being employed in a position involving direct contact with a resident of certain facilities that serve the elderly or persons with disabilities before the fifth anniversary of the date the person is convicted of an offense related to assault, burglary, felony theft, misapplication of fiduciary property, or securing execution of a document by deception.

Senate Bill 1074**Effective:** 9-1-03**Senate Author:** R. West et al.**House Sponsor:** Naishtat

Senate Bill 1074 amends the Health and Safety Code to require a nursing home owner or employee to make certain reports of abuse, neglect, or other specified complaint to both the Texas Department of Human Services and to certain law enforcement agencies. The bill expands the conditions under which the department is required to investigate complaints of abuse or neglect within 24 hours to include allegations of certain sexual offenses and conduct resulting in bodily injury to the nursing home resident. Senate Bill 1074 includes provisions enhancing the interview and investigation process, including making a photographic record of a resident's injury and the duties of law enforcement.

Human Services

Senate Bill 1237

Effective: 5-28-03

Senate Author: Estes

House Sponsor: Phillips

Senate Bill 1237 amends the Health and Safety Code to provide that if the Texas Department of Human Services appoints a trustee for a veterans home, the Veterans' Land Board is responsible for certain compensation guaranteed the trustee by law. The bill also exempts a veterans home from the additional license fee that is authorized to be charged and collected by the department if the amount of the nursing and convalescent home trust fund is less than \$10,000,000.

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

HB 1020 - Labor and Employment
HB 2002 - Family Law and Juvenile Justice
HB 2895 - Family Law and Juvenile Justice
HB 3087 - Family Law and Juvenile Justice
HB 3486 - Health and Medical Occupations
HJR 68 - Public Education
SB 491 - Public Education
SB 739 - Health
SB 1489 - Family Law and Juvenile Justice
SB 1549 - Health and Medical Occupations

Insurance

This chapter covers legislation relating to the regulation of companies and individuals licensed to sell insurance in Texas. The chapter also includes legislation relating to transactions between insurers and health care providers, certain licensing requirements for public insurance adjusters, and functions and operations of the Texas Department of Insurance. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 1131**Effective:** 9-1-03**House Author:** Flores et al.**Senate Sponsor:** Carona

House Bill 1131 amends the Occupations Code to prohibit certain insurers from holding or acquiring an ownership interest in a vehicle repair facility, designated as a “tied repair facility.” The bill authorizes an insurer that owns such a facility that was open for business or under construction on April 15, 2003, to maintain that interest and to operate or relocate the facility if the insurer and facility are otherwise in compliance with this provision, but prohibits the insurer from acquiring additional facilities. The bill sets out requirements for a “favored facility agreement,” authorizes the insurer to provide support services to its tied repair facility under certain conditions, and requires any agreement between the insurer and the facility to be an arm’s-length transaction. The bill requires an insurer that owns a tied repair facility to prominently post a notice on the facility premises to inform customers that the facility is owned wholly or partly by the insurer and that customers may seek repairs at any facility they choose. The bill places other restrictions on the types of activity the insurer may conduct and the information it may share with its tied repair facility.

The bill allows a party aggrieved by an insurer’s violation of this provision to file suit against the insurer to compel its compliance, and it establishes that each day a violation occurs is considered a separate violation. The bill authorizes a court to impose on the insurer a civil penalty of not less than \$1,000 or more than \$5,000 per violation to be sent to the comptroller for deposit in the general revenue fund. A plaintiff who prevails in an action may recover reasonable attorney’s fees and court costs, and a defendant who prevails may be awarded reasonable attorney’s fees if the court finds that the action was groundless or was brought in bad faith or for the purpose of harassment. The bill establishes that this provision does not confer immunity from Texas or U.S. antitrust laws, and a sanction or penalty imposed under this provision is in addition to any relief granted under those laws.

House Bill 1838**Effective:** 9-1-03**House Author:** Thompson**Senate Sponsor:** Averitt

House Bill 1838 amends the Penal Code to require a court to order a defendant convicted of insurance fraud to pay restitution, including court costs and attorney’s fees, to an affected insurer.

House Bill 2701**Effective:** 9-1-03**House Author:** J. Keffer**Senate Sponsor:** Estes

House Bill 2701 amends the Government Code to require, rather than authorize, the commissioner of insurance, in coordination with the state fire marshal, to use pertinent and timely facts relating to fires to develop programs and disseminate materials to educate the

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public regarding fire prevention and safety. The bill authorizes the commissioner to accept, through the state fire marshal, gifts, grants, and donations from any source to be used for these programs and materials.

House Bill 2922

Effective: 4-1-05

House Author: Marchant

Senate Sponsor: Harris

House Bill 2922, a continuation of the legislature's ongoing statutory revision program, contains nonsubstantive changes adding five titles and two subtitles to the Insurance Code, repealing various source laws from which the new code content is derived, and making other conforming amendments. The new titles and subtitles relate to Texas Department of Insurance fund and revenue matters, the protection of consumer interests, life and health coverage, title insurance, and the regulation of professionals.

Senate Bill 637

Effective: 6-20-03

Senate Author: Nelson

House Sponsor: E. Jones

Senate Bill 637 amends the Insurance Code to require an insurance company to pay any fees involved in filing a copy of the company's annual statement and any supplemental information with the National Association of Insurance Commissioners.

Liability Insurance

Senate Bill 339

Effective: 9-1-03

Senate Author: Nelson

House Sponsor: Smithee

Senate Bill 339 amends the Insurance Code to allow the Medical Liability Insurance Underwriting Association to offer physicians and health care providers short-term medical liability insurance policies for a term of less than one year and also to offer policyholders the option of paying premiums on an installment basis, rather than offering only annual policies with premiums paid in a lump sum as provided by prior law. The bill exempts these short-term policies of less than one year from the requirement for the association to notify policyholders 90 days in advance of any increase, cancellation, or nonrenewal of coverage. If the association chooses to allow an installment plan for paying insurance premiums, the bill authorizes the association either to permit policyholders to pay charges to its stabilization reserve funds in installments or to require an annual lump-sum payment.

Senate Bill 421

Effective: 9-1-03

Senate Author: Carona

House Sponsor: J. Davis

Senate Bill 421 amends the Insurance Code to provide for the eligibility of assisted living facilities for coverage under the Texas Medical Liability Insurance Underwriting Association. The bill authorizes the commissioner of insurance to designate types of health care providers to be eligible for coverage on the determination that other appropriate liability insurance coverage is not available and provides for the establishment of a separate policyholder's stabilization reserve fund. The bill deletes a provision authorizing the commissioner to direct the initiation or continuation of the stabilization reserve fund charge for physicians or that category of health care provider if certain losses and expenses result in a net underwriting loss and exceed 25 percent of the fund. The bill also includes a provision limiting the liability of the association for exemplary damages under a policy for an assisted living facility; the provision applies only to claims after September 1, 2003, and before January 1, 2006.

Senate Bill 891**Effective:** 9-1-03**Senate Author:** Duncan**House Sponsor:** McCall

Senate Bill 891 amends the Insurance Code to authorize the Joint Underwriting Association (JUA) to provide general liability insurance coverage in connection with the medical liability insurance policies it issues. The bill eliminates a provision relating to the policyholder's stabilization reserve fund for physicians and health care providers that authorizes the commissioner of insurance to direct the initiation or continuation of the fund charge for policyholders until the fund recovers any losses or cost-containment expenses that exceed 25 percent of the fund in any fiscal year. The bill also eliminates a provision that requires that the fund be credited with all fund charges collected and charged with any deficit from JUA operating costs for the previous year.

Senate Bill 1063**Effective:** 9-1-03**Senate Author:** Shapiro**House Sponsor:** Krusee

Senate Bill 1063 amends the Transportation Code to require the Texas Department of Transportation to notify other law enforcement agencies, in addition to the Department of Public Safety, of each motor carrier whose certificate of registration has been revoked for failing to maintain liability insurance. The bill requires the Department of Public Safety or a local law enforcement agency to confirm that a motor carrier whose certificate of registration has been revoked is not operating. It also authorizes a law enforcement officer to detain or impound any commercial vehicle operating without liability insurance until such coverage is filed with the Department of Public Safety.

Life and Health**House Bill 508****Effective:** 9-1-03**House Author:** Woolley**Senate Sponsor:** Williams

House Bill 508 amends the Insurance Code to require certain insurers that provide group policies for health, accident and health, or life, health, and accident insurance to send a policyholder or trustee written notice of a premium increase at least 60 days, rather than at least 30 days, before the increase takes effect. The bill requires certain insurers that provide group life insurance policies to send a policyholder or trustee written notice of a premium increase not later than the 61st day, rather than the 31st day, before the increase takes effect. The bill requires all such written notices to include the amount and the effective date of the premium increase. The bill prohibits the insurer from requiring the policyholder or trustee to renew, extend, or take other action relating to the policy earlier than the 45th day after the date of the written notice.

House Bill 897**Effective:** 9-1-03**House Author:** Woolley et al.**Senate Sponsor:** Nelson

House Bill 897 amends the Insurance Code to prohibit a purchasing cooperative from limiting or restricting employer or employee choice among health benefit plans, or from determining an employee's membership in the cooperative, based on the employee's health status, duration of coverage, or similar characteristics of a group or of any group member. The bill defines a small employer health coalition as a private purchasing cooperative composed solely of small employers and provides that such a coalition is considered a single small employer under provisions of the Insurance Code. The bill provides that a small employer

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health benefit plan can offer coverage to a small employer if at least 75 percent of the small employer's eligible employees elect to be covered, which is provided by existing law, or if a lower participation level is offered by the carrier and a sufficient number of eligible employees elect to be covered. The bill prohibits a small employer carrier or agent from influencing a small employer's decision regarding membership in a particular small employer health coalition because of the health status or claim experience of the employer's eligible employees and dependents.

House Bill 928

Effective: 9-1-03

House Author: Eiland

Senate Sponsor: Armbrister

House Bill 928 amends the Insurance Code to authorize a stipulated premium insurance company that issues life, health, or accident coverage or maintains policies in force to elect for its investments and transactions to be governed by Article 3.33, Insurance Code, which applies to investments and loans of capital stock domestic life, health, and accident insurance companies. The bill further authorizes such a company, after the second anniversary of the effective date of the initial election, to elect for its investments and transactions to be governed by Article 3.39, Insurance Code, which applies to investments and loans of domestic life insurance companies. The bill requires both elections to be made in writing to the commissioner and sets as the effective date the first day of the calendar quarter following the date the notice is filed with the commissioner. The bill prohibits the company from making subsequent elections unless approved by the commissioner.

House Bill 1163

Effective: 9-1-03

House Author: Thompson

Senate Sponsor: Harris

House Bill 1163 amends the Insurance Code to prohibit an insurer from denying a podiatrist a contract or withholding the designation as a preferred provider if the podiatrist is licensed by the Texas State Board of Podiatric Medical Examiners, joins the professional practice of one of the insurer's contracted preferred providers, applies to the insurer for designation as a preferred provider, and meets its terms and conditions for becoming a preferred provider. The bill requires a podiatrist designated as a preferred provider under this provision to comply with the terms of the preferred provider contract used by the insurer or the insurer's network provider. The bill also prohibits a health maintenance organization (HMO) from denying a podiatrist a contract if the podiatrist is licensed to practice in Texas, joins the professional practice of one of the HMO's contracted physicians or providers, satisfies the HMO's application procedures, and meets the HMO's contract qualification and credentialing requirements.

House Bill 1268

Effective: 9-1-03

House Author: Seaman

Senate Sponsor: Carona

House Bill 1268 amends the Insurance Code to authorize an insurer or other entity that issues a Medicare supplement policy in Texas to also offer a policyholder an outpatient prescription drug benefit plan—either a plan covered by an existing Medicare supplement policy or a new or innovative plan filed with and approved by the commissioner of insurance. The bill requires the commissioner to approve or disapprove the second type of plan not later than the 60th day after the date the plan is filed, or that plan is considered approved. The bill also authorizes an insurer or other entity to offer participation in a prescription drug discount program, which allows a participant to purchase prescription drugs or other medical supplies and services from vendors at a discount by agreement with a participating pharmacy.

House Bill 1446**Effective:** 9-1-03**House Author:** B. Brown**Senate Sponsor:** Averitt

House Bill 1446 amends the Insurance Code to change from 25 years of age or younger to 25 years of age or older the maximum limiting attained age an insurer is authorized to use for policy provisions that condition a child's eligibility for health benefit coverage on the child's enrollment as a full-time student at an educational institution. The bill requires a health benefit plan that places such conditions on coverage to provide a child who is 25 years of age or older, rather than 25 years of age or younger, with health insurance coverage for an entire academic term during which the child begins as a full-time student and remains enrolled.

House Bill 1797**Effective:** 9-1-03**House Author:** Farabee**Senate Sponsor:** Averitt

House Bill 1797 amends the Insurance Code to authorize an insurer, by agreement with a policyholder, to use an electronic method of delivery to provide the policyholder with a certificate of insurance for a group accident and health insurance policy.

House Bill 1798**Effective:** 9-1-03**House Author:** Farabee**Senate Sponsor:** Averitt

House Bill 1798 amends the Texas Health Maintenance Organization Act to authorize an insurer, a group hospital service corporation, or a health maintenance organization to use an electronic method of delivery to provide a health care plan subscriber or other entitled person with a policy, contract, or other evidence of coverage, by agreement between the sender and the recipient.

House Bill 1799**Effective:** 9-1-03**House Author:** Farabee**Senate Sponsor:** Averitt

House Bill 1799 amends the Insurance Code to authorize an insurer, by agreement with a policyholder, to use an electronic method of delivery to provide the policyholder with a certificate of insurance for a group life insurance policy.

House Bill 1800**Effective:** 9-1-03**House Author:** Farabee**Senate Sponsor:** Averitt

House Bill 1800 amends the Texas Health Maintenance Organization Act to authorize an insurer, a group hospital service corporation, or a health maintenance organization to use an electronic method of delivery to provide a health care plan subscriber or other entitled person with a policy, contract, or other evidence of health care plan coverage, by agreement between the sender and the recipient. The bill amends the Insurance Code to allow a health maintenance organization to provide its required description of its health care plan terms in an electronic format.

Senate Bill 10**Effective:** 9-1-03**Senate Author:** Averitt et al.**House Sponsor:** Smithee

Senate Bill 10 amends the Insurance Code to authorize the establishment of a health group cooperative for the purchase of employer health benefit plans. A health group cooperative must allow membership to small employers and may also extend membership to large employers. The bill prohibits a health insurance carrier from forming or being a member of a health group cooperative but authorizes the carrier to help a sponsoring entity form such a cooperative. The

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bill authorizes a sponsoring entity of a health group cooperative to inform members about the cooperative and its benefits and requires the commissioner of insurance to adopt rules that allow an employer to terminate participation in the cooperative due to financial hardship. An employer that elects to participate in a health group cooperative must commit to buying coverage through the cooperative for two years, except for reasons of financial hardship.

The bill sets out the requirements and procedures for a health carrier that issues benefits to a health group cooperative and establishes that such benefits are not subject to certain state laws or regulations. It authorizes a health group cooperative to offer more than one benefit plan if all plans are available to all covered employees and allows the cooperative to provide coverage to an expanded service area if certain conditions are met. The bill requires a health group cooperative to provide coverage for diabetes equipment, supplies, and certain other services. The bill specifies that a cooperative may not restrict or condition an employer's or employee's membership or choice among benefit plans based on the risk characteristics of a group or any member of a group and requires a health group cooperative to have at least 10 participating employers to be eligible to contract with certain small or large employer carriers. It establishes criteria for determining whether a health group cooperative is treated as a single employer under Texas insurance laws and specifies that a licensed agent used and compensated by a cooperative need not be appointed by each large employer carrier participating in the cooperative.

Senate Bill 418

Effective: 6-17-03

Senate Author: Nelson et al.

House Sponsor: Smithee et al.

Senate Bill 418 amends the Insurance Code to establish new prompt payment regulations for transactions between health care providers and insurers, including preferred provider organizations and health maintenance organizations (HMOs). The bill establishes the elements of a clean claim and sets out procedures for a physician, provider, or preferred provider to submit a claim and for the insurer or HMO to process that claim. It establishes specific deadlines for an HMO to take action on clean claims, audited claims, and certain prescription claims. It provides for an insurer or HMO to obtain additional information to determine payment of a claim and establishes guidelines for the electronic submission of a claim. The bill requires the claims payment processes used by an insurer or HMO to include codes, guidelines, logics, and edits that are nationally recognized and generally accepted and provides for a physician, provider, or preferred provider to obtain copies of coding guidelines and fee schedules. The bill authorizes an insurer or HMO to recover an overpayment to a physician or provider if certain requirements are met and sets out requirements for coordinating the payment of claims to the appropriate parties. It establishes penalties for a violation of the requirements for claims payments and establishes that prompt payment and verification provisions apply to a physician or provider who is not a preferred provider but provides emergency care or certain specialized medical or health care services. The bill requires an identification card or similar document issued by an insurer or HMO to an insured or enrollee to display certain plan information. It requires the commissioner of insurance to waive the application of any of the above provisions if the commissioner determines, in consultation with the commissioner of health and human services, that the provision will cause a negative fiscal impact on the state. The bill requires the commissioner to appoint a technical advisory committee on claims processing and establishes the duties and responsibilities of that committee.

Senate Bill 467**Effective:** 6-20-03**Senate Author:** Averitt**House Sponsor:** Hochberg

Senate Bill 467 amends Insurance Code provisions relating to the Texas Health Insurance Risk Pool. The bill amends the definition of “health insurance” to expand the types of health insurance policies covered by the pool; it includes a health care plan that provides medical or health care services through stop-loss insurance, excess loss insurance, or reinsurance for individual or group health insurance or other health care arrangement. The term no longer excludes short-term insurance, accident insurance, fixed indemnity insurance, and other limited benefit insurance. The bill amends the definition of “insured” to mean a person who is a legal Texas resident and removes the requirement that the person be a U.S. citizen. The bill removes the exclusion of an individual licensed as, employed by, or affiliated with a physician, hospital, or other health care provider from the list of individuals who may serve as a public member on the pool’s board of directors.

The bill repeals the minimum and maximum initial premium pool rates. It establishes that a person imprisoned in a federal prison is not eligible for coverage and requires termination of existing coverage under certain conditions relating to a person’s domicile, age, dependent status, date of initial pool coverage, and eligibility for Medicare. It prohibits application of a preexisting condition provision to a person who receives certain kinds of federal aid.

The bill requires an insurer to provide the board of directors of the pool with certain information each year, requires the board to make an annual assessment of the insurer based on that information, and lists kinds of coverage not to be considered for purposes of the assessment. The bill authorizes, rather than requires, the state auditor to conduct an annual special audit of the pool and requires the Texas Department of Insurance to conduct a study on how to expand eligibility in the pool to include individuals who do not receive health insurance through their employers and are unable to obtain coverage on the open market.

Senate Bill 494**Effective:** 9-1-03**Senate Author:** Shapleigh**House Sponsor:** Uresti

Senate Bill 494 amends the Insurance Code to require an insurer, a group hospital service corporation, or a health maintenance organization that maintains an Internet site to list on that site those physicians and other health care providers, including mental health and substance abuse providers, that may be used by insureds or enrollees in accordance with the terms of the applicable benefit plan. The bill further requires the insurer to indicate on its Internet site which physicians or health care providers are accepting new patients or clients and to update the Internet site at least quarterly.

Senate Bill 541**Effective:** 9-1-03**Senate Author:** Williams et al.**House Sponsor:** Taylor

Senate Bill 541 amends the Insurance Code to allow a health carrier or a health maintenance organization (HMO) to offer an accident or sickness insurance policy that does not provide certain state-mandated health benefits. Documents related to such a policy, defined as a “standard health benefit plan,” must contain a specifically worded written notice that notifies the insured or enrollee of the plan’s benefit limitations and a written disclosure statement indicating that certain state-mandated health benefits are not included in the plan and that purchase of the plan may limit future coverage options if the policyholder’s health changes. The disclosure statement must be signed by the applicant or policyholder and returned to the insurer or HMO, to be made available to the Texas Department of Insurance (TDI) upon request. The bill authorizes a health carrier or HMO to offer additional plans of this type and

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requires a small employer carrier to offer a standard health benefit plan rather than a catastrophic care benefit plan and a basic coverage benefit plan. It requires an insurer, an HMO, or a small employer carrier that offers a standard health benefit plan to also offer at least one policy with state-mandated health benefits. A standard health benefit plan offered by a health carrier must include coverage for direct services to an obstetrical or gynecological care provider. The bill requires a health carrier to file standard health benefit plan rate information with TDI for informational purposes and stipulates that this provision does not grant the commissioner the authority to determine, fix, prescribe, or promulgate rates for an accident and sickness insurance policy. The bill modifies provisions relating to the compensation of a small employer carrier or agent.

Senate Bill 681

Effective: 6-20-03

Senate Author: Averitt

House Sponsor: Eiland

Senate Bill 681 amends Insurance Code provisions relating to the computation of the minimum nonforfeiture amount, which is used to determine the minimum value of a paid-up annuity, cash surrender, or death benefit under an annuity contract. The bill sets out the methods for obtaining that amount and requires the net consideration for a contract year to be equal to 87.5 percent of the gross considerations credited to the contract during that year. The bill requires an insurance company to issue annuity contracts, and the Texas Department of Insurance to review those contracts, either under the new provisions after September 1, 2003, or under the prior provisions until August 31, 2005. After September 1, 2003, the bill requires the interest rate used in determining the minimum nonforfeiture amount to be the lesser of three percent annually or an amount calculated according to a specified formula based on the five-year Constant Maturity Treasury Rate as reported by the Federal Reserve. The bill authorizes the commissioner of insurance to adopt rules that permit further adjustment to these provisions to allow participation in an equity index benefit or other benefits. If an annuity provides for a lump-sum settlement, the bill authorizes, rather than requires, a company to reserve the right to defer payment of any cash surrender benefit for not more than six months, rather than for exactly six months, after the demand for payment of the benefit.

Senate Bill 752

Effective: 5-15-03

Senate Author: Harris

House Sponsor: Smithee et al.

Senate Bill 752 amends the Insurance Code to extend from September 1, 2003, to September 1, 2007, the authorization for physicians to conduct joint negotiation of specified terms and conditions of contracts with certain health benefit plans.

Senate Bill 879

Effective: 9-1-03

Senate Author: Whitmire

House Sponsor: Van Arsdale

Senate Bill 879 amends the Insurance Code to provide that an appeal of an adverse determination made by a health maintenance organization (HMO) that results in a decision rendered in favor of the enrollee is binding on the HMO. If the binding decision relates to a proposed health care service, the bill requires the HMO to provide or arrange for that service within a time frame appropriate for treating the medical condition specified in the appeal. If the binding decision relates to a health care service that was already provided, the bill requires the HMO to pay the cost of the service not later than the 45th day after the date the HMO was notified of the decision. The HMO is subject to certain penalties if it fails to pay for that service. The bill applies only to health care plans of a political subdivision that are exempt from the Employee Retirement Income Security Act of 1974.

Senate Bill 1117
Effective: 9-1-03

Senate Author: Williams
House Sponsor: Eissler

Senate Bill 1117 amends the Insurance Code to prohibit the Teacher Retirement System of Texas from offering life, disability, or long-term health care insurance to school district employees participating in its uniform group program, other than the required coverages provided by existing law. The bill establishes that this provision does not affect the right of a participating entity to offer optional coverages to its employees under its own terms and conditions.

Property and Casualty

House Bill 124
Effective: 9-1-03

House Author: Burnam
Senate Sponsor: Van de Putte

House Bill 124 amends the Insurance Code to allow certain insurers that provide personal property insurance coverage for jewelry the option either to pay the stated value of a lost or stolen jewelry item or to replace the item with one of like kind and quality. The change applies to policies delivered, issued, or renewed on or after January 1, 2004.

House Bill 1338
Effective: 9-1-03

House Author: Taylor
Senate Sponsor: Averitt

House Bill 1338 amends the Insurance Code to prohibit a lender, as a condition of financing a residential mortgage or providing other financing for residential property, from requiring a borrower to purchase homeowners insurance coverage, mobile or manufactured home insurance coverage, or other residential property insurance coverage in an amount that exceeds the replacement value of the dwelling and its contents, regardless of the amount being financed. The bill further prohibits a lender from including the fair market value of the land on which a dwelling is located in the replacement value of the dwelling and its contents.

House Bill 1865
Effective: 6-20-03

House Author: Bonnen
Senate Sponsor: Williams

House Bill 1865 amends the Insurance Code to authorize an insurer to write commercial group property insurance for a group of businesses or for an association that constitutes a large risk if the members of the group have clearly identifiable underwriting characteristics or the members of the association are engaged in similar undertakings. The bill requires the insurer, before using a policy form for a member of the group or association who is not a large risk, to file the form with the commissioner of insurance for informational purposes only. The bill also requires the insurer to file with the commissioner all rates, supplementary rating information, and pertinent supporting information for commercial group property insurance written under this provision, and to clearly identify the group of businesses or the association to be insured. The bill authorizes two or more members of a trade association of business entities, upon the commissioner's approval, to form a group to purchase individual workers' compensation insurance policies that cover each group member.

Senate Bill 14
Effective: See below

Senate Author: Jackson et al.
House Sponsor: Smithee et al.

Senate Bill 14 amends Insurance Code provisions relating to the regulation of certain insurance rates, forms, and practices.

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Article 1, Rate Requirements, establishes standards for determining if a rate is excessive, inadequate, or unfairly discriminatory. It requires an insurer to use certain criteria to set rates and to file with the Texas Department of Insurance (TDI) all rates, supporting information, and supplementary rating information and establishes that these filings are public information. It also prohibits an insurer from using a rate until approved by the commissioner; establishes procedures for appealing an order of the commissioner; requires an insurer to refund to each policyholder the difference in an overcharged premium, plus interest, and to send written notice to each policyholder of a rate increase that exceeds 10 percent of the current policy; prohibits an insurer from using rating territories that subdivide a county, with certain exceptions; and provides for flexible rating standards for personal automobile insurance.

Article 2, Policy Forms and Endorsements, provides for the regulation of policy forms and endorsements for personal automobile insurance and residential property insurance and requires all forms to be written in plain language.

Article 3, Use of Credit Scoring, prohibits an insurer from using a credit score that is computed using factors that constitute unfair discrimination. It prohibits an insurer from denying, canceling, or nonrenewing a personal insurance policy solely on the basis of credit information; prohibits an insurer from taking an action that adversely affects a consumer because the consumer does not have a credit card account without considering applicable factors other than credit information; prohibits an insurer from considering an absence of credit information or an inability to determine credit information as a factor in underwriting or rating a policy unless certain conditions apply; provides for dispute resolution and error correction of credit information and requires an insurer that uses credit scoring to disclose that use to the applicant; and requires an insurer that uses credit scores to file its credit scoring models or processes with TDI.

Article 4, Initial Rate Filings; Rate Reduction, requires an insurer to file rates, supporting information, and supplementary rating information with the commissioner not later than the 20th day after the effective date of this article [the article took effect on June 11, 2003], requires the insurer to use the rate filed not later than the 30th day after the effective date, and authorizes TDI to approve or modify such rates within a specified period. It requires an insurer to refund to each policyholder any difference in an overcharged premium, plus interest.

Article 5, Rate Regulation Effective Until December 1, 2004, provides for regulation of rates until new requirements take effect.

Article 6, Rate Regulation Effective December 1, 2004, requires insurers to file and immediately use rates that comply with new rate standards. It authorizes the commissioner to require an insurer to obtain prior approval before using new rates if certain conditions apply and requires an insurer to notify a policyholder in writing 30 days in advance if rates will increase by 10 percent or more.

Article 7, Exemptions from Certain Rate Requirements, exempts from rate filing and approval regulations an insurer whose residential property insurance policies written in this state during the preceding calendar year accounted for less than two percent of the total amount of premiums collected, more than 50 percent of which cover property valued at less than \$100,000 and located in an area designated as underserved for residential property insurance. It requires such insurers that propose to increase premiums by 10 percent or more to obtain approval of the proposed rate.

Article 8, Regulation of Underwriting Guidelines, requires an insurer to submit actuarially justified underwriting guidelines to TDI and authorizes the office of public insurance counsel to obtain copies.

Article 9 contains provisions relating to windstorm insurance.

Article 10, Withdrawal Requirements, requires an insurer to file with the commissioner a plan for orderly withdrawal from the writing of certain insurance if the insurer proposes to reduce its total annual premium volume by 50 percent or more and authorizes the commissioner to modify, restrict, or limit a withdrawal plan if certain criteria apply.

Article 11, Revenue Bond Program, establishes a tax-exempt revenue bond program to raise funds for residential property insurance through the Texas FAIR Plan Association.

Article 12, Sanctions, Penalties, and Payment Under Certain Policies, creates a state jail felony for offering insurance or collecting premiums based on a rate that is different because of race, color, religion, ethnicity, or national origin. It also requires the establishment of a Holocaust Era Insurance Registry.

Article 13, Rates Standards, requires that rates must be just, fair, reasonable, adequate, not confiscatory and not excessive for the risks to which they apply, and not unfairly discriminatory.

Article 14, Legislative Oversight Committee, establishes a committee to monitor and report on the progress of property and casualty insurance regulation reform.

Article 15, Rulemaking, authorizes the commissioner to adopt any rules necessary and appropriate to implement the powers and duties of TDI.

Article 16, Cancellation of Certain Insurance Policies, authorizes an insurer to cancel an insurance policy other than personal automobile or homeowners insurance policies if the policy has been in effect less than 90 days and to cancel a personal automobile or homeowners insurance policy if the policy has been in effect less than 60 days if certain conditions exist.

Articles 17 through 20 contain provisions relating to N.A.I.C. fees, the Medical Liability Insurance Underwriting Association, certain insurance trusts, and insurer interests in certain repair facilities.

Most provisions of the bill take effect June 11, 2003. Article 6 takes effect December 1, 2004, except provisions relating to the review of rates and notices of a rate increase take effect June 11, 2003. Provisions relating to windstorm insurance take effect January 1, 2004, except as they affect policies delivered or issued before June 11, 2003.

Senate Bill 113

Effective: 6-20-03

Senate Author: Van de Putte et al.

House Sponsor: Seaman

Senate Bill 113 amends the Insurance Code to authorize an insurer who issues residential property insurance to provide a discount of at least three percent in the premium it would otherwise charge the holder of such a policy if the policyholder has continuously been with the insurer or with an affiliate of that insurer and has not filed a claim during the three years preceding the policy's effective date. The bill further authorizes the insurer to increase the discount by one percent for each subsequent year the policyholder does not file a claim, and provides that the discount need not exceed 10 percent of the premium the insurer would otherwise charge for the policy. The bill provides that the discount applies regardless of whether the policies that continuously covered the policyholder were of a type of residential property insurance policy different from the policy eligible for the discount.

Senate Bill 115

Effective: 6-20-03

Senate Author: Van de Putte et al.

House Sponsor: Seaman

Senate Bill 115 amends the Insurance Code to require an insurer to provide a policyholder, upon renewal of homeowners insurance, fire and residential allied lines insurance, farm and ranch owners insurance, and farm and ranch insurance policies, written notice in plain language of any differences between the renewal policy form and that policy's form immediately before renewal. The bill requires the commissioner of insurance to provide certain comparison information on the Internet website of the Texas Department of Insurance.

Senate Bill 127

Effective: 6-11-03

Senate Author: Fraser et al.

House Sponsor: Seaman

Senate Bill 127 amends the Insurance Code to place restrictions on the use of claims history for water damage and to authorize the commissioner of insurance to adopt rules identifying the types of water damage claims that require more prompt, efficient, and effective processing and handling than claims handled under provisions requiring the prompt payment of insurance claims generally. The bill also establishes licensing requirements relating to public insurance adjusters, defined as persons paid to act on behalf of or to aid an insurance policyholder in negotiating the settlement of a claim for loss or damage to real or personal property, with certain exceptions. The bill establishes that a person or entity who provides the services of a public insurance adjuster without a license commits a Class B misdemeanor offense and authorizes the commissioner to assess an administrative penalty against a licensee who engages in unfair competition or unfair trade practices. The bill sets out other requirements relating to the regulation of public insurance adjusters, including licensing examinations and fees, financial responsibility, trainee certificates, contracts, ethics, continuing education, commissions, and recordkeeping. It establishes criteria for prohibited conduct and grounds for denial, suspension, or revocation of a license, and provides for fines, criminal penalties, and other sanctions.

Senate Bill 310

Effective: 2-25-03

Senate Author: Fraser et al.

House Sponsor: Smithee et al.

Senate Bill 310 amends the Insurance Code to require insurers writing residential property insurance in Texas to file immediately after its effective date and on a one-time basis certain information with the commissioner of insurance. The required information includes current rates, estimated rates to be charged in the six-month period following the effective date of this bill, and supporting data. The bill authorizes the commissioner to determine which insurers, other than those categorically required by the bill, are required to file information, the format in which the information shall be submitted, and the date on which the filing is due. The commissioner also is authorized to require an insurer to provide additional information after the initial deadline for purposes of clarification or completeness of the initial rate submission. The bill requires the commissioner to submit a report to the governor and to the 78th Legislature not later than the 30th day after the effective date of this bill. The bill requires that the report provide a summary review of the rate information and supporting data collected from the filings under this bill to inform the legislature as to whether the insurers' rates are just, adequate, reasonable, and not excessive or unfairly discriminatory, and to assist in the development of an effective and efficient rate regulatory system for residential property insurance in Texas.

Information filed with the Texas Department of Insurance under this bill that is confidential under any law that applied to the insurer before the effective date of this bill will remain confidential and is not subject to disclosure, except for legislative purposes. The bill does not preclude the use of filed information to prosecute a code violation and sets forth provisions relating to the confidentiality of information used for this purpose. The bill provides that an insurer that fails to comply with any request for information issued by the commissioner under this bill is subject to sanction. The provisions of this bill expire on December 31, 2003, but are continued in effect in the case of any action or proceeding against an insurer for failure to comply with this law before its expiration.

Senate Bill 463

Effective: Vetoed

Senate Author: Janek et al.

House Sponsor: Eiland

Senate Bill 463 amends the Insurance Code to provide that if the repair of damage to a structure that qualifies as insurable property in a catastrophe area is based on a direct loss and claim, and the amount of that loss or claim is less than five percent of the amount of total property coverage on the structure, the repairs to the structure may be completed in a manner that returns it to its condition immediately before the loss without affecting its eligibility to qualify as insurable property. The bill also eliminates the expiration date of a provision relating to rate change limitations for windstorm and hail insurance.

Reason Given for Veto: "Senate Bill No. 463 conflicts with language contained in Senate Bill No. 14, which I have already signed into law. At the author's request, I am vetoing the bill."

Senate Bill 581

Effective: 9-1-03

Senate Author: Jackson et al.

House Sponsor: Marchant

Senate Bill 581 authorizes certain insurers to grant an optional premium discount to an applicant for a homeowners insurance policy if the property to be insured is constructed using an insulating concrete form system. The bill requires the commissioner of insurance to establish the amount of the discount and authorizes the commissioner to grant a greater or lesser discount.

Senate Bill 1192

Effective: 6-20-03

Senate Author: Carona

House Sponsor: Seaman

Senate Bill 1192 amends provisions of the Insurance Code relating to the Texas Property and Casualty Insurance Guaranty Association. It amends the definition of "covered claim" to establish that a corporation or other entity that is not an individual is considered a resident of the state where its principal office is located; to exclude an amount due a self-insurer; and to set a limit on the association's liability for economic loss incurred by certain claimants. The bill expands the definition of "impaired insurer" to include a member insurer that is placed in temporary or permanent liquidation. The bill increases the association's liability limit to the lesser of an amount not to exceed \$300,000, rather than \$100,000, or the limits of the policy under which the claim is made, and requires the liability of the person insured by the impaired insurer's policy for the claim to be reduced by the same amount. The bill authorizes the association to recover from certain persons the defense costs paid on behalf of that person and amends an exclusion from that provision to specify that the aggregate net worth of an insured who is exempt from federal income tax and whose net worth exceeds a certain amount must also include the net worth of its parent, subsidiary, and affiliated companies.

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The bill requires a claimant to exhaust any rights under a policy regardless of whether the policy is issued by a member insurer, with certain exceptions. It authorizes a court in which a delinquency proceeding is pending to issue an injunction or similar order to enforce the court's stay and, if the impaired insurer is not domiciled in Texas, authorizes the commissioner to bring an ancillary delinquency proceeding to determine the effect of the stay. The bill establishes that, with certain exceptions, a claim filed with the association for workers' compensation benefits is governed by Texas workers' compensation laws and regulations, and that a judgment relating to such a claim is not binding on the association unless certain conditions are met.

Senate Bill 1211

Effective: 6-20-03

Senate Author: Van de Putte

House Sponsor: Haggerty

Senate Bill 1211 amends the Finance Code to allow a creditor, after executing a credit agreement, to obtain collateral protection insurance for real property to cover either the replacement cost of any improvements or the amount of the debtor's unpaid indebtedness. The bill requires the debtor to reimburse the creditor for the premium, finance charge, and any other charges incurred by the creditor for the insurance and authorizes the creditor to use the debtor's previous insurance coverage to determine the amount of the replacement cost coverage. The bill requires the creditor to notify the debtor that the debtor must keep the collateral insured against damage in an amount specified by the creditor, rather than in an amount equal to the debtor's indebtedness to the creditor, as required under prior law. The bill also requires the creditor to inform the debtor that collateral protection insurance may be available through the Texas FAIR program at a lower cost and to provide the debtor with contact information for the program.

Senate Bill 1606

Effective: 6-20-03

Senate Author: R. Ellis et al.

House Sponsor: Taylor

Senate Bill 1606 amends Insurance Code provisions relating to the FAIR (Fair Access to Insurance Requirements) Plan to provide that a condition for establishing such a plan is the determination that 25 percent, rather than 50 percent, of qualified applicants to the residential property Market Assistance Program (MAP) have not been placed with an insurer in the previous six months, rather than 12 months. The bill removes a provision that required the commissioner to make insurer participation in the program mandatory and authorizes the commissioner to establish a FAIR Plan without conditioning it on MAP criteria until September 1, 2005. The bill establishes that an application can be made on behalf of an applicant by a licensed general lines property and casualty agent, rather than by a local recording agent.

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

- HB 725 - Public Officials and Employees
- HB 1735 - Health
- HB 2095 - Labor and Employment
- HB 2199 - Labor and Employment
- HB 3109 - Health and Medical Occupations
- SB 959 - Public Officials and Employees
- SB 1173 - Public Officials and Employees
- SB 1369 - Public Education
- SB 1370 - Public Officials and Employees

Labor and Employment

This chapter covers legislation on issues relating to labor and employment, including unemployment compensation, wages, workers' compensation, and workforce development. Bills on public employers and 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.

Unemployment Compensation

House Bill 1221

Effective: 6-20-03

House Author: Telford et al.

Senate Sponsor: Van de Putte

House Bill 1221 amends the Texas Unemployment Compensation Act to provide that benefits paid to a claimant may not be charged to the employer's account if the employee's last separation from the employer before the benefit year occurred because the employer was called to active military service in the United States armed forces on or after January 1, 2003.

House Bill 1496

Effective: Vetoed

House Author: Solomons

Senate Sponsor: Duncan

House Bill 1496 amends the Labor Code to provide for an initiative for reduction in benefit fraud and claim overpayments in unemployment compensation. The bill requires the state auditor by August 31, 2004, to conduct a review of the state unemployment compensation insurance program at the Texas Workforce Commission to identify strategies to reduce fraud and claim overpayments. The bill requires the commission to implement the strategies by August 31, 2005, if feasible with existing staff and resources. The bill requires the commission and the state auditor to develop proposed legislation to allow the commission to use private collection agencies to pursue uncollected claim overpayments. House Bill 1496 also requires the state auditor and the commission to submit a joint report to the legislature including recommendations made and actions taken regarding this initiative and provides for the expiration of the initiative on September 1, 2007.

Reason Given for Veto: "House Bill No. 1496 would disregard the constitutional doctrine of separation of powers. Set forth in Article II of the Texas Constitution, this doctrine establishes that there be three distinct departments of our government - legislative, executive, and judicial - and that no department 'shall exercise any power properly attached to either of the others.' House Bill No. 1496 would violate this principle by inappropriately granting a legislative agency authority over an executive branch agency. It would require the Texas Workforce Commission to adopt directives of the State Auditor.

"However, I support the intent of House Bill No. 1496. Therefore, by executive order I am directing the Texas Workforce Commission to develop and implement innovative unemployment insurance fraud detection and collection strategies."

House Bill 1819

Effective: 5-15-03

House Author: Oliveira

Senate Sponsor: Lucio

House Bill 1819 amends the Labor Code to exclude an unemployment benefits claim that is based on a disaster that results in a disaster declaration by the governor from being used to determine an employer's unemployment insurance tax rate.

Labor and Employment

House Bill 1820

Effective: 9-1-03

House Author: Oliveira

Senate Sponsor: Lucio

House Bill 1820 amends provisions of the Labor Code relating to employee wages that are subject to unemployment taxation. The bill provides that “employment” does not include service performed by a nonresident alien during the period that the alien is temporarily in the United States under an agriculture-worker visa if the service is not defined as employment under federal law.

House Bill 3324

Effective: 6-18-03

House Author: J. Keffer

Senate Sponsor: Fraser

House Bill 3324 amends the Labor Code to add a new subchapter relating to issuance of financial obligations for the unemployment compensation fund. The bill authorizes the Texas Workforce Commission to request the Texas Public Finance Authority to issue up to \$2 billion in bonds on its behalf to pay unemployment benefits and for certain other uses. Before making a request, the commission by resolution must determine that bond financing is more cost-effective than borrowing from the federal trust fund to pay unemployment benefits when the unemployment compensation fund has a negative balance. The authority is required to issue the bonds and is authorized to enter into a credit agreement. The bill establishes that the bonds and any related credit agreement are not a debt of the state, a state agency, or a political subdivision and that the bonds, bond transactions, and bond profits are tax-exempt. The bill authorizes bond proceeds to be deposited with a trustee selected by the authority and the commission or held by the comptroller in the obligation trust fund, designated as a dedicated trust fund outside the state treasury. It requires the commission to assess an unemployment obligation assessment annually on each employer entitled to an experience rating to pay bond obligations and bond administrative expenses, and requires revenue collected from the assessment to be deposited into the obligation trust fund. It requires the unemployment obligation assessment rate to be based on a formula prescribed by commission rule using the employer’s experience rating from the previous year, and provides that the assessment is due at the same time, collected in the same manner, and subject to the same penalties and interest as the unemployment compensation assessment. It authorizes excess revenue collections and investment earnings from the unemployment obligation assessment in any year to be used for certain purposes. The commission is required to transfer the balance of the obligation trust fund to the compensation fund after the obligations have been fully satisfied.

Senate Bill 1070

Effective: 6-20-03

Senate Author: Jackson

House Sponsor: J. Keffer

Senate Bill 1070 amends the Labor Code to delete the requirement that the Texas Workforce Commission enter an order upon final determination of unemployment compensation benefits eligibility in a judicial proceeding.

Senate Bill 1071

Effective: 9-1-03

Senate Author: Jackson

House Sponsor: J. Keffer

Senate Bill 1071 amends the Labor Code to require an employer who makes a voluntary unemployment compensation contribution for the recomputation of the employer’s experience rate to make the contribution as prescribed by Texas Workforce Commission rules instead of within a specified time frame.

Senate Bill 1072
Effective: 6-20-03

Senate Author: Jackson
House Sponsor: J. Keffer

Senate Bill 1072 amends the Labor Code to clarify that judicial review for a Texas Workforce Commission decision in an unemployment compensation proceeding is by trial de novo based on the substantial evidence rule.

Wages

House Bill 804
Effective: 9-1-03

House Author: Geren et al.
Senate Sponsor: Lindsay

House Bill 804 amends the Labor Code to establish that the minimum wage provided by state law, which defers to the federal minimum wage, supersedes an ordinance, order, or charter provision governing private sector wages other than wages under a public contract. The bill creates an exception for a minimum wage established by a governmental entity that applies to a contract or agreement, including a non-annexation agreement, entered into by a governmental entity and a private entity. The bill makes a private entity that enters into such a contract subject to the terms of that contract or agreement and establishes that those terms apply to and may be enforced against a general contractor, subcontractor, developer, and other person with which the private entity contracts in order to comply with the provisions of the original contract or agreement. The bill also creates an exception for any state or federal job training or workforce development program. The bill repeals provisions authorizing certain employees to be paid less than the minimum wage.

House Bill 826
Effective: 9-1-03

House Author: Y. Davis
Senate Sponsor: Carona

House Bill 826 amends provisions of the Labor Code and the Property Code relating to the state's unclaimed property program administered by the comptroller of public accounts. The bill establishes that cash and checks paid as wages are presumed abandoned after six months if the amount is \$100 or less and after three years if the amount is greater than \$100. The dormancy period for checks begins when the issuer or payor of the check last received documented communication from the payee, and payments are not considered abandoned if the payee files a wage claim or exercises an act of ownership during the dormancy period. The bill requires an employer who holds unclaimed wage payments presumed to be abandoned to dispose of them in the manner prescribed by law unless the amount is \$100 or less, in which case the employer has three years beyond the dormancy period before disposition requirements take effect. The Texas Workforce Commission is required to notify employers of the unclaimed wages requirements.

House Bill 3308
Effective: 6-18-03

House Author: Capelo
Senate Sponsor: Hinojosa

House Bill 3308 amends the Labor Code to authorize an employer to pay wages through an electronic funds transfer to an employee who maintains an account at a financial institution that accepts direct deposit. The employer, within a specified time frame, is required to notify affected employees in writing of the decision to adopt a direct deposit payroll system and to obtain from them any information required by their financial institutions to implement the transfer.

Senate Bill 374

Effective: 9-1-03

Senate Author: Williams

House Sponsor: Flores

Senate Bill 374 amends provisions of the Labor Code relating to the regulation of staff leasing services by defining “wages” to mean compensation, however computed, for labor or services rendered by an assigned employee and vacation, holiday, and sick leave pay and other options in an agreement with an assigned employee. The bill provides that, except for certain contract requirements, a client company is solely obligated to pay any wages agreed upon by the client company and the assigned employee and not contracted to be paid by a staff leasing services company. It requires a staff leasing services company to disclose this obligation in writing to each assigned employee.

Workers’ Compensation

House Bill 145

Effective: 9-1-03

House Author: Solomons

Senate Sponsor: Fraser

House Bill 145 amends the Labor Code to authorize the Texas Workers’ Compensation Commission to bring suit in Travis County to enforce an interlocutory order, final order, or commission decision and to provide that the commission is entitled to reasonable attorney’s fees and costs for the prosecution and collection of the claim. The bill also provides that a claimant who brings suit to enforce an interlocutory order, final order, or commission decision is entitled to a certain penalty, interest, and reasonable attorney’s fees in addition to a judgment enforcing the order or decision. The bill clarifies provisions that establish an offense for the failure or refusal to comply with a commission order by specifying that those provisions apply to both an interlocutory order and a final order. The bill requires a party seeking judicial review to provide written notice of the suit or notice of appeal to the commission, instead of filing a copy of the petition with the commission, and it prohibits a party from seeking judicial review unless written notice has been provided to the commission. The bill clarifies that court approval of a settlement or a judgment does not constitute a modification or reversal of any court decision awarding benefits for the purpose of reimbursing an insurance carrier for overpayment of benefits made under an interlocutory order or decision.

House Bill 833

Effective: 9-1-03

House Author: Hochberg et al.

Senate Sponsor: Janek

House Bill 833 amends the Labor Code to require the Texas Workers’ Compensation Commission by rule to allow an injured employee to purchase a brand name drug rather than a generic drug or over-the-counter alternative prescribed by a health care provider. The employee is required to pay the cost difference and is prohibited from seeking reimbursement for that amount. Additionally, the employee is not entitled to use the medical dispute resolution process with regard to the prescription. The bill specifies that these provisions do not affect a health care provider’s duty to comply with agency rules that require the use of generic drug substitutions. The bill requires the commission to consider a rulemaking petition based on a study of pharmacy fees and to adopt rules that clearly define the methodology for determining payment amounts for prescription drugs and that take into account pharmacy fees. The bill requires the commission to consider a rulemaking petition based on a study funded by workers’ compensation insurance carriers and pharmacy providers; to adopt rules clearly defining methodology for determining certain payment amounts; and to pursue efforts to streamline the procedures for presenting, processing, and paying prescription drug claims. These requirements

must be implemented in a budget-neutral manner and expire December 31, 2004. The bill requires the commission to adopt rules allowing the purchase of brand name drugs not later than March 1, 2004.

House Bill 1230

Effective: 9-1-03

House Author: Elkins

Senate Sponsor: Carona

House Bill 1230 amends the Labor Code to allow the State Office of Risk Management to provide risk management services for employees of community supervision and corrections departments as if the employees were employees of a state agency.

House Bill 2095

Effective: 9-1-03

House Author: R. Cook

Senate Sponsor: Staples

House Bill 2095 creates a new chapter in the Labor Code relating to the provision of workers' compensation insurance coverage through a certified self-insurance group. The bill authorizes five or more private employers to establish a workers' compensation self-insurance group if the employers are engaged in the same or a similar type of business and are members of a trade or professional association that has been in existence for at least five years. The bill requires an association of employers seeking to self-insure to obtain a certificate of approval from the commissioner of insurance and sets forth the application requirements, including financial requirements, to obtain approval. It prohibits the commissioner from granting the request of any group to terminate its certificate of approval unless the group has insured or reinsured all incurred workers' compensation obligations with an authorized insurer. The bill requires each self-insurance group to be operated by a board of trustees and establishes the general powers and duties and prohibited activities of the board. It provides that a member who elects to terminate membership or whose membership is canceled by the group remains jointly and severally liable for the workers' compensation obligations of the group during the member's period of membership. The bill requires the group to submit certain independently audited financial statements, including an actuarial opinion of the adequacy of its loss reserves, to the commissioner, and it requires the commissioner periodically to examine the financial condition of each group. Each group is required to pay a self-insurance group maintenance tax for administration of the Texas Workers' Compensation Commission and the Research and Oversight Council on Workers' Compensation and for administrative costs incurred by the Texas Department of Insurance. The bill also requires each group to pay a premium tax on gross premiums for the group's retention to the comptroller. The bill establishes procedures for determining premium rates and specifies requirements relating to refunds, premium payments, reserves, and deficits, depending on the group's assets. The bill requires the establishment of the Texas Group Self-Insurance Guaranty Association by January 1, 2006, to provide for the payment of workers' compensation insurance benefits and expenses related to the injured employee of an insolvent group; the bill also provides for the appointment of a guaranty association advisory committee to make recommendations regarding establishment of that association. Finally, the bill authorizes the commissioner of insurance to levy fines of up to \$1,000 per violation, with a maximum aggregate amount of \$10,000; issue cease and desist orders to stop an act or practice found to be in violation; and revoke a certificate of approval if a group is found to be insolvent, fails to pay a tax, or fails to comply in a timely manner with the requirements of this act.

House Bill 2198

Effective: 6-18-03

House Author: Solomons

Senate Sponsor: Fraser

House Bill 2198 amends the Labor Code to establish that the first valid certification of maximum medical improvement and the impairment rating assigned to an employee in a claim for workers' compensation benefits are final if not disputed within 90 days after written notice is provided to the claimant and the carrier by verifiable means. The bill makes an exception if there are certain compelling circumstances. It establishes that if an employee has not been certified as having reached maximum medical improvement after 104 weeks from the date on which income benefits begin to accrue or after the expiration of an extension period for spinal surgery, the impairment rating assigned at that time is final if not disputed within 90 days after written notice is provided to the claimant and the carrier. Similarly, if a disputed certification of a maximum medical improvement or assignment of impairment rating is finally modified, overturned, or withdrawn, the first subsequent certification and assignment becomes final if not disputed within 90 days after written notice is provided to the claimant and the carrier.

House Bill 2199

Effective: 9-1-03

House Author: Solomons

Senate Sponsor: Fraser

House Bill 2199 amends the Labor Code to establish that an insurance carrier that fails to meet the deadline for initiating compensation or filing a notice of refusal in a workers' compensation case does not waive the right to contest the compensability of the injury, but commits an administrative violation. The bill extends the deadline for initiating compensation or filing a notice of refusal from seven to 15 days after the date on which an insurance carrier receives written notice of an injury. It establishes that an insurance carrier is not required to meet the deadline if the carrier has accepted the claim as a compensable injury and income or death benefits have not yet accrued but will be paid by the insurance carrier when the benefits accrue and are due. It also establishes a range of administrative penalties for not complying with the deadline, depending on when the carrier finally initiates compensation or files a notice of refusal. The bill specifies when a self-insurer is considered to have received notice for purposes of complying with the deadline.

House Bill 2323

Effective: 9-1-03

House Author: McReynolds

Senate Sponsor: Carona

House Bill 2323 amends provisions of the Labor Code relating to judicial review of an appeals panel decision at the Texas Workers' Compensation Commission. The bill specifies that if a suit is filed for judicial review in a venue other than the county where the employee resided at the time of injury, onset of occupational disease-related disability, or death, the court is required to transfer the suit to a proper court in the county. The bill provides that the suit is considered to be timely filed in the court to which it is transferred if it was filed initially within 40 days of the date on which the decision of the appeals panel was filed with the commission.

House Bill 3168

Effective: 6-22-03

House Author: Giddings

Senate Sponsor: Carona

House Bill 3168 amends the Labor Code to authorize the Texas Workers' Compensation Commission by rule to prescribe an alternate dispute resolution process to resolve disputes regarding medical services costing less than the cost of a review of medical necessity by an independent review organization. The bill requires the cost of a review under the alternate dispute resolution process to be paid by the nonprevailing party. It establishes that the first

valid certification of maximum medical improvement and the impairment rating assigned to an employee in a claim for workers' compensation benefits are final if not disputed within 90 days after written notice is provided to the employee and the carrier by verifiable means. The bill makes an exception if there are certain compelling circumstances. It establishes that if an employee has not been certified as having reached maximum medical improvement after 104 weeks from the date on which income benefits begin to accrue or after the expiration of an extension period for spinal surgery, the impairment rating assigned at that time is final if not disputed within 90 days after written notice is provided to the employee and the carrier. Similarly, if a disputed certification of a maximum medical improvement or assignment of impairment rating is finally modified, overturned, or withdrawn, the first subsequent certification or assignment becomes final if not disputed within 90 days after written notice is provided to the employee and the carrier.

Senate Bill 478**Effective:** 9-1-03**Senate Author:** Duncan**House Sponsor:** Campbell

Senate Bill 478 amends the Labor Code to render ineligible for workers' compensation benefits a person who performs services that may benefit a political subdivision or is employed by or under contract with a performer providing those services but does not receive payment from the political subdivision for the performance of the services, if the services are performed in connection with the operation or production of certain types of entertainment events.

Senate Bill 820**Effective:** 6-20-03**Senate Author:** Fraser**House Sponsor:** Solomons

Senate Bill 820 amends the Labor Code to establish that the first valid certification of maximum medical improvement and the impairment rating assigned to an employee in a claim for workers' compensation benefits are final if not disputed before the 91st day after written notice is provided to the claimant and the carrier by verifiable means. The bill makes an exception if there is certain compelling medical evidence or other compelling circumstances. It establishes that if an employee has not been certified as having reached maximum medical improvement after 104 weeks from the date on which income benefits begin to accrue or after the expiration of an extension period for spinal surgery, the impairment rating assigned at that time is final if not disputed before the 91st day after written notice is provided to the claimant and the carrier. Similarly, if a disputed certification of a maximum medical improvement or assignment of impairment rating is finally modified, overturned, or withdrawn, the first subsequent certification or assignment becomes final if not disputed before the 91st day after written notice is provided to the claimant and the carrier.

Senate Bill 1282**Effective:** 9-1-03**Senate Author:** Fraser**House Sponsor:** Elkins

Senate Bill 1282 amends the Labor Code to provide that written notice of a workers' compensation claim to a certified self-insurer, for the purpose of establishing deadlines for a timely response, occurs only on written notice to the qualified claims servicing contractor designated by the self-insurer and that written notice to a political subdivision that self-insures occurs only on written notice to the intergovernmental risk pool or other entity responsible for administering the claim.

Senate Bill 1572

Effective: 6-20-03

Senate Author: Carona

House Sponsor: Giddings

Senate Bill 1572 amends the Labor Code to authorize the Texas Workers' Compensation Commission by rule to adopt workers' compensation individual treatment protocols for necessary medical care and requires the protocols to be nationally recognized, scientifically valid, and outcome-based. The bill specifies that if a nationally recognized treatment guideline or protocol is not available for adoption by the commission, the commission may adopt another treatment guideline or protocol as long as it is scientifically valid and outcome-based. The bill also authorizes the commission by rule to establish treatment protocols relating to necessary treatments for injuries.

Senate Bill 1574

Effective: 6-20-03

Senate Author: Carona

House Sponsor: Giddings

Senate Bill 1574 amends provisions of the Labor Code relating to the administration and regulation of the state's workers' compensation insurance system. The bill clarifies that the Texas Workers' Compensation Commission's medical advisor can share with the medical quality review panel information that is otherwise restricted by law regarding a doctor who applies for registration or is registered with the commission on the list of approved doctors. It also clarifies provisions granting immunity from suit and civil liability to a person who serves on a medical quality review panel and protecting the confidentiality of information collected, assembled, or developed by the medical advisor or medical quality review panel. It authorizes the commission and the State Board of Medical Examiners to share confidential information about a licensed doctor, exempts that information from disclosure under most circumstances, and requires the agencies to cooperate and assist each other in an agency investigating by sharing information relevant to that investigation. The bill includes similar provisions for information sharing by the commission and the Board of Chiropractic Examiners. It requires both boards and the commission to provide information to each other on all disciplinary actions taken and on certain acts or omissions by a physician or chiropractor. Finally, the bill establishes the state average weekly wage for the 2004 and 2005 state fiscal years.

Senate Bill 1804

Effective: 9-1-03

Senate Author: Harris

House Sponsor: Zedler

Senate Bill 1804 amends provisions of the Labor Code relating to the medical dispute resolution process under the workers' compensation system. The bill requires an independent review organization, in performing a review of medical necessity, to consider the Texas Workers' Compensation Commission's health care reimbursement policies and guidelines if those policies and guidelines are raised by one of the parties to the dispute, and it requires the independent review organization to indicate in a decision that is contrary to those policies and guidelines the specific basis for its divergence. The bill specifies that the provisions do not prohibit an independent review organization from considering the payment policies in any dispute, regardless of whether those policies are raised by a party to the dispute. It also prohibits any commission restriction on an insurance carrier and a health care provider voluntarily discussing pharmaceutical services, and it provides that an insurance carrier is liable for health care treatment and treatment plans and pharmaceutical services that are voluntarily preauthorized and may not dispute the certified or agreed-on preauthorized treatment or services at a later date.

Workforce Development

House Bill 453

Effective: 6-20-03

House Author: Villarreal et al.

Senate Sponsor: Shapleigh

House Bill 453 amends the Labor Code to remove the name given to the pilot program to assist teachers in retaining employment in the field of child care and to authorize the Texas Workforce Commission to consult with nationally recognized early childhood teacher pilot programs in administering the program.

House Bill 1020

Effective: 9-1-03

House Author: Villarreal

Senate Sponsor: Zaffirini

House Bill 1020 amends the Labor Code to direct the Work and Family Policies Clearinghouse of the Texas Workforce Commission to encourage employers to provide employee dependent care benefits by promoting the economic gains realized by employers who provide the benefits, advertising the availability of federal and state tax incentives for the benefits, and providing technical assistance to employers who establish benefit programs.

House Bill 2172

Effective: 6-20-03

House Author: Chavez et al.

Senate Sponsor: Lucio

House Bill 2172 amends the Labor Code to provide that certain job training, employment, and employment related educational programs and functions are consolidated under the authority of the Texas Workforce Commission rather than the commission's division of workforce development. The bill requires the commission, rather than the division, to administer programs related to veterans, child care services, career development centers, and the federal Job Training Partnership Act, and to promote and monitor services provided to persons with disabilities.

House Bill 2975

Effective: 6-20-03

House Author: Chavez et al.

Senate Sponsor: Lucio

House Bill 2975 amends the Labor Code to authorize the Texas Workforce Commission to establish and implement by rule a pilot program in the Texas-Mexico border region to provide technology training to workers displaced as a result of trade dislocations or other changes in the state economy. The bill authorizes the commission to use existing state-funded technology infrastructure and curriculum and instruction models previously developed by the commission; obtain funds from any state, federal, or private source; and collaborate with appropriate federal and state agencies and local workforce development boards to implement the program. The commission is required to submit a report about the program's status and results to the governor, lieutenant governor, and speaker of the house by December 1 of each even-numbered year until the program's authorization expires September 1, 2007.

House Bill 3179

Effective: 6-20-03

House Author: Homer

Senate Sponsor: Van de Putte

House Bill 3179 amends the Government Code to remove a restriction on the number of nominations for private sector representatives on local workforce development boards. The bill also repeals provisions relating to the local workforce development board demonstration project program, the demonstration project fund account, and certain local workforce development board programs for recipients of financial assistance under the Temporary Assistance for Needy Families program.

Senate Bill 280

Effective: See below

Senate Author: Nelson

House Sponsor: Solomons et al.

Senate Bill 280 amends the Labor Code to continue the Texas Workforce Commission until September 1, 2009. Provisions relating to local workforce development boards require the commission to establish contracting guidelines for the boards, encourage boards to raise funds for supporting collaborative reading initiatives, and ensure that boards assess the skills development needs of certain recipients. Additional provisions require the commission, in consultation with local boards, to establish criteria for evaluating each board's overall capacity to oversee and manage local funds and the delivery of local workforce services, and to use the criteria to develop performance measures to evaluate each board. The bill also establishes the nine-member local workforce development board advisory committee to advise the commission about commission programs, policies, and rules affecting local workforce development boards.

Other provisions relating to workforce development authorize, rather than require, the commission to develop and administer a program to award scholarships for professional child-care training, require the commission to annually evaluate formulas used by the commission to distribute federal child-care development funds to local workforce boards, and require the commission to report to the legislature on the effectiveness of the commission's child-care program and the percentage of recipients of employment services under the Temporary Assistance for Needy Families program who meet certain wage criteria. To streamline the delivery of services provided in local career development centers, the bill requires the commission and local workforce boards to integrate the administration of certain block grant programs and the caseworker functions associated with the programs.

Provisions relating to adult education and literacy require the commission until September 1, 2005, to develop a demand-driven workplace literacy and basic skills curriculum under contract with the Texas Education Agency and to develop workforce basic skills credentials to be used to certify mastery of the skills required by the curriculum. The bill amends the Government Code to require the Texas Workforce Investment Council to facilitate delivery of integrated adult education and literacy services. Provisions relating to a tax refund for certain employers limit the conveyance, assignment, or transfer of a tax refund for wages paid to an employee receiving medical or financial assistance, and require the employer to obtain certification from the commission to be eligible for the refund.

The bill adds several new subchapters relating to issuance of financial obligations for the unemployment compensation fund. It authorizes the commission, if the commission determines that bond financing is more cost-effective than borrowing from the federal trust fund to pay unemployment benefits when the unemployment compensation fund has a negative balance, to request the Texas Public Finance Authority to issue up to \$2 billion in bonds on its behalf to pay unemployment benefits and for certain other uses. It requires the commission to impose an unemployment obligation assessment annually on each employer entitled to an experience rating to pay bond obligations and bond administrative expenses payable in that year, and requires the assessment rate to be based on a formula prescribed by commission rule using the employer's experience rating from the previous year. It provides that the assessment is due at the same time, collected in the same manner, and subject to the same penalties and interest as the unemployment compensation assessment. It requires the commission to transfer the balance of the obligation trust fund to the compensation fund after the obligations have been fully satisfied.

Other unemployment compensation provisions authorize the commission to deny a transfer of compensation experience if the commission determines that an employing unit acquired a part of the organization, trade, or business of an employer primarily to qualify for a reduced unemployment insurance tax rate, and prohibit unemployment benefits from being charged to the account of an employer if the employee's separation resulted from leaving the workplace to protect the employee from family violence or stalking. The bill also provides that an employee is not disqualified from unemployment compensation benefits if the employee leaves the workplace to protect the employee from family violence or stalking.

Senate Bill 280 amends the Education Code to exempt a school or educational institution from regulation as a career school or college, formerly referred to as a proprietary school, if the owner of the school or institution applies to the commission and submits certain information. It also provides that a debt or contract relating to educational services from a career school or college that does not hold a certificate of approval from the commission is unenforceable, and establishes that each owner of a closing career school or college to which a certificate of approval has not been issued is personally liable for the amount of any refund owed to a student. Additionally, the bill specifies certain actions relating to a violation by a career school or college and authorizes the commission to issue a cease and desist order to a career school or college operating without a certificate of approval from the commission. It authorizes the commission to collect an annual fee from each career school or college to be deposited to the credit of the tuition trust account for protecting career school or college tuition. The commission is required to use money in the tuition trust account to attempt to provide to each student of a closed career school or college a full refund of the unused portion of tuition, fees, and other charges.

Senate Bill 280 takes effect September 1, 2003, except for provisions relating to issuance of financial obligations for the unemployment compensation fund, which take effect June 20, 2003.

Senate Bill 281
Effective: 9-1-03

Senate Author: Nelson
House Sponsor: Solomons

Senate Bill 281 amends the Government Code to continue the Texas Council on Workforce and Economic Competitiveness until September 1, 2015, and rename it as the Texas Workforce Investment Council. The bill removes a representative of community-based organizations from the council and designates the commissioner or the executive director, rather than the board chair or presiding officer, of each of the five member state agencies to serve as ex officio representatives on the council. The bill requires the council to evaluate duplication and gaps in delivery of integrated workforce services and to include the development of long-range strategies and the council's efforts to address identified problems in the council's annual report to the governor and legislature. The bill also transfers responsibility for maintaining the workforce development automated follow-up and evaluation system from the council to the Texas Workforce Commission.

Senate Bill 1183
Effective: 9-1-03

Senate Author: Deuell
House Sponsor: Morrison

Senate Bill 1183 amends the Labor Code and Government Code to remove community service programs under the National and Community Service Act of 1990 from the list of programs and federal laws administered by the Texas Workforce Commission and the Texas Council on Workforce and Economic Competitiveness.

Labor and Employment

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

HB 1189 - Public Officials and Employees

HB 2116 - Public Officials and Employees

Law Enforcement

This chapter covers legislation relating to peace officers, security officers, law enforcement agencies, and the Texas Department of Public Safety. Bills on 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.

House Bill 292

Effective: 9-1-03

House Author: Reyna et al.

Senate Sponsor: Zaffirini

House Bill 292 amends the Transportation Code to require a peace officer, when making an arrest for certain alcohol-related offenses, to take a specimen of the suspect's breath or blood if the officer reasonably believes that as a direct result of a motor vehicle or watercraft accident an individual other than the suspect has suffered serious bodily injury, in addition to taking a specimen when a person has died or will die.

House Bill 875

Effective: 6-20-03

House Author: Menendez

Senate Sponsor: Whitmire

House Bill 875 amends the Occupations Code to authorize the State Board of Dental Examiners to commission as a peace officer an employee who has been certified as a qualified peace officer.

House Bill 1119

Effective: 9-1-03

House Author: Goodman

Senate Sponsor: Brimer

House Bill 1119 amends the Health and Safety Code to authorize any peace officer or county animal control officer to seek a warrant to seize a cruelly treated animal. Previous law limited such authority to municipal animal control officers and county sheriffs, constables, and deputy constables. The bill authorizes warrant application to, and warrant issuance by, certain magistrates specified in the Code of Criminal Procedure. Previous law limited this authorization to municipal courts and county justice courts. If a court finds that an owner has cruelly treated an animal, the owner is responsible for payment of all court costs. The bill establishes procedures, including the filing of a bond, for owners to appeal an order to sell an animal at public auction to a county court or county court at law. Decisions by those courts on such appeals may not be appealed further. Orders to humanely destroy an animal or to give it to a nonprofit animal shelter, pound, or society for the protection of animals may not be appealed at all.

House Bill 3477

Effective: 9-1-03

House Author: Stick et al.

Senate Sponsor: Estes

House Bill 3477 amends the Government Code to provide that if a state whose residents are authorized to obtain a Texas license to carry a concealed handgun enacts a law providing for the issuance of such a license to its residents, then the Texas license remains in effect until its expiration or may be renewed until the license issued by the other state is recognized by the State of Texas. The bill requires the governor, rather than the Department of Public Safety, to negotiate an agreement or issue a proclamation for the recognition of a license issued by another state if the attorney general, rather than the department, determines that certain conditions have been met. The bill requires the attorney general to annually submit a report to the governor, lieutenant governor, and speaker of the house of representatives listing the states that have qualified for recognition and to review the statutes of states that do not qualify to determine the changes to their statutes that are necessary to qualify for recognition.

Senate Bill 51

Effective: 6-20-03

Senate Author: Zaffirini

House Sponsor: Goolsby

Senate Bill 51 amends the Code of Criminal Procedure to require a law enforcement agency to provide to a victim of a sexual assault, if the agency possesses the relevant information, a referral to a sexual assault program and a written description of the services provided by that program. The bill permits a sexual assault program to provide a written description of its services to a law enforcement agency.

Senate Bill 103

Effective: 6-20-03

Senate Author: Van de Putte

House Sponsor: Alonzo

Senate Bill 103 amends the Penal Code to exempt commissioned peace officers from a state with a reciprocal agreement with Texas and certain special investigators from laws relating to the carrying of weapons. The bill clarifies that peace officers and special investigators may carry a weapon in a public establishment, regardless of whether the officer or investigator is on duty.

Senate Bill 117

Effective: 9-1-03

Senate Author: Staples

House Sponsor: Hope

Senate Bill 117 amends the Occupations Code to authorize the head of a state or local law enforcement agency to allow certain honorably retired peace officers to demonstrate weapons proficiency if the officer provides a sworn affidavit stating that the officer was honorably retired after not less than 20 years of service; the officer's license was not revoked or suspended during that time; and the officer has no psychological or physical disability that would interfere with the proper handling of a handgun. The bill requires the agency to establish procedures for the issuance or denial of a proficiency certificate and allows an agency to set and collect fees for expenses incurred for the issuance of the certificate. The bill requires a county law enforcement agency to obtain approval from its commissioners court for the proficiency program and for the amount of fees charged. In addition, the bill authorizes a state law enforcement agency to allow an honorably retired federal criminal investigator to also apply for the weapons proficiency certificate, subject to the same requirements as retired peace officers.

The bill amends the Penal Code to exempt honorably retired peace officers or federal criminal investigators who hold a certificate of proficiency from certain provisions relating to carrying weapons and places where weapons are prohibited.

Senate Bill 801

Effective: 6-20-03

Senate Author: Madla

House Sponsor: Corte

Senate Bill 801 amends provisions of the Health and Safety Code relating to hospital districts in counties of at least 190,000 to clarify that the jurisdiction of hospital district peace officers includes the property owned or controlled by the district and any street abutting, right-of-way over or through, or easement in the property. The bill specifies that district peace officers may make an arrest without a warrant in the officer's jurisdiction if the offense involves injury or harm to any property owned or controlled by the district.

Senate Bill 840**Effective:** 9-1-03**Senate Author:** Whitmire**House Sponsor:** Gattis

Senate Bill 840 amends the Code of Criminal Procedure to authorize a peace officer who is outside the officer's jurisdiction to arrest, without a warrant, a person who commits any offense within the officer's view under Chapter 49, Penal Code, Intoxication and Alcoholic Beverages Offenses, rather than only the offense of public intoxication. The bill deletes the officer's authorization to arrest a person for an offense under Title 9, Penal Code, Offenses against Public Order and Decency.

Senate Bill 1114**Effective:** 9-1-03**Senate Author:** Williams**House Sponsor:** Garza

Senate Bill 1114 amends the Government Code to require that the Texas Department of Public Safety uniformly apply its guidelines relating to acceptable off-duty employment to all supervisory and nonsupervisory commissioned officers. The bill requires the director or the director's designee, if the approval of a secondary employment or proposed secondary employment is denied, to promptly notify the officer in writing of the specific guideline on which the department's decision is based and why such employment is prohibited by the referenced guideline.

Senate Bill 1567**Effective:** 6-18-03**Senate Author:** Madla et al.**House Sponsor:** Hamric

Senate Bill 1567 repeals provisions of the Occupations Code relating to the Texas Peace Officer's Memorial and abolishes the Texas Peace Officer's Memorial advisory committee. The bill adds a chapter to the Government Code relating to the memorial. The purpose of, and eligibility for, the memorial are updated, and the bill adds provisions for maintenance of the memorial by the State Preservation Board. Money contributed to the state for a purpose related to the memorial is to be deposited in the Capitol fund, rather than the state treasury, to the credit of a separate interest-bearing fund account established for the memorial.

Senate Bill 1597**Effective:** Vetoed**Senate Author:** Hinojosa**House Sponsor:** Thompson et al.

Senate Bill 1597 amends the Code of Criminal Procedure to require all law enforcement agencies, by January 1, 2004, to adopt a detailed written policy relating to the arrest of a person without a warrant for misdemeanor offenses, including traffic offenses, that are punishable by a fine only.

Reason Given for Veto: "Senate Bill No. 1597 would require a supervisor's review of a Class C misdemeanor arrest, impeding an officer's ability to make arrests. I have consistently opposed any effort to restrict a peace officer's discretionary arrest powers. Arrests for Class C misdemeanor offenses have been supported by the Supreme Court of the United States."

Senate Bill 1896**Effective:** 9-1-03**Senate Author:** Whitmire**House Sponsor:** Talton

Senate Bill 1896 amends the Code of Criminal Procedure to include among those persons a peace officer may arrest, without a warrant, a person who makes a statement to the peace officer that would be admissible in evidence against the person and establishes probable cause to believe that the person has committed a felony.

Law Enforcement

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

- HB 227 - Family Law and Juvenile Justice
- HB 565 - Criminal Justice
- HB 769 - Public Officials and Employees
- HB 900 - Transportation
- HB 1330 - Transportation
- HB 1769 - Occupational Regulation
- SB 57 - Emergency Response
- SB 255 - Public Officials and Employees
- SB 674 - Public Officials and Employees
- SB 804 - Public Officials and Employees
- SB 826 - Corrections
- SB 841 - Occupational Regulation
- SB 1665 - Family Law and Juvenile Justice

Local Government

This chapter covers legislation relating to the governments of cities, counties, and other local political subdivisions. Bills relating to city and county officials and employees, including police officers and firefighters, 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 917**Effective:** 6-20-03**House Author:** Eiland**Senate Sponsor:** Janek

House Bill 917 amends Local Government Code provisions relating to counties and municipalities that border the Gulf of Mexico. It authorizes them, for purposes of implementing the General Land Office (GLO) program to combat coastal erosion, to participate as qualified project partners in erosion response projects and to undertake or contribute to the funding of beach renourishment projects on public beaches or any other erosion response project on waterways, bays, and bay shorelines. A county or municipality may incur debt for either purpose.

House Bill 2036**Effective:** 6-18-03**House Author:** Swinford**Senate Sponsor:** Bivins

House Bill 2036 amends the Local Government Code and the Health and Safety Code to authorize municipalities that operate utility systems, counties and public agencies that provide solid waste disposal services, and other political subdivisions acting on their behalf for collection purposes, to enter into agreements for the collection of unpaid utility or solid waste disposal service bills. An agreement may allow a municipality to refuse utility service, or a public agency to refuse solid waste disposal services, to someone who is past due on utility charges or solid waste disposal fees owed to another party to the agreement. Or it may allow a municipality to provide utility services, or a public agency to provide solid waste disposal services, on collection of the past due amount owed another party to the agreement plus a service charge. An agreement must keep confidential a person's utility or solid waste disposal account information and must provide for apportionment of collected amounts between the collecting entity and the entity to which the fees are owed.

House Bill 2898**Effective:** 6-20-03**House Author:** Phillips et al.**Senate Sponsor:** Deuell

House Bill 2898 amends the Government Code to allow a governmental entity or representative in a county with a population of at least 30,000 and not more than 36,000 that borders the Red River to publish a required notice in a newspaper that devotes not less than 20 percent of its total column lineage to general interest items, is published at least once each week, is entered as second-class postal matter in the county where published or has a mailed or delivered circulation of at least 51 percent of the residences in the county where published, and has been published regularly and continuously for at least 12 months before the governmental entity or representative publishes notice.

Local Government

House Bill 2924

Effective: Vetoed

House Author: Geren

Senate Sponsor: Brimer

House Bill 2924 amends the Local Government Code to authorize a municipality or county to add territory to a public improvement district created by the municipality or county if requested by a petition signed by a certain number of owners of taxable real property liable for assessment in the area to be added and a certain number of record owners of real property liable for assessment in the area.

Reason Given for Veto: "House Bill No. 2924 permits municipalities and counties to include additional land within a public improvement district if certain petition procedures are followed. Because landowners who are included in the district are subject to assessments for improvements that are provided by the district, a majority vote of the landowners to be included within the district is preferable over simple petition procedures. The safeguard of voter review is necessary to ensure that district landowners have the final word on inclusion in any public improvement district."

House Bill 2931

Effective: 9-1-03

House Author: Lewis

Senate Sponsor: Madla

House Bill 2931 amends provisions of the Government and Local Government codes relating to the administration and finances of the counties and certain other entities. The bill allows the records of a district or county attorney and the recording of commissioners court proceedings by a county clerk to be maintained in either paper or electronic format, or both. It adds a local government corporation and a political subdivision corporation to the definition of a local government, and it allows the parties to an interlocal contract to supervise the performance of the contract by contracting with a tax-exempt organization that derives more than half of its income from services to a political subdivision or combination of subdivisions. The bill allows an administrative agency created to supervise an interlocal contract and a county to pursue protection of intellectual property rights, but it prohibits a county from developing a computer application or software system for the sole purpose of selling, licensing, or marketing the software.

House Bill 2931 amends the Local Government Code to authorize a county to establish in the budget a reserve or contingency item, but it requires inclusion of that item in the itemized budget submitted by the county's budget officer. The bill requires an appointment to a local governing body to be made in accordance with the law applicable to that local government and with the intent to ensure the body is representative of its constituency. The bill allows the commissioners court to impose an application fee to cover the cost of the county's review of a subdivision plat and inspection of the improvement described by the plat. The bill repeals provisions relating to various reports to the county clerk and certain employment contracts.

Senate Bill 710

Effective: 9-1-03

Senate Author: Jackson

House Sponsor: Eiland

Senate Bill 710 amends the Natural Resources Code relating to the shared cost of a coastal erosion project required under an agreement between the commissioner of the General Land Office (GLO) and a qualified project partner. The bill requires the qualified project partner to pay at least 25 percent of the cost of a beach nourishment project and at least 40 percent of the cost of any other coastal erosion response study or project, including a marsh restoration or shoreline protection project. Previous law set the qualified project partner's portion at not less than 15 percent for all coastal erosion projects. The bill also authorizes the commissioner each biennium to undertake one large-scale beach nourishment project without requiring a qualified project partner to pay a portion of the cost if the cost does not exceed one-third of the total amount appropriated to the GLO for coastal erosion planning and response.

Senate Bill 782**Effective:** 6-18-03**Senate Author:** Armbrister**House Sponsor:** Capelo et al.

Senate Bill 782 amends the Code of Criminal Procedure to authorize a county commissioner's court or a municipality's governing body to contract with an outside source for the collection of debts and accounts receivable ordered paid by a court or a municipal hearing officer and of amounts in cases in which the accused has failed to appear. The bill provides that the collection fee does not apply to cases that have been dismissed or to amounts that have been satisfied through time-served credit or community service and prohibits using the fee for any purpose other than compensating those who earned the collection fee. The bill requires the court to calculate the amount of any collection fee due and requires the court to receive all fees, including the collection fee. A municipality with a population of more than 1.9 million is authorized to add a collection fee for a collection program performed by its employees.

The bill amends the Transportation Code to authorize a municipality to file an action in a court of competent jurisdiction to collect a fine, cost, or fee for a vehicle parking and stopping offense from a person who failed to appear as required by the municipality.

Senate Bill 1161**Effective:** 9-1-03**Senate Author:** Barrientos**House Sponsor:** Lewis

Senate Bill 1161 amends the Local Government Code to authorize a county or municipality to provide through the Internet, in addition to access to information and means to pay taxes, fines, fees, court costs, or other charges, other county and municipal services authorized by law. The bill specifies that a reasonable fee may be charged for providing access, collecting payments, or providing services through the Internet, and it allows a contract with a vendor to provide access, collect payments, or provide services.

City Government**House Bill 212****Effective:** 9-1-03**House Author:** Keel et al.**Senate Sponsor:** Wentworth

House Bill 212 amends the Local Government Code to prohibit a municipality from banning political signs placed on private real property with the consent of the property owner, requiring a permit or charging a fee for the signs, restricting the size of a sign, or providing a charge for the removal of a sign that is greater than the charge for removing other signs regulated by ordinance. These restrictions on municipal regulation of signs do not apply to a sign or billboard that temporarily contains a political message but that is generally available for rent or purchase for nonpolitical messages, such as commercial advertising, or to a sign that has an effective area greater than 36 feet, is more than eight feet high, is illuminated, or has any moving elements.

House Bill 622**Effective:** 6-20-03**House Author:** Goolsby**Senate Sponsor:** Deuell

House Bill 622 amends the Local Government Code to require certain municipalities with a population of one million or more to establish and maintain a business leave account for certain peace officer employee organizations. The bill provides that a peace officer may donate accumulated vacation or compensatory time to the account and authorize its use by the employee organization to offset up to 4,000 hours of time used by its members in the conduct of employee organization business during any calendar year.

Local Government

House Bill 1197

Effective: 6-20-03

House Author: Krusee

Senate Sponsor: Wentworth

House Bill 1197 amends the Local Government Code to authorize a binding development agreement between a municipality and an owner of land in the municipality's extraterritorial jurisdiction (ETJ) unless the municipality has a population of 1.9 million or more or the agreement is inconsistent with model rules governing infrastructure development in an economically distressed county. The bill authorizes the municipality's governing board to enter into a written contract with the landowner to guarantee that the municipality will continue the extraterritorial status of the land and will not annex it for at least 15 years and to extend the municipality's planning, enforcement, and infrastructure authority to the land covered in the agreement. The bill requires an agreement to be recorded in the real property records of each affected county, and authorizes the parties to renew the agreement for successive periods of up to 15 years, not to exceed a total of 45 years. The bill provides that an agreement is binding on successors, but not on an end-buyer of a fully developed and improved lot within the development, with certain exceptions. The bill specifies that provisions do not apply to or affect any ordinance or other action adopted by this state or any of its political subdivisions under the federal Coastal Zone Management Act of 1972 and its subsequent amendments. Finally, the bill includes a provision prohibiting a municipality from requiring a development agreement as a condition for providing water, sewer, or other utility service from a municipally owned or operated utility.

House Bill 2334

Effective: 9-1-03

House Author: Turner

Senate Sponsor: R. Ellis

House Bill 2334 amends the Local Government Code to give residents of an area annexed for limited purposes by a municipality the right to vote in municipal elections regarding the election or recall of the controller if the office of controller is an elective position.

House Bill 2732

Effective: 9-1-03

House Author: Talton

Senate Sponsor: Lindsay

House Bill 2732 amends the Local Government Code to exempt a municipality with a population of at least 1.9 million from the requirement that a copy of a final decision issued by a local building and standards commission panel be filed and kept by the municipal secretary or clerk. The bill also exempts a municipality with a population of more than 1.9 million from the requirement that a municipal enforcement order relating to substandard buildings be filed with the municipal secretary or clerk within 10 days after the order is issued.

House Bill 2889

Effective: 6-20-03

House Author: R. Cook et al.

Senate Sponsor: Armbrister

House Bill 2889 amends the Government Code to decrease from at least 230,000 to at least 5,000 the minimum population requirement a municipality must meet to be allowed to issue revenue bonds, notes, or warrants for the funding of certain health and recreational facilities.

House Bill 3303

Effective: 9-1-03

House Author: Gutierrez

Senate Sponsor: Hinojosa

House Bill 3303 provides that all governmental acts and proceedings of the City of McAllen to authorize creation of two international bridge boards of trustees, convey real property to the United States for toll bridges, and provide for the management and control of a certain

international bridge system are validated as of the dates on which they occurred. The bill makes an exception for any matter involved in litigation and invalidated by a final judgment of a court of competent jurisdiction.

House Bill 3591

Effective: 6-20-03

House Author: Pitts

Senate Sponsor: Averitt

House Bill 3591 amends provisions of the Local Government Code relating to the prohibition against annexing a publicly or privately owned area unless the width of the area at its narrowest point is at least 1,000 feet. The bill authorizes a municipality with a population of 21,000 or more located in a county with a population of 100,000 or more to annex a publicly owned strip or similar area following the course of a road or highway so that it may annex territory contiguous to the strip that was formerly used or was to be used in connection with a superconducting super collider high-energy research facility.

House Joint Resolution 61

For Election: See below

House Author: McReynolds et al.

Senate Sponsor: Armbrister

House Joint Resolution 61 proposes a state constitutional amendment to authorize a municipality to donate surplus fire-fighting equipment and supplies to the Texas Forest Service or to a successor agency authorized to cooperate in the development of rural fire protection plans. The amendment authorizes the Texas Forest Service or the successor agency to redistribute the donated materials to rural volunteer fire departments based on those departments' needs.

House Joint Resolution 61 sets an election date of November 4, 2003, but the election date was changed to September 13, 2003, by House Joint Resolution 62.

Senate Bill 656

Effective: 9-1-03

Senate Author: Brimer

House Sponsor: Truitt

Senate Bill 656 amends the Local Government Code to allow a municipality to require the removal of an on-premise sign or sign structure no sooner than the first anniversary of the date the business, person, or activity identified or advertised by the sign or sign structure ceases to operate on the premises where the sign or sign structure is located or, if those premises are leased, no sooner than the second anniversary of the date the most recent tenant ceases to operate on the premises. The bill exempts the municipality, if it authorizes removal of an on-premise sign or sign structure, from the requirement to compensate the sign owner for the removal costs and from the requirement to appoint a municipal board on sign removal. The bill allows a municipality to enter into an agreement with the owner of an on-premise sign or sign structure to remove only a portion of the sign or sign structure. The bill allows a municipality to abate municipal property taxes that otherwise would be owed by the owner of an on-premise sign whose removal is required by the municipality.

Senate Bill 734

Effective: 9-1-03

Senate Author: Ratliff

House Sponsor: Hunter

Senate Bill 734 amends the Local Government Code to clarify that provisions relating to the authority of a municipality with a city manager form of government to appoint municipal officers do not limit the authority of a Type A, Type B, or Type C general-law municipality to appoint and prescribe powers and duties to an officer or employee of the municipality.

Local Government

Senate Bill 982

Effective: 5-20-03

Senate Author: Whitmire

House Sponsor: Callegari

Senate Bill 982 directs the Texas Department of Criminal Justice and the Department of Public Safety to transfer to the City of Houston, for consideration to which the three parties mutually agree, certain ownership and easement interests in specified tracts of real property in Harris County. Consideration may be in the form of an agreement that requires the city to use the property for a purpose that benefits the public interest of the state. Under such an agreement, ownership reverts, and easements terminate, if the city ceases to use the property for such a purpose.

Senate Bill 1892

Effective: 6-20-03

Senate Author: Hinojosa

House Sponsor: Capelo

Senate Bill 1892 amends the law to add a general law authorization to clarify that all property transferred by the State of Texas to the City of Corpus Christi is authorized to be leased by the city's governing body for such purposes that the governing body considers to be in the best interest of the city. The bill includes economic development purposes in the uses that the governing body may consider to be in the best interest of the city.

Senate Bill 1895

Effective: 6-20-03

Senate Author: R. Ellis

House Sponsor: Coleman

The Government Code previously authorized a municipality with a population of 1.5 million or more to enter into leases of up to 60 years for the renovation or redevelopment of an existing civic center building and facilities if the lessee proposes to make a minimum investment of \$20 million for that purpose and a long-term lease is required for the lessee to recoup the investment. Senate Bill 1895 amends the code to decrease the municipal population requirement to one million or more and to expand the leasing authority of an eligible municipality to include leases for the development of a new building or facilities on land administered, operated, or used as a civic center property.

County Government

House Bill 249

Effective: 9-1-03

House Author: Goolsby et al.

Senate Sponsor: Madla

House Bill 249 amends the Business & Commerce Code and the Local Government Code to authorize a county clerk to set and collect a fee of up to \$30, rather than \$25, for a returned check. The bill also increases from \$25 to \$30 the amount of the processing fee that the holder of a dishonored check may charge the drawer or endorser on its return.

House Bill 547

Effective: 9-1-03

House Author: Wohlgemuth

Senate Sponsor: Averitt

House Bill 547 amends the Natural Resources Code to apply to all counties, except a county with a population of 3.3 million or more, the law requiring a 50-foot distance between certain pits that are part of quarrying operations and adjacent property. The bill makes an exception for an excavation constructed by a political subdivision to provide drainage or stormwater retention.

House Bill 722**Effective:** 9-1-03**House Author:** Guillen et al.**Senate Sponsor:** Zaffirini

House Bill 722 amends provisions of the Local Government Code relating to the powers of a commissioners court of a county that has a population of more than 7,500, is located on an international boundary, and contains no incorporated territory of a municipality. The bill provides that, if approved at an election held in the county for that purpose, the commissioners court has, in addition to existing powers, all of the regulatory powers of the governing body of a Type A general-law municipality, including the powers contained in Subtitle A, Title 7, with certain exceptions and conditions.

House Bill 970**Effective:** 5-15-03**House Author:** Truitt et al.**Senate Sponsor:** Jackson

House Bill 970 amends the Local Government Code to allow a county commissioners court to dispose of salvage and surplus property by donating it to a civic or charitable organization within the county. The donation is allowed if the commissioners court determines that attempting to sell the property by competitive bid or auction would result in no bids or a bid price that is less than the expense for the bid process, the donation serves a public purpose, and the organization will pay for transportation or disposal expenses.

House Bill 1387**Effective:** 9-1-03**House Author:** Hamric**Senate Sponsor:** Lindsay

House Bill 1387 amends the Transportation Code to authorize a commissioners court of a county with a population of more than 2.4 million, or of a county that borders a county with that population, that is regulating on-premise signs in the unincorporated area of the county to recover the cost of issuing a permit from an applicant if the auditor for the county reviews the program every two years to ensure that the fees being charged do not exceed the cost of the program and the county refunds to the permit holders any revenue determined by the auditor to exceed the cost of the program.

House Bill 1702**Effective:** 6-20-03**House Author:** Taylor**Senate Sponsor:** Jackson

House Bill 1702 amends the Local Government Code to apply provisions for the sale and subsequent lease of county property that formerly were applicable only to a county with a population of more than 500,000 to a county with a population of more than 250,000. The bill further authorizes the commissioners court of such county to enter into any for-profit or other licensing agreement with a seller of wireless communications service that may include a license to collocate wireless communications technology on property owned by the county.

House Bill 2128**Effective:** 9-1-03**House Author:** Chisum**Senate Sponsor:** Duncan

House Bill 2128 authorizes the Department of Public Safety (DPS) to donate and transfer certain real property to Childress County not later than January 31, 2004. The bill allows the county to use the property only for a purpose that benefits the public interest of the state. Otherwise, ownership automatically reverts to DPS. The bill allows DPS, after the transfer, to access, use, and maintain a radio tower and associated building located on the tract.

Local Government

House Bill 2188

Effective: 9-1-03

House Author: Rodriguez et al.

Senate Sponsor: Wentworth

House Bill 2188 amends the Government Code to permit a county commissioners court to adopt a plan to allow a prospective juror to appear in response to a summons by computer, automated telephone system, or in person. A plan may allow a prospective juror and the county officer responsible for summoning jurors to exchange information necessary to qualify, exempt, postpone, or excuse a juror from jury service; provide information for jury assignment; submit a jury summons questionnaire; and provide notification to a prospective juror by electronic mail.

House Bill 2343

Effective: 9-1-03

House Author: Kolkhorst

Senate Sponsor: Ogden

House Bill 2343 authorizes the Texas Department of Criminal Justice (TDCJ) to donate and transfer certain real property to Walker County, not later than January 31, 2004, for the construction and operation of a museum that memorializes veterans. If the county uses the property for any other purpose, ownership automatically reverts to the TDCJ.

House Bill 3070

Effective: 9-1-03

House Author: Casteel

Senate Sponsor: Averitt

House Bill 3070 amends the Government Code to allow the commissioners court of each county to set different daily reimbursements for grand and petit jurors, or different petit jurors, based on whether the juror serves in a justice, county, or district court or on any other reasonable criteria determined by the commissioners court.

House Bill 3221

Effective: 9-1-03

House Author: Bohac et al.

Senate Sponsor: Lucio

House Bill 3221 amends the Local Government Code to specify that the law governing subdivision platting requirements in a county near an international border does not apply if each of the lots of the subdivision is 10 or more acres.

House Bill 3312

Effective: 6-20-03

House Author: Capelo

Senate Sponsor: Hinojosa

House Bill 3312 amends the Local Government Code to allow the commissioners court of a county to either (1) designate a county employee or official to approve a depository's substitution of one type of security for another or its replacement of particular securities with others of the same type, or (2) adopt a procedure for approving a substitute or replacement security.

Senate Bill 132

Effective: 5-28-03

Senate Author: Zaffirini

House Sponsor: Guillen

Senate Bill 132 amends the Transportation Code to allow a county commissioners court to replace, repair, or authorize the replacement or repair of an existing cattle guard on a county road. If the commissioners court finds that the replacement or repair of the cattle guard is in the best interest of the residents of the county, expenses may be paid from the county road and bridge fund.

Senate Bill 469
Effective: 4-10-03

Senate Author: Wentworth
House Sponsor: Casteel

Senate Bill 469 amends the Human Resources Code to expand the list of members on the Comal County Juvenile Board to include the local administrative statutory county judge, an additional judge of the district courts who has jurisdiction in Comal County, and the criminal district attorney of Comal County, who will only vote in the event of a tie.

Senate Bill 604
Effective: 9-1-03

Senate Author: R. Ellis
House Sponsor: Van Arsdale

Senate Bill 604 amends the Local Government Code to allow a county attorney to recover reasonable attorney's fees, investigative costs, and court costs incurred on behalf of the county in a proceeding to recover a delinquent debt owed to the county, with the exception of a delinquent ad valorem tax.

Senate Bill 705
Effective: 6-18-03

Senate Author: Jackson
House Sponsor: Truitt et al.

Senate Bill 705 amends the Local Government Code to allow a county commissioners court to dispose of salvage and surplus property by donating it to a civic or charitable organization within the county if the commissioners court determines that attempting to sell the property by competitive bid or auction would likely result in no bids or a bid price that is less than the expense for the bid process, the donation serves a public purpose, and the organization will pay for transportation or disposal expenses.

Senate Bill 705 also amends the Health and Safety Code to allow the governing board of a hospital district to dispose of the hospital district's surplus or salvage property in the same way that a commissioners court of a county is allowed to dispose of the county's surplus or salvage property as provided above.

Senate Bill 1460
Effective: 9-1-03

Senate Author: Lindsay
House Sponsor: W. Smith

Senate Bill 1460 amends provisions of the Local Government Code relating to the powers and duties of county fire marshals and to county fire protection. The bill requires the commissioners court of a county, with the advice of the county fire marshal, to adopt rules and procedures for determining which fires warrant investigation by the county fire marshal. The bill requires each fire department and state or local agency that provides emergency medical services to submit reports requested by the county fire marshal in a timely manner. The bill expands the scope of the county fire marshal's hazards inspections to include inspections for life safety hazards as well as fire hazards and reviews of plans of a business, residence, dwelling, or commercial property. The bill adds to the list of conditions subject to inspection to include electrical components, rather than simply lighting; building services; storage or use of hazardous substances; and inappropriate means of egress, fire protection, or other fire-related safeguard. The bill also allows the county fire marshal to inspect any structure, appurtenance, fixture, or real property located within 500 feet, rather than 200 feet, of a structure, appurtenance, or fixture, and, in the absence of a county fire code, to use any nationally recognized, state-adopted code.

Senate Bill 1460 allows a county fire marshal to assist a rural fire prevention district or emergency services district in the county; requires the commissioners court to ensure that any procedures it establishes for firefighter certification are at least as stringent as the minimum qualifications set by the Texas Commission on Fire Protection; and allows a commissioners

Local Government

court to authorize a fire marshal to conduct training programs, operate a training facility, and collect a fee for the training programs and related services. The bill increases the maximum fine for contempt of fire investigation proceedings from \$25 to \$2,000 and provides that if a person has been previously convicted two or more times for failure to comply with an order to correct a hazardous situation, the offense is a state jail penalty. The bill amends the Code of Criminal Procedure to increase the statute of limitations for the offense of arson from five to 10 years.

Senate Bill 1461

Effective: 9-1-03

Senate Author: Lindsay

House Sponsor: W. Smith

Senate Bill 1461 amends the Local Government Code to authorize the commissioners court of a county to sell certain used fire-fighting equipment to a volunteer fire department for eight percent of the original purchase value if the equipment is at least 15 years old and met the National Fire Protection Association standards at the original time of purchase and if the volunteer fire department provides fire protection to an area of the county.

Senate Bill 1472

Effective: 6-20-03

Senate Author: R. West

House Sponsor: Goolsby

Senate Bill 1472 amends the Local Government Code to authorize the commissioners court of a county with a population of more than 1.5 million that is adjacent to a county with a population of more than one million to create a zoo board to establish, finance, and manage a public zoological park to provide conservation, education, research, public recreation, and care relating to the study and display of animals and other specimens. The bill authorizes the county to impose an ad valorem tax not to exceed a rate of three cents per \$100 valuation of taxable property, subject to voter approval. The bill provides for the appointment of the board's members, its powers and duties, general operation, and the financial responsibilities and authority of such a board.

Senate Bill 1564

Effective: 5-28-03

Senate Author: Madla

House Sponsor: Casteel

Senate Bill 1564 amends the Local Government Code to authorize the commissioners court of a county with a population of 18,000 or less to build an auxiliary court, office building, or jail facility at a location in the county and within five miles of the boundaries of the county seat and to use the auxiliary court to hold court proceedings, including district court proceedings. The bill allows the court, building, or facility to maintain the records of the auxiliary court and the records of a county officer who is provided space at the respective auxiliary court, building, or facility. The bill allows the commissioners court to issue bonds or other evidences of indebtedness, provide office space in a building or facility for any county or precinct office, and designate the location of the auxiliary court as an auxiliary county seat for the purpose of the court proceedings.

Senate Bill 1731

Effective: 9-1-03

Senate Author: Gallegos et al.

House Sponsor: Chisum et al.

Under previous law, the county clerk of a county adjacent to an international boundary was required to collect a records archive fee of up to \$5 for the preservation, restoration, and management of certain county records if the commissioners court adopted the fee. Senate Bill 1731 amends the Local Government Code to apply these provisions to any county by deleting the geographic restriction.

Senate Bill 1765

Effective: 6-20-03

Senate Author: Deuell

House Sponsor: Phillips

Senate Bill 1765 amends provisions of the Local Government Code relating to the zoning authority of counties around certain lakes. The bill adds Lake Ralph Hall to the list of lakes under this provision and adds the area within 5,000 feet of where the shoreline would be if the lake were filled to its storage capacity. It provides that the authority expires on September 1, 2013, unless the permit necessary for the construction of the lake is issued before that date.

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

HB 681 - Corrections
HB 1207 - Property Interests
HB 1564 - Public Education
HB 1660 - Corrections
HB 1771 - Emergency Response
HB 1828 - Family Law and Juvenile Justice
HB 2130 - Property Interests
HB 2212 - Property Interests
HB 2764 - Hospital Districts
HB 2786 - Miscellaneous Taxes and Tax Administration
HB 2952 - Health
HB 2964 - Public Education
HB 3232 - Property Taxes
HB 3282 - Miscellaneous Taxes and Tax Administration
HB 3491 - Emergency Response
HB 3584 - Family Law and Juvenile Justice
SB 540 - Transportation
SB 667 - Business and Commerce
SB 892 - Emergency Response
SB 1017 - Civil Remedies and Procedures
SB 1326 - Housing

Miscellaneous Taxes and Tax Administration

This chapter covers legislation on the sales and use, motor fuels, hotel occupancy, motor vehicle rental, and cigarette and tobacco taxes. It also includes legislation on taxes and fees administered by the comptroller, customs brokers and international transactions, the Tax Increment Financing Act, participation in a streamlined sales and use tax agreement, and tax-exempt food products. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 1675

Effective: 6-20-03

House Author: Menendez et al.

Senate Sponsor: Madla

House Bill 1675 extends the law supporting a Texas municipality's bid to host the 2007 Pan American Games to cover the 2011 Pan American Games. The bill recreates the Pan American Games trust fund by extending by four years dates related to the comptroller's duty to estimate state and municipal tax revenue for the fund and to transfer remaining state revenue from the fund. The bill eliminates the requirement to hold an election to determine whether an endorsing municipality may contribute a portion of its sales and use taxes and hotel occupancy taxes to the trust fund.

House Bill 2424

Effective: See below

House Author: McCall

Senate Sponsor: Armbrister

House Bill 2424 is an omnibus bill that makes technical changes to the Health and Safety Code, Insurance Code, Local Government Code, Occupations Code, Tax Code, Code of Criminal Procedure, Government Code, Transportation Code, and other state law relating to taxes and fees administered by the comptroller. House Bill 2424 takes effect October 1, 2003, except for provisions relating to criminal and civil fees, insurance examination and evaluation fees, transfers of research and development credits, exemptions from the hotel tax, tax credits for wages paid to persons with disabilities, and certain reports filed by franchises, which take effect January 1, 2004.

House Bill 2425

Effective: See below

House Author: McCall

Senate Sponsor: Duncan

House Bill 2425 amends various provisions of state law relating to state and local fiscal matters and makes certain appropriations. Among other provisions, the bill allows The Texas A&M University System to use previously authorized bond authority for financing permanent improvements other than those originally intended. House Bill 2425 amends the Code of Criminal Procedure to establish quarterly deadlines for remitting various court-imposed community supervision fees to the comptroller. The bill amends the Education Code to change the payment date for the final annual payments from the foundation school fund to category two and category three school districts, allows the comptroller to suspend enrollment in the prepaid higher education tuition program, and makes changes to the senior college plan to limit the amount that a college or university may accept as payment in full of a beneficiary's required tuition and fees.

Miscellaneous Taxes and Tax Administration

House Bill 2425 amends and adds provisions to the Education Code, Local Government Code, and Government Code authorizing energy-saving and water-saving performance contracts for public education and higher education facilities, local government facilities, and state agencies in which the estimated savings in utility costs from specific measures are guaranteed to offset the measures' costs over a specified period. The bill expands the use of electronic funds transfers by the comptroller for payment of membership dues to eligible state employee organizations, and it authorizes the comptroller to conduct performance reviews of public junior colleges and general academic teaching institutions at the request of the governor, the Legislative Budget Board, or the institution or, in certain cases, on the comptroller's initiative. It adds semiconductors and nanotechnology as areas in which eligible products or businesses are given preference for financing through the product development and small business incubators program, and it moves the program board from the office of the comptroller to the office of the governor. The bill allows the comptroller to invest funds that are not deposited in state depositories in pooled funds established by the Texas Treasury Safekeeping Trust Company, and it amends provisions relating to merit increases and one-time merit payments to classified employees. It increases the vacation leave that an employee receives each month and the number of hours of vacation leave that may be carried forward to the next fiscal year. House Bill 2425 removes some of the restrictions on the uses of the Texas Capital Trust Fund, and it requires the entire unencumbered balance of the trust fund to be transferred to the general revenue fund at the end of each fiscal biennium. Effective July 1, 2004, the bill increases the interest rate on an overdue payment to a vendor, or an overdue payment by a vendor to a subcontractor or other provider, from one percent to one percent plus the prime rate as of a certain date.

House Bill 2425 amends the Insurance Code to require the comptroller to allocate premium tax credits, rather than certified capital, to certified capital companies that file claims. The bill increases the percentage of the total vested premium tax credit earned by a certified investor that the investor may take in a year from 10 percent to 25 percent, and it increases the total premium tax credit that all certified investors in certified capital companies may take in a year from \$20 million to \$50 million. The bill amends the Local Government Code to exempt state property from local infrastructure fees. House Bill 2425 amends various Tax Code provisions relating to the right of a person who files a claim for a tax refund to a hearing and taxpayers' suits for payments made under protest. It amends and adds provisions to the Simplified Sales and Use Tax Administration Act, including provisions relating to certified service providers, and it requires unanimous agreement by the governor, the lieutenant governor, the speaker of the house, and the comptroller before the comptroller enters into a streamlined sales tax agreement with other states. The bill clarifies which food products are exempt from the sales and use tax, exempts certain biotechnology cleanrooms and related equipment from the sales and use tax, and specifies the methods to be used for determining the market value of gas at the mouth of a well.

Effective July 1, 2004, House Bill 2425 amends provisions relating to the location where a sale of tangible personal property and telecommunications services is consummated for sales tax collection purposes. It requires the comptroller to study the economic costs to political subdivisions of this state of changing the sourcing law relating to the sale of tangible personal property to comply with the Streamlined Sales and Use Tax Agreement and to file a report with the lieutenant governor, the speaker of the house, and legislative committees with primary jurisdiction over the comptroller not later than December 31, 2004. House Bill 2425 amends

the Transportation Code to require a county to file a report with the comptroller that accounts for how money allocated to the county from the county and road district highway fund was spent. The bill repeals various statutes and makes numerous conforming changes.

House Bill 2425 takes effect June 20, 2003, except for provisions relating to the increase in the interest rate on an overdue payment to a vendor and the consummation of the sale of tangible personal property and telecommunications services, which take effect July 1, 2004; provisions relating to certified service providers, the administration and collection of the sales and use tax, and participation in a streamlined sales and use tax agreement, which take effect October 1, 2003; and provisions relating to tax-exempt food products, which take effect October 1, 2004.

The governor vetoed the provision appropriating to the comptroller the amount needed from the general revenue fund to return any available cash that was transferred to that fund from a fund outside the state treasury and to maintain the equity of the fund from which the transfer was made.

Reason Given for Veto: “In accordance with Article IV, Section 14 of the Texas Constitution, individual items of appropriation objected to shall be of no force or effect. The remaining portions of the bill shall be effective according to its terms. . . . These appropriations exceed the amount necessary at this time to reimburse anticipated borrowing.”

House Bill 2458

Effective: See below

House Author: Krusee et al.

Senate Sponsor: Bivins

House Bill 2458 repeals the chapter in the Tax Code relating to motor fuel taxes and creates a new chapter to provide for the collection of motor fuel taxes. The bill moves the point where motor fuel taxes are collected from the distributor level, which is the point of first sale or use, to the point where motor fuels are first removed at the terminal. Among other provisions, the bill requires the licensing of terminal operators and suppliers—the collectors of tax at the terminal—and importers and exporters of motor fuel. It allows a distributor or importer to retain 1.75 percent of the total taxes to be paid to the supplier to cover administrative expenses. House Bill 2458 adds regulations for the import and export of motor fuels, exempts dyed diesel fuel from taxation, and removes the tax exemption for undyed diesel fuel, except for school districts and the federal government. The bill also adds requirements for recordkeeping, shipping documentation, and reporting for handlers of motor fuel.

House Bill 2458 imposes a backup tax on a person who obtains a refund on gasoline or diesel fuel based on a claim that the use of the gasoline or diesel fuel is tax exempt, but then uses the fuel for taxable purposes, and a person who sells fuel for which a tax has not been paid. The bill allows the comptroller to enter into cooperative agreements with other states to collect motor fuel taxes and audit importers and exporters. It requires the comptroller to determine the taxes paid on undyed diesel fuel that is used for purposes other than to propel a motor vehicle on highways, and to deposit that amount in the general revenue fund. In October of each even-numbered year, the comptroller must report to the legislature on the use of the one percent of the gross motor vehicle taxes deposited in the special fund to administer and enforce the provisions for motor fuel taxes. House Bill 2458 takes effect January 1, 2004, except for provisions relating to cooperative agreements with other states, which take effect September 1, 2003.

House Bill 2786

Effective: 6-18-03

House Author: Eiland

Senate Sponsor: Janek

The Local Government Code authorizes a strategic partnership agreement between a municipality and either a municipal utility district or a water control and improvement district. If the municipality is located wholly or partly in a county having a population of more than 250,000, bordering the Gulf of Mexico, and lying adjacent to another county with a population of more than 3.3 million, it may impose within district boundaries a municipal sales and use tax or a municipal hotel occupancy tax if the municipality and the district enter a written tax imposition agreement. House Bill 2786 amends the code to authorize a one-time extension of such a tax agreement, not to exceed ten years.

House Bill 3141

Effective: 6-20-03

House Author: Wilson

Senate Sponsor: Armbrister

House Bill 3141 amends the Tax Code to prohibit a person from transporting cigarettes from this state for sale in another state without first affixing to the cigarettes the stamp required by the state in which the cigarettes are to be sold or paying any other excise tax on the cigarettes imposed by the state in which the cigarettes are to be sold. A person may not affix a stamp or pay an excise tax if prohibited by the state in which the cigarettes are to be sold. The bill requires a person who transports cigarettes from this state for sale in another state to report to the attorney general on a quarterly basis the quantity of the cigarettes, by brand style, and the name and address of each recipient of the cigarettes.

Senate Bill 353

Effective: 4-24-03

Senate Author: Shapleigh

House Sponsor: Pickett

Senate Bill 353 amends the Tax Increment Financing Act provision that allowed a taxing unit not to pay into a tax increment fund any of its tax increment produced from property located in a reinvestment zone unless the taxing unit entered into an agreement to do so with the governing body of the municipality that created the zone. The bill repeals a restriction that kept this provision from applying to a taxing unit collecting taxes on property in a reinvestment zone within a city with a population of more than 230,000 that borders Mexico.

Hotel Occupancy Taxes

House Bill 808

Effective: 7-1-03

House Author: Seaman

Senate Sponsor: Hinojosa

House Bill 808 amends the Tax Code authority of a municipality that borders the Gulf of Mexico and has a population of more than 250,000 to use revenue generated by its hotel occupancy tax to clean and maintain public beaches in the municipality. Previous law provided that such authority applied to revenue from hotels previously subject to a county hotel occupancy tax. In House Bill 808, that authority extends to all hotels in an area previously subject to the county tax and located on an island bordering the Gulf of Mexico.

House Bill 1459

Effective: 9-1-03

House Author: Eiland

Senate Sponsor: Janek

House Bill 1459 amends the Tax Code to authorize a municipality with a population of less than 5,000 that is adjacent to a home-rule city with a population of less than 80,000 to use revenue derived from the municipal hotel occupancy tax to clean and maintain beaches in the

municipality, provide beach security and park law enforcement, provide for certain public facilities and improvements, or pay the principal of or interest on bonds or notes issued by the municipality for these purposes. The hotel occupancy tax rate in such a municipality may not exceed nine percent of the price paid for a room.

House Bill 2076

Effective: 9-1-03

House Author: Casteel

Senate Sponsor: Madla

Under previous law, a county with a population of 17,500 or less that has no more than one municipality with a population of less than 2,500 and that borders two counties located wholly in the Edwards Aquifer Authority was authorized to impose a hotel occupancy tax. House Bill 2076 amends the Tax Code to change the county's population requirement to 30,000 or less. The bill also provides that, in addition to previously authorized uses, revenue from the tax may be used to acquire a site for and to construct, improve, enlarge, equip, repair, operate, and maintain a visitor information center.

House Bill 2162

Effective: 6-20-03

House Author: McReynolds

Senate Sponsor: Staples

House Bill 2162 amends the Tax Code to add to the list of counties that may impose a hotel occupancy tax a county with a population of 21,000 or less that borders the Neches River and that contains a national preserve. The county tax does not apply to a hotel located in a municipality that imposes a municipal hotel occupancy tax.

House Bill 2322

Effective: 6-20-03

House Author: McReynolds

Senate Sponsor: Staples

House Bill 2322 amends the Tax Code to add to the list of counties that may impose a hotel occupancy tax a county that has a population of 22,500 or less and that borders a portion of Lake Livingston. The county tax does not apply to a hotel located in a municipality that imposes a municipal hotel occupancy tax.

House Bill 2718

Effective: 9-1-03

House Author: W. Smith

Senate Sponsor: Jackson

House Bill 2718 amends the Tax Code to authorize a home-rule municipality that borders a bay, has a population of less than 80,000, and is not an eligible coastal municipality to use not more than 10 percent of the revenue derived from the municipal hotel occupancy tax to clean and maintain or mitigate coastal erosion on adjacent public lands, or to pay bonds issued to provide for public improvement projects that serve the purpose of attracting visitors and tourists. The bill requires the municipality to spend the same amount of revenue for the same purpose from a source other than the hotel occupancy tax. It also prohibits the municipality from reducing the amount of revenue it uses for advertising and promotional programs to attract tourists and convention delegates or registrants to the municipality to an amount that is less than the average amount used during the 36-month period preceding the municipality's use of revenue for the newly authorized purposes.

House Bill 2961

Effective: 6-18-03

House Author: Krusee

Senate Sponsor: Armbrister

House Bill 2961 amends the Tax Code relating to the use of hotel occupancy taxes by certain municipalities. The bill allows a municipality located in a county with a population of 250,000 or less, rather than 65,000 or less, to use revenue derived from the hotel occupancy tax

Miscellaneous Taxes and Tax Administration

to pay expenses related to a sporting event in which the majority of participants are tourists. It requires the largest municipality in a county that borders Mexico and in which there is a national park of more than 400,000 acres to allocate at least 50 percent of the hotel occupancy tax revenue to advertising and conducting solicitations and promotional programs to attract tourists and others, not more than 15 percent to the promotion of the arts, and not more than 15 percent to historical restoration and preservation projects or related activities.

House Bill 3282

Effective: 6-20-03

House Author: Guillen

Senate Sponsor: Zaffirini

House Bill 3282 amends the Tax Code to authorize the commissioners court of a county that has a population of more than 45,000 and less than 75,000, that borders the United Mexican States, and that borders or contains a portion of Falcon Lake to impose a hotel occupancy tax not to exceed two percent of the price paid for a room in a hotel.

Senate Bill 234

Effective: 5-16-03

Senate Author: Fraser

House Sponsor: Hupp

Senate Bill 234 amends the Tax Code to add to the list of counties that may impose a hotel occupancy tax a county that has a population of 34,000 or more and borders Lake Buchanan. The county tax does not apply to a hotel located in a municipality that imposes a municipal hotel occupancy tax.

Senate Bill 1111

Effective: 5-28-03

Senate Author: R. West et al.

House Sponsor: Hill

Senate Bill 1111 amends Local Government Code provisions relating to financing sports and community venue projects to create exceptions to the five percent maximum tax rate for short-term motor vehicle rentals and the two percent maximum tax rate for hotel rooms. It allows a county with a population of more than two million that is adjacent to a county with a population of more than one million to impose tax rates of up to six percent and three percent, respectively, with voter approval. For a project in such a county, the bill requires a sports and community venue district to make a good faith effort to increase the contracts awarded to historically underutilized businesses for construction of a venue project and for purchase of related goods and services. It also makes a district's books, records, and papers for a venue project in any county subject to disclosure under the state's public information law.

Senate Bill 1784

Effective: 6-18-03

Senate Author: Lucio

House Sponsor: Goolsby

Senate Bill 1784 amends the Tax Code to authorize a general-law municipality that borders the Gulf of Mexico and has a boundary within 30 miles of Mexico to increase the hotel occupancy tax rate to a maximum rate of 7.5 percent, if approved by a majority of voters. The bill limits the use of revenue derived from the rate increase to beautifying and improving the access to and safety of the portion of State Highway 100 known as Padre Boulevard and provides that the amount of revenue that may be spent for this purpose may not exceed the amount the municipality spends for the same purpose from a source other than the hotel occupancy tax. The provisions enacted by Senate Bill 1784 are repealed effective January 1, 2006.

Sales and Use Taxes

House Bill 109

Effective: See below

House Author: Chavez et al.

Senate Sponsor: Shapleigh

House Bill 109 amends provisions of the Tax Code relating to customs brokers and international transactions. The bill requires the comptroller to maintain a password-protected website that a customs broker must use to prepare the documents needed to show the exemption of tangible personal property exported outside the country; the comptroller also must provide an alternate means for use when the website is unavailable. It increases the annual license fee for a customs broker from a flat fee of \$100 regardless of the number of business locations to a \$300 fee for each place of business where the customs broker intends to issue a tax exemption certificate for exports of tangible personal property and increases the bond or security required of a customs broker from a minimum of \$500 and a maximum of \$2,500 to a base amount of \$5,000 plus an additional \$1,000 bond or security for each place of business where the customs broker issues tax exemption certificates. House Bill 109 requires a customs broker to report to the comptroller on a quarterly basis the total value of tangible personal property, the total amount of the corresponding tax for which certificates of export were issued, and the total amount of tax refunded in accordance with those certificates. The bill establishes specific verification procedure requirements for a customs broker to issue documentation that certifies that tangible personal property was delivered outside of the United States, provides specific penalties for noncompliance, and increases the cost of an export stamp from not more than five cents to \$1.60. These provisions take effect January 1, 2004.

House Bill 109 adds a new chapter to the Finance Code to provide for the regulation of the transmission of currency to another country and establishes civil penalties for a violation of regulations. Provisions of this chapter take effect September 1, 2003.

House Bill 164

Effective: 6-20-03

House Author: Truitt

Senate Sponsor: Nelson

House Bill 164 amends Tax Code provisions relating to the adoption of a municipal sales and use tax for street maintenance to authorize a rate of one-eighth of one percent as an alternative to the previous option of one-fourth of one percent. The bill allows a municipality with a rate of one-fourth of one percent to decrease the rate to one-eighth of one percent by ordinance without an election. Adoption of the tax at either rate increasing the tax to the higher rate requires voter approval at an election.

House Bill 1088

Effective: 9-1-03

House Author: Hill

Senate Sponsor: Carona

Previous law required the comptroller, on request, to provide to a municipality with a population of not more than 275,000 information relating to the amount of tax paid by each person doing business in the municipality who remits to the comptroller state and local sales tax payments of more than \$100,000. House Bill 1088 amends the Tax Code to change the threshold payment from \$100,000 to \$25,000. It provides that the governing body of a municipality is not required to confer with or question an employee or a third party in an open meeting to receive the information. The bill adds internal auditing of sales taxes paid to the municipality to the purposes for which the municipality may use the data.

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House Bill 2386

Effective: 6-20-03

House Author: Hill et al.

Senate Sponsor: Brimer

House Bill 2386 amends the Local Government Code to authorize certain municipalities and counties to impose a facility use tax for the use of livestock stalls or pens at designated facilities that are used principally for rodeos, livestock shows, equestrian events, and similar events. Only a county in which the majority of the population of two or more municipalities with a population of 300,000 or more is located, or a municipality for which the majority of the population is located in such a county, may impose this facility use tax, following voter approval, and only if the municipality or county has unpaid bonds or obligations that were issued for that facility. A municipality or county that imposes such a tax may exempt a county junior livestock show from the tax. House Bill 2386 prohibits the tax rate from exceeding \$20 for each event.

House Bill 3534

Effective: 9-1-03

House Author: Laubenberg et al.

Senate Sponsor: Shapiro

House Bill 3534 amends the Tax Code to provide that an outlet, office, facility, or location that contracts with a retail or commercial business for processing invoices or bills of lading onto which a municipal sales and use tax is added is not a “place of business of the retailer” for the purpose of assessing the tax if the comptroller determines that the location functions or exists to avoid the tax or to rebate a portion of the tax imposed. If such a determination is made, a sale is considered consummated at the place of business of the retailer from whom the outlet, office, facility, or location purchased the taxable item for resale to the contracting business.

Senate Bill 1705

Effective: Vetoed

Senate Author: Wentworth

House Sponsor: Martinez Fischer

Senate Bill 1705 amends the Tax Code to authorize the governing board of a metropolitan rapid transit authority created before 1980 in which the principal municipality has a population of less than 1.2 million to repeal the exemption of telecommunications services from the sales and use tax, if approved by a majority vote of a committee of the authority. Revenue collected as a result of the repeal of the tax exemption is for the purpose of an advanced transportation district.

Reason Given for Veto: “Current law allows metropolitan transit authorities (MTA) to tax telecommunications services if approved by each city that created the authority. Senate Bill No. 1705 would make it easier for VIA MTA in San Antonio to tax telecommunications services by taking the decision away from smaller cities and allowing the City of San Antonio and Bexar County to make the decision. This bill is unnecessary because voters will have an opportunity to approve a sales tax for an advanced transportation district, as proposed in Senate Bill No. 404, which I already have signed into law.”

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

HB 335 - Property Interests

HB 2308 - Housing

HB 3139 - Business and Commerce

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. In addition to sunset bills for various state licensing and regulatory agencies, this chapter includes the sunset bill for the State Office of Administrative Hearings. Bills relating to medical and health care workers are in the **Health and Medical Occupations** chapter, and those relating to wages, workforce development, workers' compensation, and unemployment 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 135

Effective: 9-1-03

House Author: F. Brown et al.

Senate Sponsor: Shapiro

House Bill 135 amends the Occupations Code to establish new eligibility requirements for an auctioneer's license, including requiring the applicant to provide proof of employment with a licensed auctioneer for at least two years, rather than one year, during which time the applicant must have participated in at least 10 auctions, rather than 5, as required by prior law. The bill further requires the applicant to have a high school diploma or its equivalent, to have no felony convictions during the five years preceding the date of application, and to have completed at least 80 hours of classroom instruction at an auction school with a curriculum approved by the Texas Department of Licensing and Regulation. The bill authorizes the department to charge an auction school a reasonable fee for approving the school's curriculum. The bill provides that an employee of an auction company who does not act as a bid caller at an auction in this state is not required to hold an auctioneer's license.

House Bill 177

Effective: 9-1-03

House Author: McCall et al.

Senate Sponsor: R. West

House Bill 177 enacts provisions to regulate international matchmaking organizations. The bill requires such an organization to provide a foreign recruit for marriage with the criminal and marital histories of its clients and with basic rights information in the recruit's native language and in a highly noticeable manner not later than 30 days after receiving the criminal and marital history information from a client. The bill requires a client to obtain a copy of the client's own criminal history record information and to provide the criminal and marital history information to the international matchmaking organization. The organization must require the client to affirm that the marital history information is complete and accurate and is prohibited from providing any further services to the client until it has obtained the requested criminal and marital history information and provided the information to the recruit. The bill makes an international matchmaking organization that violates the regulations subject to a civil penalty up to \$20,000 for each violation and sets out several factors that a court must consider in determining the amount of the civil penalty. The bill authorizes the attorney general or appropriate district or county attorney to bring suit to collect the penalty and requires a penalty collected under this authorization to be deposited in the state treasury to the credit of the compensation to victims of crime fund.

House Bill 587

Effective: See below

House Author: Marchant

Senate Sponsor: Carona

House Bill 587 amends provisions of the Health and Safety Code and the Occupations Code relating to the cremation of human remains and the operation of crematories. The bill includes provisions relating to the location of crematories; waiting period and authorization requirements for cremation; procedures for the receipt, identification, release, and disposition of remains; dispute resolution; liability; and recordkeeping requirements. House Bill 587 also establishes licensing requirements for conducting a crematory business and requires that each license holder submit an annual report to the Texas Funeral Service Commission on the number of cremations performed. The bill makes it a Class B misdemeanor offense to cremate human remains without proper authorization, to knowingly sign a false or incorrect cremation authorization, or for a person to represent to the public that the person may perform cremation without being licensed.

House Bill 587 takes effect September 1, 2003, except for provisions relating to the repeal of limitations on crematory construction and operation, which take effect January 1, 2004.

House Bill 653

Effective: 9-1-03

House Author: J. Davis

Senate Sponsor: Janek

House Bill 653 amends the Occupations Code to create a shampoo apprentice permit, which authorizes its holder to only shampoo and condition hair. An applicant must be at least 16 years old and submit a certificate of health to receive the permit. The bill prohibits the Texas Cosmetology Commission (TCC) from requiring the applicant to pay a fee for the permit or to complete any hours of instruction at a cosmetology training program as a prerequisite for obtaining the permit. The bill authorizes a facility licensed by the TCC to employ a person who holds a shampoo apprentice permit to shampoo and condition hair and requires the facility to pay at least the federal minimum wage for those services. The bill provides that a shampoo apprentice permit expires on the first anniversary of the date it is issued and is not renewable.

House Bill 660

Effective: 9-1-03

House Author: Allen

Senate Sponsor: Deuell

House Bill 660 amends the Government Code to specifically name, for federal requirements, the state licensing and regulatory agencies that can obtain criminal history record information from the Department of Public Safety and adds an individual who requests a determination of eligibility for a license to the list of persons for whom the information can be requested. The bill repeals the provision that restricts the agencies to criminal history record information relating only to the conviction of the requestor.

House Bill 1076

Effective: 6-20-03

House Author: McCall et al.

Senate Sponsor: Shapiro

House Bill 1076 amends the Occupations Code to authorize an automobile manufacturer or distributor to own an interest in an entity that holds a dealer general distinguishing number if the entity primarily engages in renting passenger or commercial vehicles owned by the entity and if the entity sells only vehicles it owns and has removed from its rental fleet or vehicles it has taken in trade as part of the sale of a vehicle removed from its rental fleet.

House Bill 1166
Effective: 9-1-03

House Author: Solomons
Senate Sponsor: Shapleigh

A 2001 amendment to the Information Resources Management Act mandated that the Department of Information Resources (DIR) administer a common electronic system for transactions involving occupational licensing authorities. House Bill 1166 amends the act to allow an individual regulated by one or more authorities to file a single change-of-address on-line with the DIR and have that change forwarded to each appropriate authority. The DIR may expand the system to include additional categories of updated information to be supplied to multiple authorities. It allows licensing authorities to use electronically received information only for regulatory purposes and requires that they share information regarding license holders, especially disciplinary information, to the extent that such sharing is feasible and allowed by law.

House Bill 1329
Effective: 9-1-03

House Author: McReynolds
Senate Sponsor: Staples

House Bill 1329 amends the Occupations Code to allow an applicant for a structural pest control business license to satisfy the liability requirement of the Texas Structural Pest Control Board by filing with the board a bond, a certificate of deposit, or other proof of funds in the amount of at least \$300,000 for payment of any claims of damage to a person or property that occurs due to negligence in the course of performing structural pest control services on any property under the applicant's care, custody, or control. The bill requires an applicant who files such proof of funds to designate a third party to handle the processing of damage claims relating to that security. The bill allows an applicant who operates solely as a wood treater who treats wood on commercial property owned by the applicant to satisfy the liability requirement by filing with the board evidence of coverage under a general liability insurance policy, in an amount of at least \$200,000 for bodily injury and property damage coverage, with a minimum total aggregate of \$300,000 for all occurrences.

House Bill 1508
Effective: 9-1-03

House Author: Flores
Senate Sponsor: Fraser

House Bill 1508 amends provisions of the Occupations Code relating to the licensing of real estate brokers, salespersons, and inspectors. The bill increases fees for an original application for a salesperson license and for preparing a license or registration history and imposes a fee of up to \$40 for approval of an instructor of core real estate or continuing education courses. The bill clarifies the requirements for issuance of an inactive salesperson license and exempts from fees a request to change an inactive salesperson's license to active status and a request by a broker to sponsor that salesperson. The bill authorizes the Texas Real Estate Commission to require all brokers, salespersons, and inspectors to display certain information on their Internet websites in order to comply with public notice requirements. The bill replaces the term "face-to-face meeting" with the term "substantive dialogue" in reference to a discussion relating to specific real property and amends the definition of the term to include written as well as in-person communication. The bill places some restrictions on the location of a hearing for the suspension or revocation of a broker or salesperson license or certificate of registration based on the nature of the violation. The bill authorizes the commission to extend the term of an inspector license from one year to up to 24 months, increases from 60 to 320 the maximum classroom hours of certain courses that may be required of inspector license applicants as a substitute for relevant experience or additional education, and requires

Occupational Regulation

an applicant for a professional inspector license to provide the commission with proof of the individual's integrity and competence. The bill removes a provision that requires a broker who intends to sponsor an applicant to jointly file the application and repeals provisions requiring the display of broker and salesperson licenses in a broker's place of business.

House Bill 1538

Effective: 9-1-03

House Author: Chisum et al.

Senate Sponsor: Shapleigh

House Bill 1538 amends provisions of the Occupations and Health and Safety codes to continue the Texas Funeral Service Commission (TFSC) until September 1, 2015, and to update standard sunset provisions. The bill defines the rulemaking authority of the Department of Banking and TFSC relating to cemeteries, providing that the Department of Banking has the authority for perpetual care cemeteries and limiting the commission's inspection authority to other cemeteries. It provides that TFSC may not inspect other cemeteries unless an interment has occurred in the cemetery within the two years preceding the inspection or unless a complaint has been received, and it directs the commission to give a lower priority to an inspection of a cemetery than to an inspection of a crematory or funeral establishment. The bill transfers responsibilities of the Texas Department of Health relating to regulation of cemeteries to TFSC, changes provisions relating to provisional licenses for funeral directors and to exemptions from regulations for certain cemeteries, and adds violations for certain fraudulent actions. The Finance Commission of Texas is required to adopt rules concerning timely placement of burial markers and timely response to consumer complaints in perpetual care cemeteries, and the amounts that corporations operating perpetual care cemeteries are required to deposit into their trust funds for the operations of the cemeteries are raised. The governor is required to alternate every three years between a public member and an industry member when selecting the chairman of TFSC.

House Bill 1769

Effective: 9-1-03

House Author: Driver

Senate Sponsor: Shapiro

House Bill 1769 amends the Private Security Act to increase the continuing education requirements for renewal of a security officer commission from four to six hours annually. It provides for the associated course curriculum to be specified by the director of the Texas Commission on Private Security (TCPS) rather than by statute. The bill repeals a requirement that the TCPS notify the applicable county sheriff and police chief whenever a license, registration, or commission is issued, revoked, or reinstated or expires. It repeals a provision that normally limits the geographic scope of a security officer commission to a named county and each contiguous county. The bill revises and clarifies the individuals, employment situations, and types of security and investigatory activities to which the Private Security Act applies.

House Bill 2844

Effective: 6-20-03

House Author: Casteel

Senate Sponsor: Wentworth

House Bill 2844 amends the Occupations Code to exempt a licensed real estate broker, salesperson, or appraiser who performs property tax consulting services only in connection with farms, ranches, or single-family residences from registering as a property tax consultant with the Texas Commission of Licensing and Regulation. Under previous law, only those who performed such services exclusively for single-family residences were exempted.

House Bill 2926**Effective:** 9-1-03**House Author:** Geren**Senate Sponsor:** Estes

House Bill 2926 amends the Parks and Wildlife Code to require the Parks and Wildlife Department to license marine manufacturers, dealers, and distributors and sets the fee for a two-year license at \$500 for each place of business. Previous law allowed dealers and manufacturers to acquire certain privileges by registering with the department. The bill requires the department to adopt licensing rules not later than January 1, 2004, and provides that licenses are not required until March 1, 2004. The bill specifies that dealer licensing requirements do not apply to a person selling vessels that are less than 12 feet in length and have a horsepower rating of five horsepower or less. It also specifies that a dealer, distributor, or manufacturer may not refuse to allow the department or a peace officer to inspect a vessel, outboard motor, or related records at a place of business, and it authorizes the Parks and Wildlife Commission to charge a fee for access to ownership and other records at the agency. The bill clarifies the department's administrative procedures for registering and titling antique boats and vessels registered by the United States Coast Guard. The bill authorizes a certificate of title applicant to appeal the department's refusal to issue the title by filing a surety bond with the department, which can then issue the title if certain requirements are met.

House Bill 3174**Effective:** 9-1-03**House Author:** Pitts**Senate Sponsor:** Averitt

House Bill 3174 repeals provisions of the Occupations Code that require an applicant for a cosmetology operator, instructor, or reciprocal license or renewal or for a specialty certificate or renewal certificate to submit a certificate of health that the person is free from tuberculosis and certain other contagious diseases.

House Bill 3460**Effective:** See below**House Author:** Pitts**Senate Sponsor:** Averitt

House Bill 3460 amends the Occupations Code to require applicants for certain licenses to practice cosmetology to have obtained a high school diploma or the equivalent or to have passed a valid examination. The bill removes the provision prohibiting the Texas Cosmetology Commission from submitting an examination of a student in a vocational cosmetology program in a public school for grading by a national testing service and provides for licensure, rather than certification, of public secondary or postsecondary beauty culture schools. The bill requires, rather than authorizes, the commission to recognize, prepare, or administer continuing education programs for cosmetology, and participation in the programs is mandatory, rather than voluntary. The bill takes effect September 1, 2003, except for provisions relating to continuing education programs for cosmetology and eligibility requirements to obtain a facialist specialty license, which take effect September 1, 2004.

Senate Bill 260**Effective:** 9-1-03**Senate Author:** Shapleigh**House Sponsor:** Solomons et al.

Senate Bill 260 amends the Occupations Code to continue the Texas Board of Professional Land Surveying until September 1, 2015, and to include and update standard sunset language. The bill reduces the board membership from 10 members to nine by removing one of the four positions held by a registered professional land surveyor. The bill amends the definition of "Texas trade association" to require such an organization to operate statewide and to allow it to be a for-profit association.

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The bill authorizes the board to create examination advisory committees to assist the board in developing examinations for the licenses the board issues. The board must adopt rules relating to the purpose, role, responsibility, and goals of a committee, its size and quorum requirements, the qualifications of its members, appointment procedures, terms of service, and training requirements. A board member is prohibited by the bill from serving as a voting member on an advisory committee, but is authorized to attend committee meetings as a liaison to the full board. The bill exempts an advisory committee from the statutory requirement to include consumers on state agency committees, but makes most of its meetings subject to the open meetings law.

The bill requires the board to establish enforcement procedures for violations of certain statutes or rules. The bill authorizes a board employee to dismiss complaints without merit, determine violations, and recommend sanctions for final approval by the board. The bill prohibits the board from considering a previously dismissed complaint when deliberating on a current complaint, but authorizes the board to consider a license holder's previous history of violations when determining sanctions for a current violation. The bill provides that all complaints filed with the board are public information, but that any personal or identifying information about a license holder that is included in a frivolous complaint is not public information.

Finally, the bill requires the board to adopt rules relating to consequences of criminal convictions, guidelines for informal conferences to settle complaints, and written procedures to ensure that probation is administered consistently. The bill authorizes the board to order a license holder or registrant to pay restitution as part of a settlement agreement instead of or in addition to an administrative penalty, with payment not to exceed the amount the consumer paid a surveyor and not to include any other damages. The board may not estimate harm in a restitution order. The bill requires the board to adopt a penalty schedule to ensure appropriate penalties are imposed. The bill removes set fees for licenses, certificates of registration, and examinations and authorizes the board to establish those fees at a level necessary to recover program costs.

Senate Bill 271

Effective: 9-1-03

Senate Author: Jackson

House Sponsor: Dunnam

Senate Bill 271 repeals the Occupations Code chapter relating to the regulation of riding stables by the Texas Animal Health Commission.

Senate Bill 276

Effective: 9-1-03

Senate Author: Lucio

House Sponsor: Flores et al.

Senate Bill 276 amends the Occupations Code to continue the Board of Tax Professional Examiners until September 1, 2015, and to include and update standard sunset language. The bill reduces the board from six members to five—four tax professionals and one member from the general public. The bill requires the board to enter into an interagency contract with the comptroller of public accounts, under which the comptroller shall provide administrative services to the board, and requires the board to pay the comptroller for those services. The bill requires the board and the comptroller to study the feasibility of relocating the board's offices to the comptroller's office and to report their findings to the lieutenant governor and the speaker of the house of representatives. It requires the board to adopt rules to ensure that the board's certification examinations are accessible to persons with disabilities. The bill eliminates a provision that exempts a county assessor-collector in a county with a population of at least one million from registration. It also repeals provisions requiring continuing education for a

member who is exempt from registration and requiring that an application be notarized. The bill grants the board the authority to impose probation and issue reprimands and requires the board to adopt guidelines to ensure that those sanctions are used consistently.

Senate Bill 279

Effective: See below

Senate Author: Jackson

House Sponsor: Solomons et al.

Senate Bill 279 amends the Occupations Code to continue the Texas Department of Licensing and Regulation (TDLR) until September 1, 2015, and to include and update standard sunset language. The bill increases the membership of the Texas Commission of Licensing and Regulation from six to seven members and transfers rulemaking authority from the executive director of the department to the commission. It gives the presiding officer of the commission the authority to appoint members of all advisory committees, with the commission's approval, and to select the chairs of those committees, with certain exceptions. The bill requires TDLR to establish policies for the refund of licensing examination fees and the staggered renewal of licenses. It further requires TDLR to establish and operate a toll-free telephone information system to help individuals obtain information relating to licensing entities and requires licensing authorities to electronically share disciplinary information with each other. The bill requires individuals regulated by one or more licensing authorities to file a single change of address using TexasOnline and requires TDLR to identify licensing agencies that do not use TexasOnline and assist those agencies with converting to that system.

The bill also amends and adds provisions relating to TDLR's regulation of air conditioning and refrigeration contractors; architectural barriers; auctioneers; boilers; career counseling services; combative sports; court interpreters; elevators, escalators, and related equipment; industrialized housing and buildings; personnel employment services; property tax consultants; rental-purchase agreements; service contract providers; staff leasing services; talent agencies; temporary common worker employees; transportation service providers; vehicle protection product warrantors; water well drillers; water well pump installers; weather modification; and valet parking services.

The bill takes effect September 1, 2003, except requirements relating to TDLR's complaint procedures and provisions relating to combative sports take effect January 1, 2004, and the article relating to valet parking services takes effect March 1, 2004, unless certain conditions apply.

Senate Bill 810

Effective: 9-1-03

Senate Author: Harris

House Sponsor: Naishtat

Senate Bill 810 amends provisions of various statutes relating to the regulation of social workers. The bill amends the Occupations Code to change the name of the Professional Social Work Act to the Social Work Practice Act, clarify the meaning of the practice of social work, and to remove an exemption from application of the Act for certain activities related to baccalaureate and graduate course studies. The bill adds two new categories of licensed social workers: licensed baccalaureate social worker and licensed clinical social worker. Senate Bill 810 also makes changes to the composition and duties of the Texas State Board of Social Worker Examiners, including provisions related to filing complaints with the board and establishing minimum eligibility, educational, and professional requirements for social worker license holders. The bill removes a provision stating that licensed social workers and social work associates are not eligible for recognition as qualified for the private and independent practice of social work and makes it a Class B misdemeanor for a person to knowingly act as a social worker without holding a license as required by law.

Senate Bill 841

Effective: 6-20-03

Senate Author: Whitmire

House Sponsor: Noriega

Senate Bill 841 amends the Occupations Code to change the definition of an “extra job coordinator” for purposes of the Texas Commission on Private Security from a peace officer who is employed full-time by the state or a municipality to one who is employed full-time by the state or a political subdivision of the state.

Senate Bill 1013

Effective: 9-1-03

Senate Author: Staples

House Sponsor: Flores

Senate Bill 1013 amends the Occupations Code to authorize the Texas Appraiser Licensing and Certification Board (TALCB) to establish procedures under which an appraiser can obtain an extension of time to complete the continuing education requirement for renewing a certificate or license. The bill requires the appraiser to complete the continuing education before performing an appraisal in a federally related transaction. The bill sets out requirements relating to inactive certificates or licenses. It establishes procedures for the filing of a formal complaint by TALCB against a person who performs appraisal services without holding a certificate or license and provides that a person who performs such services commits a Class A misdemeanor. A person who received consideration for the services is also liable for a civil penalty of not less than an amount equal to the consideration received and not more than three times that amount. The bill authorizes the attorney general or a district or county attorney, at the request of TALCB, to bring an action in district court to recover such civil penalty, to be deposited in the state treasury.

Senate Bill 1147

Effective: 9-1-03

Senate Author: Shapleigh

House Sponsor: Wise et al.

Senate Bill 1147 amends the Occupations Code to continue the State Office of Administrative Hearings (SOAH) until September 1, 2015, and to include and update standard sunset provisions. The bill requires each state agency, with certain exceptions, to pay for its administrative hearings as a lump sum at the start of each year of the biennium, beginning in 2006-2007, based on the agency’s average costs over the previous three years. The bill requires the Texas Department of Licensing and Regulation to transfer to SOAH all department functions relating to administrative hearings, and it requires SOAH to consider in those hearings the rules and policies of the Texas Licensing and Regulation Commission, which has final authority to accept, reverse, or modify a proposal for a decision made by an administrative law judge. The bill exempts from public record requirements certain working papers of SOAH judges. The bill requires SOAH’s rules regarding witness participation in hearings by telephone to include procedures for verifying the identity of those witnesses, and it requires SOAH to provide and pay for translators at its hearings, if requested.

Senate Bill 1252

Effective: See below

Senate Author: Armbrister

House Sponsor: Driver

Senate Bill 1252 amends provisions of the Occupations Code relating to the security alarm system industry. The bill provides that a person acts as an electronic access control device company (company) if the person installs or maintains an electronic access control device. The bill prohibits a person from performing certain duties unless the person is licensed as a company or registered as an installer. The bill creates a new Class D license classification and

establishes certain requirements for a person to be registered as an installer. The bill decreases from 20 to 16 the number of classroom hours required for a training program for an alarm system installer or a security salesperson.

The bill provides that a person acts as a locksmith or a locksmith company if the person sells, installs, or maintains mechanical security devices and uses the term “locksmith” in advertising services offered or in the company’s name. The bill prohibits a person from performing certain duties unless the person is registered as a locksmith company.

The bill exempts individuals from provisions relating to private security who, on their own property or on their employer’s property, install, change, or repair a mechanical security device, repair an electronic security device, or cut or make a key for a security device. This bill takes effect September 1, 2003, except for provisions relating to license requirements for an electronic access control device company and a locksmith company registration, which take effect January 1, 2004.

Senate Bill 1382

Effective: 9-1-03

Senate Author: Armbrister

House Sponsor: Heflin

Under the Self-Directed Semi-Independent Agency Project Act, the Texas State Board of Public Accountancy, the Texas Board of Professional Engineers, and the Texas Board of Architectural Examiners approve their own budgets and retain and manage much of their fee revenue rather than being included under the General Appropriations Act. Senate Bill 1382 continues the Act for another six years, to September 1, 2009. The bill revises the statutory amounts that the three agencies must remit to the general revenue fund and contains provisions specifying the amount of revenue from enforcement actions that each may retain. Other provisions require reporting of gifts, grants, or donations and prohibit acceptance of a gift, grant, or donation from a party to an enforcement action or to pursue a specific investigation or enforcement action.

Senate Bill 1504

Effective: Vetoed

Senate Author: Harris

House Sponsor: Krusee

Senate Bill 1504 amends provisions of the Occupations Code relating to the regulation of motor vehicle sales and the powers and duties of the Motor Vehicle Board. The bill makes the information contained in an application for a license to sell or lease motor vehicles confidential and not open to public inspection, except in judicial or administrative proceedings. It allows a person, under certain conditions, to operate a motor vehicle dealership while the person’s license application is pending. The bill authorizes a motor vehicle manufacturer or distributor to own an interest in a dealer who primarily rents motor vehicles and who sells only motor vehicles the dealer owns and has taken from service in the dealer’s rental fleet, or that the dealer accepts in trade as part of the sale of a motor vehicle taken from service in the dealer’s rental fleet.

Senate Bill 1504 requires that the notification of a person who resides outside of the United States of a contested hearing on the revocation or suspension of a manufacturers or distributors license or a denial of a dealership license must be given by registered mail, return receipt requested, or a private carrier who offers confirmation of delivery. It defines the terms “ambulance manufacturer” and “fire-fighting vehicle manufacturer” and provides that the make of an ambulance is that of the ambulance manufacturer and the make of a fire-fighting vehicle is that of the fire-fighting vehicle manufacturer.

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Reason Given for Veto: "Senate Bill No. 1504 as engrossed was acceptable, but a problematic amendment would impede access to public records. The bill would limit access to information in an application for a license to operate a motor vehicle dealership from disclosure under the Public Information Act. The owner's name, business address, and phone number should be available to the public. Personal addresses and phone numbers should be protected. These records could only be disclosed in a judicial or administrative proceeding in accordance with a lawful subpoena.

"Restricted access to these records would hinder the filing of legitimate consumer complaints against vehicle dealerships."

Amusements, Games, and Sports

House Bill 581

Effective: 9-1-03

House Author: Crownover

Senate Sponsor: Fraser

House Bill 581 amends provisions of the Texas Racing Act relating to selection of a laboratory to conduct medication and drug testing performed on a race animal. The bill requires that the testing be conducted by the Texas Veterinary Medical Diagnostic Laboratory at Texas A&M University or by a laboratory selected by the Texas Racing Commission after consultation with the Texas Veterinary Medical Diagnostic Laboratory. It further requires the Texas Racing Commission to ensure that drug testing charges are reasonable in relation to industry standards by periodically surveying the charges of other laboratories.

House Bill 948

Effective: 9-1-03

House Author: Crownover

Senate Sponsor: Fraser

House Bill 948 amends provisions of the Texas Racing Act to increase from six to seven the number of appointed members of the Texas Racing Commission, to increase from four to five the number of appointed members who represent the general public and have a knowledge of business or agribusiness, and to authorize at least one of those appointed members to be a licensed veterinarian. The bill provides that two or three appointed members' terms expire February 1 of each odd-numbered year.

House Bill 1241

Effective: Vetoed

House Author: Homer

Senate Sponsor: Janek

House Bill 1241 amends the Government Code to require the pooled bond fund established by the executive director of the Texas Lottery Commission to protect the state from possible losses, to pay all losses to the state resulting from the losses of a sales agent due to bankruptcy, theft, or the losses of lottery tickets, supplies, or equipment, and prohibits the executive director from charging the sales agent for a loss reimbursed from the fund. The bill authorizes the executive director to require a sales agent to maintain insurance to protect the state's interests if the sales agent has not complied with the requirements for posting security.

Reason Given for Veto: "House Bill No. 1241 would require the Texas Lottery Commission to use state funds to protect individual lottery retailers from financial liability for bankruptcy, theft, or the loss of lottery equipment and merchandise. Under current law, the Lottery Commission can use these funds to protect the state's interest. However, House Bill No. 1241 shifts responsibility and would require the state to cover losses of a private entity. Participation in the Texas lottery system is voluntary, and retailers must accept responsibility for protecting and managing the equipment."

House Bill 1813**Effective:** 9-1-03**House Author:** McReynolds**Senate Sponsor:** Staples

House Bill 1813 amends the Occupations Code to require a qualified nonprofit organization conducting a raffle, before selling or offering to sell tickets for the raffle, to set a specific date on which the organization will award the prize or prizes and to print that date on each raffle ticket. The bill requires the organization to award the prize or prizes on the specified date unless it becomes unable to do so, in which case the organization may set another date not later than 30 days from the original date. If the prize or prizes are not awarded within the 30 days, the organization must refund or offer to refund the amount paid by each person who purchased a ticket.

House Bill 2519**Effective:** See below**House Author:** Flores et al.**Senate Sponsor:** Lucio

House Bill 2519 amends Occupations Code provisions relating to charitable bingo. The bill places a limitation on new commercial lessor licenses until September 1, 2005, and changes wording relating to dedication of proceeds for charitable purposes and expenses that may be incurred. It requires the commission to maintain a registry of persons on whom it has conducted criminal history background checks and who are approved to be involved in the conduct of bingo or to act as a bingo operator. It allows two or more authorized organizations to form accounting units and establishes requirements relating to the operation of such units. The bill prohibits the commission from restricting certain bingo operators from acting as bingo callers, and it allows a bingo organization 72 hours to deposit funds from bingo games that are paid with a debit card, instead of requiring the deposit the next business day. The bill transfers certain responsibilities relating to administrative penalties from the executive director of the commission to the director of bingo operations, exempts bingo equipment from sales, excise, and use taxes if certain conditions are met, and amends the definition of "bingo equipment" to include a bingo ball. The bill also includes provisions relating to advisory opinions, temporary licenses, two-year licenses, change of premises or occasions, identification cards, joint employees, responsibilities of the director of bingo operations, and certain tax exemptions for bingo equipment.

House Bill 2519 takes effect September 1, 2003, except the provision that exempts bingo equipment from certain taxes takes effect January 1, 2004.

Senate Bill 292**Effective:** 9-1-03**Senate Author:** Brimer**House Sponsor:** Goolsby

Senate Bill 292 amends provisions of the Occupations Code relating to the regulation of athlete agents. The bill provides an exception from the prohibition of a person acting as an agent unless registered as an agent. The bill allows a person to act as an agent, except for signing an agent contract, if an athlete initiates the communication and within seven days after the initial act the person submits an application for a certificate of registration. The bill amends the information requirements of the application and establishes reciprocity agreements for licensed agents from other states. The bill authorizes the secretary of state to deny an application for registration and establishes the criteria for making that determination.

Senate Bill 292 amends provisions relating to an agent contract or a financial services contract to include additional financial and notice requirements and requires the agent to provide the athlete with a signed copy of the contract. The bill expands the prohibitions relating to an agent's professional behavior and the information that must be maintained in the

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agent's records. The bill establishes that the secretary of state is the agent for service of process for a nonresident athlete agent who is named in a civil action relating to an act committed by the agent in a professional capacity and establishes the circumstances under which an institution of higher education that is adversely affected by a violation committed by an athlete agent or a former athlete may file a suit for damages. The bill amends the definition of "athlete" to mean a person who is eligible to participate as a member of an intercollegiate sports team, rather than only a football or basketball team, or as an individual competitor in an intercollegiate sport.

Engineering, Design, and Construction

House Bill 329

Effective: See below

House Author: Naishtat et al.

Senate Sponsor: Fraser

House Bill 329 amends the Occupations Code to establish licensing requirements for mold assessors and remediators. The bill requires a person to obtain a mold assessor license from the Texas Department of Health before conducting an inspection for mold, developing a mold management plan or remediation protocol, or collecting or analyzing a mold sample. A separate mold remediation license is required for the removal, cleaning, or other treatment of mold. The bill prohibits a holder of both licenses from performing assessment and remediation on the same project and requires license holders to maintain offices in Texas. It requires license holders to prepare a mold assessment work analysis or a mold remediation work plan, to provide the information to the client, and to notify the department about the project. On completion of the project, the license holder must provide the property owner with a certificate of mold remediation, which, on subsequent sale of the property, must be provided to the buyer.

The bill requires the department to coordinate a statewide public education program relating to indoor mold. The department must investigate any complaint regarding mold-related activities and must adopt rules relating to licensing, work practices, compliance, education, and liability insurance for mold assessment and remediation. The bill sets out maximum fees for licenses and registration. The bill authorizes the department to request the attorney general or a local government attorney to seek a restraining order, injunction, or other appropriate relief to stop a violation. The bill excludes from these provisions certain routine cleaning and repair, pest-control inspections, and the incidental discovery or emergency containment of mold while performing such work. It also excludes assessment or remediation of mold performed by owners of certain property, an owner's agent, or a tenant. The bill prohibits an insurer from conditioning an insurance policy on an applicant's prior claim for water or mold damage or for mold inspection or remediation and specifies that an insurer that violates these provisions commits an unfair trade practice under the Insurance Code. The bill also includes provisions relating to administrative and civil penalties.

The bill takes effect September 1, 2003, except the notification and certification requirements and disciplinary and penalty provisions take effect April 1, 2004.

House Bill 1487

Effective: See below

House Author: Driver et al.

Senate Sponsor: Armbrister

House Bill 1487 amends the Occupations Code to add the Texas Electrical Safety and Licensing Act. The bill sets out licensing requirements for master electricians, master sign electricians, journeyman electricians, journeyman sign electricians, residential wiremen, maintenance electricians, electrical contractors, electrical sign contractors, and electrical

apprentices. It requires the establishment of financial responsibility requirements for electrical contractors and the adoption of the National Fire Protection Association's National Electrical Code as the electrical code for the state. It establishes the Electrical Safety and Licensing Advisory Board, with members to be appointed by the presiding officer of the Texas Commission of Licensing and Regulation, to provide advice and recommendations on technical matters. It also includes provisions concerning regulation of electricians by local governments and provides for administrative, civil, and criminal penalties. The bill takes effect September 1, 2003, except the provisions relating to licensing requirements, the display of a license, and criminal penalties for practicing without a license take effect September 1, 2004.

House Bill 1526**Effective:** 6-20-03**House Author:** Geren**Senate Sponsor:** Harris

House Bill 1526 amends the Occupations Code to require the Texas Board of Architectural Examiners to establish a procedure to allow a licensed architect to be placed on emeritus status if the person has been an architect for at least 20 years, is at least 65 years of age, and applies for emeritus status on a prescribed form before the expiration date of the architect's certificate of registration. The bill prohibits a registered emeritus architect from practicing architecture except to observe, supervise, or prepare plans and specifications for certain architectural projects. The bill requires an emeritus architect to pay a license renewal fee established by the board, exempts the architect from board requirements for continuing education, and authorizes the architect to use the title "emeritus architect" or "architect emeritus." The bill provides procedures for removing an architect's certificate of registration from emeritus status.

House Bill 2081**Effective:** 6-18-03**House Author:** McReynolds**Senate Sponsor:** Ratliff

House Bill 2081 amends The Texas Engineering Practice Act to make public works involving structural engineering subject to the act regardless of the contemplated cost. Previous law exempted those that had a contemplated cost of \$8,000 or less. House Bill 2081 prevails and controls in the event of a conflict between its provisions and those of another bill enacted by the 78th Legislature.

House Bill 3235**Effective:** 9-1-03**House Author:** T. Smith**Senate Sponsor:** Madla

In 2001, the legislature adopted energy efficiency standards for residential, commercial, and industrial construction and required a municipality, as part of associated procedural requirements, to establish procedures to ensure the performance of inspections and enforcement by certified inspectors. House Bill 3235 postpones mandatory compliance for municipalities until March 1, 2005, and amends the Health and Safety Code to require the Energy Systems Laboratory at the Texas Engineering Experiment Station of Texas A&M University to develop and administer a statewide training program for municipal building inspectors seeking certification. The bill requires development of the training program not later than January 1, 2004, and implementation of the training program not later than March 1, 2004.

Senate Bill 277**Effective:** 9-1-03**Senate Author:** R. Ellis**House Sponsor:** Chisum et al.

Senate Bill 277 amends the Occupations Code to continue the Texas Board of Professional Engineers until September 1, 2015, and to include and update standard sunset provisions. The bill authorizes full-time employees of certain corporations or graduate engineers to use the title

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“engineer” on business cards and in correspondence if certain conditions are met, but restricts the use of the title “professional engineer” or “licensed professional engineer” to an individual who holds a license from the board. The bill exempts a business that provides products or services to the National Aeronautics and Space Administration from the requirements of the Texas Engineering Practice Act, and it authorizes employees of that business to use “engineer” or “engineering” in job titles or personnel classifications.

The bill establishes the Joint Advisory Committee on the Practice of Engineering and Architecture as an advisory committee to the board and the Texas Board of Architectural Examiners. The bill requires the board and the Texas Board of Architectural Examiners to enter into a memorandum of understanding to address any overlap of their respective professions, issue advisory opinions to the board, and specify the composition and duties of the committee.

Senate Bill 277 authorizes the board to amend certain rules and guidelines relating to licensing requirements, fees, continuing education, and disciplinary actions. The bill authorizes the board to establish an inactive license, prohibits the holder of such a license from certain practices, and sets out conditions for reinstatement to active status.

The board must maintain on its Internet website information relating to the filing of a complaint with the board, and it must develop and maintain a complaint tracking system to monitor the processing of complaints. The bill authorizes the board to order a person who violates these provisions to pay restitution under a settlement agreement and provides for the recusal of a board member from a complaint investigation if certain conditions exist. The bill requires the board, on its own initiative or at the request of any interested person, to prepare and maintain advisory opinions about the interpretation or application of the Texas Engineering Practice Act and to make that information available on the board’s Internet website. The bill establishes that reliance on the board’s advisory opinions may serve as a defense to prosecution or the imposition of a civil penalty.

Senate Bill 282

Effective: 9-1-03

Senate Author: Jackson

House Sponsor: Bailey et al.

Senate Bill 282 amends the Occupations Code to continue the Texas State Board of Plumbing Examiners until September 1, 2015, and to include and update standard sunset provisions and conform elements of the board’s licensing and regulatory functions to commonly applied licensing practices. The bill modifies requirements for a licensed plumber performing certain work in unincorporated areas or in municipalities with fewer than 5,000 inhabitants. It sets out provisions to increase the collaboration between the board and the Texas Department of Licensing and Regulation, specifies that board committees are to be composed of board members only, and provides authority for the board to set training requirements for apprentices. The board and the Texas Workforce Commission are to collaborate to raise the awareness of the need for licensed plumbers, and the board is required to develop a standard review course for each licensing examination.

Senate Bill 283

Effective: 9-1-03

Senate Author: Jackson

House Sponsor: Chisum et al.

Senate Bill 283 amends the Occupations Code to continue the Texas Board of Architectural Examiners until September 1, 2015, to include and update standard sunset provisions, and to conform elements of the board’s licensing and regulatory functions to commonly applied licensing practices. The bill raises the maximum for administrative penalties from \$1,000 to

\$5,000 and requires the board to take certain steps to help ensure the fair and consistent application of administrative fines. It adds warehouses with limited public access to the list of structures for which an architect is not required.

The bill authorizes the board to recommend a rehabilitation code and prescriptive provisions for rehabilitation to municipalities, and it amends the Local Government Code to require a municipality that adopts a building code other than the International Residential Code to adopt either prescriptive provisions for rehabilitation as part of the municipality's building code or the rehabilitation code that accompanies the building code adopted by the municipality.

The bill also establishes a Joint Advisory Committee on the Practices of Engineering, Architecture, and Landscape Architecture as an advisory committee to the board and the Texas Board of Professional Engineers.

Senate Bill 759

Effective: 6-20-03

Senate Author: Brimer

House Sponsor: Geren

Senate Bill 759 amends the Agriculture Code and the Texas Structural Pest Control Act to allow a political subdivision to reduce the training hours or other requirements for an employee who conducts larval mosquito control on property owned or controlled by the political subdivision if the employee is using biological pesticides approved for general use by the Texas Department of Health and is given instructions adequate to ensure the safe and effective use of such pesticides.

Financial

House Bill 1218

Effective: 9-1-03

House Author: Chisum et al.

Senate Sponsor: Nelson

House Bill 1218 amends the Occupations Code to continue the Texas State Board of Public Accountancy until September 1, 2015, and to include and update standard sunset provisions and conform elements of the Public Accountancy Act to commonly applied licensing practices. The bill increases the statutory cap on an administrative penalty from \$1,000 to \$100,000 per violation and authorizes the board to order a license holder to pay restitution as part of an enforcement action and to impose a combination of other sanctions. It authorizes the board to issue a cease and desist order to an individual who is practicing public accountancy without a license and to impose administrative penalties of up to \$25,000 for the violation of such an order. It establishes that a violation involving intentional fraud is a felony offense and authorizes the board to suspend on an emergency basis the license of any person or firm that commits or is about to commit fraud if there is an immediate threat to the public welfare. The bill provides that a person who assists in the investigation of a violation is immune from criminal and civil liability, except a person who reports that person's own violation or who acts in bad faith or with malicious purpose. It requires the board to define which misdemeanor convictions disqualify an applicant from certification and authorizes the board to allow a person who conducts a licensing examination to collect a fee for performing that service. The bill requires the board to report to the governor, the lieutenant governor, and the speaker of the house of representatives, not later than December 31, 2004, on the Sarbanes-Oxley Act, which sets accountability standards for certain executives and auditors of public companies, and the General Accounting Office study on audit firm rotation, including any legislation or other action needed to conform state laws and regulations to those national standards.

House Bill 1839

Effective: Vetoed

House Author: Solomons et al.

Senate Sponsor: Armbrister

House Bill 1839 amends the Finance Code to set out procedures by which a county sheriff or city police chief may place a hold order on goods held by a pawnbroker and provides that a person who pledges misappropriated property with a pawnbroker or sells a pawnbroker such property commits a Class B misdemeanor. It also sets out procedures for providing data to law enforcement agencies by electronic means and requires pawnbrokers who generate computerized pawn and purchase tickets to transmit all reportable data or transaction data to the law enforcement agency electronically. It allows for the establishment of a repository for transaction data and charges for the use of the repository. It addresses requirements, confidentiality, fraudulent access, commissioner oversight, computer-related malfunctions and errors, and paper copies related to electronic data.

Reason Given for Veto: "House Bill No. 1839 would reduce local control by mandating the use of private third-party providers in gathering pawnbroker's transaction information. This legislation also diminishes an important criminal investigation tool by limiting the type and extent of pawn transaction information available to local law enforcement.

"For example, local law enforcement currently has the ability to receive pawn transaction information upon request. This bill limits their access to paper transaction documents to on-site inspection if the pawnbroker releases the transaction data electronically to a private company. As a result, police officers will no longer receive paper copies, but will be required to use a portable photocopier to generate admissible records.

"Also, pawnbrokers are no longer required to share the paper ticket with the police after 180 days, unless it is sought pursuant to a criminal investigation. The unintended consequence of these provisions is that local law enforcement may not be able to access any pawn transaction information during the seven days permitted by the bill for the transfer of electronic information. This limitation places severe restrictions on very time-sensitive information."

Senate Bill 252

Effective: 1-1-04

Senate Author: Staples

House Sponsor: Flynn

Senate Bill 252 amends the Finance Code to add the Mortgage Banker Registration Act. The bill requires a mortgage banker to register with the savings and loan commissioner, specifies the type of information that must be filed, and provides that such registration is valid until withdrawn or revoked. The bill requires a mortgage banker to update the information contained in the registration statement within 30 days after such information changes and authorizes the commissioner to charge a mortgage banker a registration fee not to exceed \$500 annually. The bill exempts certain persons and entities from the registration requirement.

The bill requires a mortgage banker to provide a mortgage loan applicant with a disclosure statement that provides information regarding the procedures for filing a complaint against the mortgage banker and sets out procedures for the handling of such a complaint. The bill authorizes a mortgage banker to withdraw that mortgage banker's registration at any time and permits the commissioner to revoke the registration for certain causes. The bill provides processes that allow the mortgage banker to contest the revocation of a registration and allows a mortgage banker whose registration has been revoked to register again with the authorization of the commissioner. The bill provides that a person who is the spouse of a registered mortgage banker and who is serving as a public member of the Finance Commission of Texas immediately before the effective date of this provision is authorized to complete that term.

Senate Bill 965**Effective:** 9-1-03**Senate Author:** Averitt**House Sponsor:** Gutierrez

Senate Bill 965 amends the Finance Code to reduce the time period a pawnbroker is required to hold pledged goods from the 61st day after the maturity date to the 31st day after the maturity date, after which date the goods are forfeited to the pawnbroker. The bill amends the list of types of identification a pawnbroker can accept from a pledgor or seller to add a certificate of identification from the Mexican Consulate (*certificado de matricula consular*), and an identification issued by the U.S. agency responsible for citizenship and immigration, and to remove a nonresident alien border crossing card, a resident alien border crossing card, and a U.S. Immigration and Naturalization Service identification.

Senate Bill 1526**Effective:** Vetoed**Senate Author:** Brimer**House Sponsor:** McCall

Senate Bill 1526 amends the Finance Code to establish that information in an application for a motor vehicle installment sales license issued by the consumer credit commissioner or any other application form relating to a license holder that is on file with the commissioner is confidential. Such information may only be disclosed in a judicial or administrative proceeding pursuant to a legal subpoena. The bill prohibits the commissioner from requiring fingerprints of a person who is not regularly and actively engaged in a business of the applicant or license holder or from suspending, revoking, or refusing to grant a motor vehicle installment sales license because the applicant or license holder failed to produce the fingerprints of such a person.

Reason Given for Veto: "Senate Bill No. 1526 would impede access to public records. The bill would limit access to information in an application for a license to operate a motor vehicle dealership from disclosure under the Public Information Act. The owner's name, business address, and phone number should be available to the public. Personal addresses and phone numbers should be protected. These personal records could only be disclosed in a judicial or administrative proceeding in accordance with a lawful subpoena.

"Restricted access to these records would hinder the filing of legitimate consumer complaints against vehicle dealerships."

Senate Bill 1577**Effective:** 9-1-03**Senate Author:** Carona**House Sponsor:** Flynn

Senate Bill 1577 amends the Finance Code to require an applicant for a mortgage broker or loan officer license, in addition to meeting other requirements, to satisfy the savings and loan commissioner as to the applicant's good moral character and not to have violated a statute or rule related to the regulation of mortgage brokers or loan officers or any order previously issued to the individual by the commissioner. The code also requires the applicant not to have been convicted of a criminal offense that the commissioner determines is directly related to the occupation covered by the license. The bill establishes that, for these purposes, a conviction includes sentencing, an order to receive community supervision, and court deferral of the final disposition of a case. The bill authorizes the commissioner to take disciplinary action against a licensed mortgage broker or loan officer if, after a hearing, the commissioner determines the licensee has disregarded or violated an administrative order issued by the commissioner.

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Senate Bill 1578

Effective: 9-1-03

Senate Author: Carona

House Sponsor: Flynn

Senate Bill 1578 amends the Finance Code to require an applicant for a mortgage broker or loan officer license to provide the savings and loan commissioner with evidence of having passed an examination, offered by a testing service or company approved by the Finance Commission of Texas, that assesses knowledge of the mortgage industry and of the role and responsibilities of a mortgage broker or loan officer, as applicable.

Senate Bill 1667

Effective: 9-1-03

Senate Author: Averitt

House Sponsor: Flynn

Senate Bill 1667 amends provisions of the Finance Code and Government Code relating to criminal background information on an individual applying for a mortgage broker or loan officer license. The bill requires an applicant to submit fingerprint and other required information to the savings and loan commissioner along with the license application. The bill authorizes the commissioner to send the fingerprint and other information to the Federal Bureau of Investigation (FBI) and designates the Department of Public Safety (DPS) to receive from the FBI any criminal history record information relating to that individual. The bill entitles the commissioner to obtain from the DPS any criminal background information the DPS maintains that pertains to an applicant or holder of a mortgage broker or loan officer license. The bill restricts the release or disclosure of information obtained from the FBI or DPS to only a governmental entity or as authorized by federal law.

Legal

House Bill 462

Effective: 9-1-03

House Author: Gallego

Senate Sponsor: R. Ellis

House Bill 462 amends the Government Code to require certain nonresident attorneys seeking to participate in a proceeding in a Texas court to pay a \$250 fee to the Board of Law Examiners for each case in which the attorney is requesting to participate.

House Bill 599

Effective: 9-1-03

House Author: Chisum et al.

Senate Sponsor: Jackson

House Bill 599 amends the Government Code to continue the State Bar of Texas until September 1, 2015, and to include and update standard sunset language. The bill requires the state bar to develop a comprehensive, long-range strategic plan that includes measurable goals and a system of performance measures. The bill requires the state bar to report the performance measures included annually to the Texas Supreme Court and the editor of the *Texas Bar Journal* and to use the elements of the strategic plan in its budgeting process. After implementing its budget, the state bar must report its performance to the court and must revise its goals and performance measures as necessary and report those revisions to the court. The bill eliminates a requirement that at least 51 percent of registered bar members must vote in an election on proposed rule changes or dues increases for the election to be valid; instead, a simple majority of votes cast determines the outcome. The state bar, with the approval of the court, may use electronic methods to distribute ballots and other election materials and to receive completed ballots. The state bar must promote and monitor member participation in its elections and submit statistics relating to such participation to the court and the editor of the *Texas Bar Journal*.

The bill adds a new subchapter on the composition and duties of the existing executive committee, which include creating new standing and special committees. The bill revises the procedures of the state bar's grievance system to require the chief disciplinary counsel's office to classify and refer grievances for disposition and to provide for the public availability of all hearing documentation if any sanction other than a private reprimand is issued. The bill requires the supreme court to impose an additional annual legal services fee of \$65 on active members of the state bar, with certain exceptions. The fees may be used only to provide basic civil legal services to the indigent and legal representation and other defense services to indigent defendants in criminal cases.

Finally, the bill amends the Local Government Code to allow county judges and commissioners to practice law in courts located in the counties in which they serve upon compliance with conflict-of-interest provisions of the code. The bill prohibits a judge of a constitutional county court from entering a court appearance or signing a court pleading as an attorney in a matter that is before the judge's own court or in any Texas court over which the judge's court has appellate jurisdiction.

House Bill 2689
Effective: 6-20-03

House Author: J. Keffer
Senate Sponsor: Duncan

House Bill 2689 amends the Occupations Code to create an exception to the definition of the practice of law for certain petroleum and mineral land services, provided that the acts are performed by a person who is not a licensed attorney and who does not hold himself or herself out as a licensed attorney.

Senate Bill 266
Effective: 9-1-03

Senate Author: Lucio
House Sponsor: Gallego et al.

Senate Bill 266 amends the Government Code to continue the Board of Law Examiners until September 1, 2015, and to include and update standard sunset language. The bill lengthens the board members' terms from two to six years and places the board members' terms on a staggered schedule, with the terms of one-third of the members expiring August 31 of each odd-numbered year. The bill requires that board deliberations, hearings, and determinations relating to the moral character and fitness of applicants and requests for testing accommodations for the bar exam for a person with a disability be closed to the public, and clarifies that records relating to these subjects are confidential. The bill allows a person within 12 semester hours of graduation from an approved law school to take the bar examination, but prohibits the person from being licensed to practice law until the person graduates or satisfies all requirements for graduation. The requirements must be met within two years of completion of the examination. The bill allows the board, on a showing of good cause or to prevent a hardship, to permit an applicant to file an application with the board not later than the 60th day after the deadline on payment of applicable late fees, and allows an applicant who failed the immediately preceding bar exam to take the next bar exam without regard to filing deadlines and late fees.

Senate Bill 266 allows the board to release bar examination results and statistics to law schools, with certain restrictions and provides that information released to a law school is confidential. The bill allows an applicant to request that the board not release the applicant's identity to a law school by providing a written request to the board before taking the examination. The bill requires the board to compile a report, based on gender, ethnicity, and race, on the number of applicants who fail the July 2004 bar examination, to recommend ways to reduce

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the number of applicants who fail the bar examination, and to submit a report of its recommendations to the legislature not later than December 31, 2004. The bill also requires the board on request, in coordination with the State Bar of Texas, to inform a member of the public about the probationary status of a newly licensed attorney, and provides that any information that forms the basis for the issuance of the probationary license is confidential. The bill repeals provisions that allow certain members of the legislature who served before 1975 to take the bar examination and substitute their legislative service and education for the study and training requirements for candidates. The bill also repeals provisions relating to the role of district committees in admissions and investigations. The bill eliminates the current definition of chemical dependency and requires the board to develop a new definition subject to adoption in rule by the Texas Supreme Court.

Senate Bill 273

Effective: 9-1-03

Senate Author: Shapleigh

House Sponsor: Dunnam et al.

Senate Bill 273 amends the Government Code to continue the Court Reporters Certification Board until September 1, 2015, and to include and update standard sunset language. The bill amends various provisions in order to bring the board in line with commonly applied occupational licensing practices. The bill provides that the board is administratively attached to the Office of Court Administration of the Texas Judicial System and requires the office to provide administrative support to the board. The bill specifies that rules applicable to a court reporter or court reporting firm do not apply to firms and court reporters outside of Texas.

Public Health and Public Safety

House Bill 472

Effective: 6-20-03

House Author: Pickett et al.

Senate Sponsor: Madla

House Bill 472 amends the Insurance Code and the Occupations Code to authorize the state fire marshal to contract with a testing service for examinations for the licensing of individuals who install or service fire extinguishers, fire detection and alarm devices, or fire protection sprinkler systems, or who plan or supervise such devices or systems, as well as individuals who manufacture, distribute, job, or import fireworks and who supervise or conduct fireworks displays. The bill increases certain initial license fees, but if the license examination is administered by a testing service, the bill exempts the applicant from paying the nonrefundable examination or reexamination fee required under existing law.

Senate Bill 693

Effective: 9-1-03

Senate Author: Gallegos et al.

House Sponsor: Eiland

Senate Bill 693 amends the Occupations Code to provide uniform standards for the use of flame effects or pyrotechnics. The bill requires a person who assembles, conducts, or supervises flame effects to be licensed by the state fire marshal under rules adopted by the commissioner of insurance; requires at least one licensed pyrotechnic or flame effects operator to be present on-site at all times where pyrotechnics or flame effects are used; and requires the on-site licensee to be responsible for complying with fire prevention requirements. The bill requires the licensee or the licensee's employer to obtain a permit from the local fire marshal or other authority having jurisdiction before flame effects or pyrotechnics are used and requires a permit applicant to submit evidence of a general liability insurance policy of at least \$1 million unless the commissioner decreases the amount or the applicant is a political subdivision

participating in a self-insurance fund or other liability fund. The bill requires flame effects or pyrotechnics used before an assembly of 50 people or more to meet certain federal standards and state requirements. The bill specifies that if flame effects or pyrotechnics are used inside a building, the building must contain a complete operational fire-sprinkler system or personnel must be present to implement a standby fire watch and an announcement must be made to the assembly giving verbal instruction about the location and use of exits and information about the building fire protection and fire alarm systems. The bill makes a violation of these requirements a Class A misdemeanor and specifies that they do not apply to traditional, nontheatrical public displays such as use of lighted candles in restaurants or during religious services, fireplaces in areas open to the public, restaurant cooking visible to the public, or the outdoor use of consumer fireworks.

Senate Bill 1090

Effective: See below

Senate Author: Carona

House Sponsor: Geren

Senate Bill 1090 amends Health and Safety Code provisions relating to the inspection, installation, repair, and maintenance of elevators and other people-moving equipment. The bill transfers the power to appoint the members of the elevator advisory board from the commissioner of licensing and regulation to the presiding officer of the Texas Commission on Licensing and Regulation and transfers various duties and responsibilities from the commissioner to the executive director of the Texas Department of Licensing and Regulation. The bill modifies the qualification requirements for board members and expands the board's duties to include issues relating to equipment safety. The bill makes numerous changes to the equipment standards that must be adopted by the commission to comply with the national code, and it adds procedures and standards for installing and inspecting equipment in a single-family dwelling. The bill amends provisions relating to certificates of compliance and the granting of a delay or waiver of compliance with code requirements and revises the inspection and certification rules the commission must adopt. The bill requires a certified equipment inspector to meet certain requirements, and it eliminates a provision that caps inspection fees. The bill exempts a municipality from the requirements if it operates a program for the installation, maintenance, or alteration of equipment that is at least equivalent to state requirements. It requires the owner of real property on which equipment is located to comply with certain requirements relating to annual inspections, inspection fees, and reports. The bill authorizes the executive director of the department to appoint a chief elevator inspector, subject to certain prerequisites, to administer the equipment inspection and registration program.

The bill takes effect September 1, 2003, except the requirement for registration of a contractor takes effect January 1, 2004, and a provision relating to certain escalator requirements takes effect September 1, 2009, for an escalator constructed before September 1, 2003.

Senate Bill 1317

Effective: 9-1-03

Senate Author: Van de Putte

House Sponsor: Uresti et al.

Senate Bill 1317 amends the Health and Safety Code to require tattooists and body piercers to be registered with the Texas Department of Health and prohibits a tattoo studio or body piercing studio from employing a tattooist or body piercer who is not registered. The bill includes provisions relating to the issuance of an original or renewal tattoo studio or body piercing studio license, the suspension or revocation of a license, and emergency orders issued by the commissioner of health relating to the regulation of a tattooist or body piercer. The bill prohibits tongue splitting, requires parents or guardians to be physically present at the tattoo

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studio in order for a person younger than 18 years of age to be tattooed, and creates a Class B misdemeanor offense for a person younger than 18 years of age who misrepresents the person's age to a body piercing studio.

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

HB 724 - Alcoholic Beverages

HB 875 - Law Enforcement

HB 3542 - Health

SB 127 - Insurance

SB 853 - Property Taxes

Oil and Gas

This chapter covers legislation on issues relating to the regulation of oil and gas by the Railroad Commission of Texas. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 942

Effective: 9-1-03

House Author: Chisum et al.

Senate Sponsor: Hinojosa

House Bill 942 amends the Natural Resources Code to exempt certain persons engaged in activities other than ownership or operation of oil and gas wells from the requirement to execute a bond or alternate form of financial security at the time of filing or renewing an organization report with the Railroad Commission of Texas. All other persons involved in activities other than ownership or operation of wells must provide financial security in an amount up to \$25,000. The bill requires a person engaged in more than one activity or operation requiring financial security to file an amount equal to the greatest amount required for any one activity and establishes that this amount provides financial security for all of the person's activities. The bill increases the fee for filing or renewing an organization report for an operator of one or more natural gas pipelines and an operator of liquids pipelines who also operates one or more wells and establishes the fee amount for an operator of one or more liquids pipelines who does not operate any wells.

House Bill 1192

Effective: 6-20-03

House Author: G. West

Senate Sponsor: Armbrister

House Bill 1192 amends the Government Code to specify that provisions requiring the purchase or lease of vehicles using alternative fuels do not apply to the Railroad Commission of Texas unless a vehicle is acquired for use in an area designated as nonattainment under the federal Clean Air Act.

House Bill 1193

Effective: 6-20-03

House Author: G. West

Senate Sponsor: Armbrister

House Bill 1193 repeals the provision in the Utilities Code that requires the Railroad Commission of Texas to report annually to the governor regarding gas utilities proceedings, collection of the gas utilities gross receipts tax, and gas pipeline regulatory expenses.

House Bill 1194

Effective: 9-1-03

House Author: G. West

Senate Sponsor: Armbrister

House Bill 1194 amends the Utilities Code to authorize the Railroad Commission of Texas to assess an annual inspection fee against operators of natural gas distribution pipelines and master metered pipelines and related facilities to fund the commission's pipeline safety program. The bill requires the commission by rule to establish the method by which the fee will be calculated and assessed and prohibits the amount of revenue estimated to be collected from exceeding the amount estimated to be needed to administer the program. It authorizes the commission to assess each investor-owned and municipally owned natural gas distribution company an annual inspection fee of up to 50 cents for each service line and establishes that the fee is due March 15 of each year. The fee for master metered system operators may be up to \$100 for each system, and the fee is due June 30 of each year. The commission is also authorized to assess a late payment penalty of 10 percent of the total assessment due if a fee is not paid within 30 days of the annual due date. The bill requires each entity paying the fee to

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recover the cost via a surcharge to existing rates paid by customers. An investor-owned utility is prohibited from including the surcharge in revenue or gross receipts used to calculate municipal franchise fees or the utility's tax burden. The bill establishes that the surcharges are not subject to sales and use taxes.

House Bill 1195

Effective: 9-1-03

House Author: G. West

Senate Sponsor: Armbrister

House Bill 1195 amends the Natural Resources Code to increase the fee for a reissued certificate of compliance for an oil lease or gas well from \$100 to \$300 and to require the fee to be paid for each severance or seal order issued for the lease or well by the Railroad Commission of Texas.

House Bill 1575

Effective: 6-20-03

House Author: Ritter

Senate Sponsor: Lucio

House Bill 1575 amends provisions of the Utilities Code relating to the requirement that utilities provide natural gas at certain rates to school districts. The bill expands the requirement to include all public retail customers and defines "public retail customer" to mean a state agency, higher education institution, public school district, or political subdivision. It also provides that if a municipally owned gas utility and a public retail customer are unable to agree to a contract rate, the rate may be determined by the relevant regulatory body under the law governing rates and services.

House Bill 1931

Effective: 6-20-03

House Author: Capelo et al.

Senate Sponsor: Williams

House Bill 1931 adds a new subchapter to the Natural Resources Code relating to construction affecting pipeline easements and rights-of-way. The bill prohibits a person from building, repairing, replacing, or maintaining certain constructions on, across, over, or under the easement or right-of-way for a pipeline facility unless notice of the construction is given to the operator of the facility and certain conditions are met. The bill amends provisions relating to pipeline safety emergency response plans to authorize the operator of a hazardous liquid or carbon dioxide pipeline facility to conduct required community liaison activities by means of a telephone conference call if the operator has made an effort by one of three methods, instead of by all three methods, to conduct a community liaison meeting in person with the officials. The bill requires the Railroad Commission of Texas by rule to require the owner or operator of each intrastate hazardous liquid or carbon dioxide pipeline facility, any part of which is located within 1,000 feet of a public school building containing classrooms or within 1,000 feet of another public school facility where students congregate, on written request from the school district, to provide in writing certain parts of a pipeline emergency response plan that are relevant to the school and to appear at a regularly scheduled meeting of the school board to explain the plan if requested. The bill prohibits the commission from requiring the release of parts of an emergency response plan that include security sensitive information, requiring instead that the information be made available for review, but not provided to the school board. Finally, the bill repeals the provision requiring a pipeline operator who builds or extends a pipeline system that crosses more than three counties to publish notice of the proposed route in a newspaper in each county.

House Bill 2021
Effective: 9-1-03

House Author: Farabee
Senate Sponsor: Armbrister

House Bill 2021 amends the Natural Resources Code to require a regulated oil and gas entity to provide written notice to the Railroad Commission of Texas if the entity or an affiliate files for federal bankruptcy protection. The notice must be submitted to the commission's office of general counsel not later than the 30th day after the filing date.

House Bill 2613
Effective: 9-1-03

House Author: B. Keffer
Senate Sponsor: Armbrister

House Bill 2613 adds stored hydrocarbons to provisions of the Natural Resources Code relating to liens on equipment at sites and facilities that have not been timely cleaned up by the responsible person. Among those provisions are stipulations that the state has a first lien on the responsible person's interest in any hydrocarbons stored at the site or facility and that the lien is inferior to any lien to secure royalty payments to the state.

House Bill 2654
Effective: 6-21-03

House Author: Farabee
Senate Sponsor: Estes

House Bill 2654 amends provisions of the Natural Resources Code relating to requirements of pipeline assessment and testing. The bill exempts gathering lines outside the limits of an incorporated or unincorporated city or village or any designated residential or commercial areas from the requirements.

House Bill 2846
Effective: 6-18-03

House Author: Farabee
Senate Sponsor: Fraser

House Bill 2846 repeals provisions of the Utilities Code and the Government Code requiring the State Office of Administrative Hearings to conduct each hearing in a contested gas utility rate case that is not conducted by one or more members of the Railroad Commission of Texas.

Senate Bill 985
Effective: 5-16-03

Senate Author: Wentworth
House Sponsor: Goolsby

Senate Bill 985 amends the Texas Disaster Act of 1975 to include, as an energy emergency, a temporary statewide, regional, or local shortage of natural gas that makes emergency measures necessary to reduce demand or allocate supply.

Senate Bill 1271
Effective: 9-1-03

Senate Author: Armbrister
House Sponsor: G. West et al.

Senate Bill 1271 amends the Gas Utility Regulatory Act to authorize a gas utility that has filed a rate case in the last two years to file with its regulatory authority—either a municipality or the Railroad Commission of Texas—a tariff or rate schedule that provides for an interim adjustment in its monthly customer charge or initial block rate to recover the cost of investment changes. The bill requires notice to affected customers within 45 days of filing and that the adjustment must be allocated among customer classes in the same manner as the utility's cost of service. Filing must occur at least 60 days before the proposed implementation date, and during that interval the regulatory authority may suspend implementation. All amounts collected under the tariff or rate schedule before the next filing of a rate case are subject to potential refund, but once a final order or decision is issued in a subsequent rate case, the investment change included in an interim adjustment is no longer subject to review for reasonableness or

prudence. The bill establishes methods for calculating the interim adjustment and requires that it be recalculated on an annual basis. The gas utility must file with the regulatory authority an annual report describing investment projects completed and placed in service and investments retired or abandoned and addressing issues of cost, need, and customer benefit. The utility must also file with the regulatory authority an annual earnings monitoring report and, if the return on invested capital is above a certain threshold, a statement must accompany the report giving reasons why the utility's rates are not unreasonable or in violation of law. Other provisions specify when the utility must next file a rate case and provide for reimbursement by a utility of its share of railroad commission costs in administering the interim rate adjustment mechanism.

Senate Bill 1484
Effective: 6-20-03

Senate Author: Ogden
House Sponsor: G. West

Previous law prohibited the Railroad Commission of Texas from accepting an organization report or application for a permit or approving a certificate of compliance for an organization owned or controlled by a person who, within the past five years, had owned or controlled another organization that violated a statute or commission rule relating to safety or the prevention or control of pollution. Senate Bill 1484 extends the time period to include a violation within the past seven years.

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

HB 1512 - Emergency Response
HB 1531 - Utilities

Open Government and Privacy

This chapter covers legislation on issues relating to the public availability or nonavailability of governmentally held information, including confidentiality, disclosability, privacy, the open records law, and the open meetings law. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 298

Effective: Vetoed

House Author: Miller

Senate Sponsor: Nelson

The Parks and Wildlife Code prohibits, with certain exceptions, disclosure of the name, address, and the telephone, social security, driver's license, bank account, credit card, or charge card number of a person who purchases customer products, licenses, or services from the Parks and Wildlife Department. House Bill 298 adds the e-mail address of such a person to the list of items protected from disclosure and requires that departmental policies prohibit the sale of a mailing list containing any protected information if the information relates to someone other than a commercial license holder.

Reason Given for Veto: "House Bill No. 298 would prohibit the disclosure of information on hunting and fishing licenses except for zip codes. This legislation is unnecessary because such disclosure already is prohibited by Texas Parks and Wildlife Department regulations from the state Transportation Code."

House Bill 500

Effective: 9-1-03

House Author: Goolsby

Senate Sponsor: Carona

House Bill 500 amends the Tax Code to provide that a social security number, driver's license number, or personal identification certificate number supplied in an application for a property tax exemption is confidential and not open to public inspection. The bill specifies certain exceptions and establishes a Class B misdemeanor offense for disclosing or permitting inspection of the confidential information by an unauthorized person.

House Bill 545

Effective: 9-1-03

House Author: Wohlgemuth et al.

Senate Sponsor: Wentworth

House Bill 545 amends the Government and Local Government codes to reduce public access to discharge records for a military veteran that a governmental entity acquires or of which it has custody. A record that first comes into the possession of a governmental body after the bill's effective date remains confidential for 75 years except on a request for inspection by the veteran, his or her legal guardian, specified family members, the personal representative of the veteran's estate, a person with applicable power of attorney, or another governmental body. If a discharge record has been recorded with a county clerk before the bill's effective date, a veteran may request in writing that all publicly accessible copies of the record be destroyed, and the county clerk has 15 business days to comply with the request.

House Bill 1452

Effective: 6-20-03

House Author: Hilderbran

Senate Sponsor: Wentworth

House Bill 1452 amends the Agriculture Code to prohibit a governmental entity from disclosing certain information relating to the use and users of livestock predator control devices. The bill prohibits disclosure of the name, address, and telephone number of a private pesticide applicator license holder who is authorized to use a predator control device, if

disclosure would reveal that authority or the license holder's use or intended use of such a device. It prohibits disclosure of the same information relating to a landowner or operator where such devices have been used, are being used, or are intended to be used, if disclosure of the information would reveal that use. The bill also prohibits disclosure of information identifying land involved in the use of a predator control device, if disclosure would reveal the protected name, address, and telephone number of the landowner or operator. A list of exceptions allows disclosure of information about a private pesticide applicator license holder to an authorized distributor of predator control devices, another Texas governmental entity in connection with public business, the U.S. Environmental Protection Agency under a cooperative agreement, another federal agency that subpoenas the information from the governmental entity, or the appropriate agency or court in an administrative or judicial proceeding in which the private pesticide applicator license holder is a defendant. The bill provides that a governmental entity and its officers and employees are immune from civil or criminal liability for unintentional violation of these provisions.

House Bill 2004

Effective: 6-21-03

House Author: Marchant et al.

Senate Sponsor: Van de Putte

House Bill 2004 amends the Government Code to allow a commissioners court of a county with a population of 400,000 or more to conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated under certain conditions. The commissioners court must first vote unanimously, and its attorney must advise in writing, that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiating with a third person. The commissioners court must make a tape recording of the closed proceedings.

House Bill 2032

Effective: 9-1-03

House Author: Hochberg

Senate Sponsor: Wentworth

A law enacted in 2001 provides that the e-mail address of a member of the public that is provided for purposes of communicating electronically with a governmental body is confidential, with the exception of disclosure to which the member of the public consents. House Bill 2032 amends the Government Code to establish additional exceptions to such confidentiality for an e-mail address provided by a government contractor, a vendor seeking a government contract, or the contractor's or vendor's agent; an e-mail address that is provided in the course of contractual negotiation or contained in a response to a request for contractual bids or proposals; and an e-mail address provided on a letterhead, cover sheet, printed document, or other document that is made publicly available. The bill also establishes an offense for an officer, employee, or advisory committee member of a governmental body who obtains and improperly uses, discloses, or permits inspection of confidential information intended for legislative use.

House Bill 2622

Effective: 9-1-03

House Author: Allen

Senate Sponsor: Deuell

House Bill 2622 amends the Government Code and Finance Code to better standardize the entitlement of specified governmental and nongovernmental entities to criminal history record information maintained by the Department of Public Safety (DPS). Various changes and repealers lift restrictions on the types of such information that certain entities may receive. The bill adds new entitlements for the savings and loan commissioner, the Interagency Council on Sex Offender Treatment, certain nonprofit programs that provide activities for children, and

the clerk of a county court having venue over a proceeding for the appointment of a guardian. Other new entitlements cover the Texas Department of Human Services (TDHS) as well as nursing homes, assisted living facilities, custodial care homes, home health agencies, adult day care facilities, and certain other entities that are regulated by or that contract with the TDHS or the Texas Department of Mental Health and Mental Retardation. The bill stipulates that the DPS may release or disclose criminal history record information obtained from the Federal Bureau of Investigation only to a governmental entity or as authorized by federal statute, rule, or executive order.

House Bill 2819
Effective: 6-20-03

House Author: Driver et al.
Senate Sponsor: Deuell

House Bill 2819 amends the Tax Code to allow a victim of family violence, if the perpetrator is, as a result, convicted of a felony or Class A misdemeanor, to make the victim's home address information contained in local appraisal records confidential and available only for official use.

Senate Bill 84
Effective: 6-20-03

Senate Author: Wentworth
House Sponsor: Baxter

Senate Bill 84 amends the Government Code to define "promptly" as that term is applied to the time period for release of information in response to an open records request. "Promptly" is defined to mean as soon as possible under the circumstances, that is, within a reasonable time, without delay.

Senate Bill 121
Effective: 9-1-03

Senate Author: Lindsay
House Sponsor: Marchant

Senate Bill 121 extends an exception in the open meetings provisions of the Government Code that is applicable to certain providers of health care services to also apply to a health maintenance organization (HMO) created by a countywide hospital district in a county with a population of 190,000 or more. It provides that the governing board of such an HMO may meet in closed session to deliberate pricing or financial information relating to a bid or negotiation on services or product lines if disclosure would give advantage to competitors, or to deliberate information relating to proposed new services or product lines before they are publicly announced.

Senate Bill 174
Effective: 9-1-03

Senate Author: Nelson
House Sponsor: Madden

Senate Bill 174 amends the Government Code to make social security number information on a marriage license application or on a document submitted with a marriage license application confidential and not disclosable by a county clerk who maintains such information. The confidentiality and nondisclosure provisions, however, apply only to marriage license applications filed on or after the bill's effective date. The bill requires a county clerk who receives an open records request for information in an affected marriage license application to first redact the social security number portion before releasing the rest of the information.

Senate Bill 653

Effective: 9-1-03

Senate Author: Wentworth

House Sponsor: Baxter

Under the open records law, if a copy request will result in a charge exceeding \$40, the custodian governmental body must provide the requestor with an itemized statement of the estimated charge. A request under that circumstance is presumed withdrawn unless, within a statutory deadline, the requestor notifies the governmental body that the requestor will accept the charges or is modifying the request in response to the statement. Senate Bill 653 amends the Government Code to add a third means of pursuing compliance with the request, a notification that the requestor has sent the Texas Building and Procurement Commission a complaint alleging overcharge. The bill specifies that the notification deadline, 10 days under previous law, is 10 business days. A similar amendment gives the governmental body 10 business days to respond to any written questions from the commission regarding an alleged overcharge. For copy requests generally, the bill clarifies that in cases of 50 or fewer pages, exclusive of photocopying at two or more separate buildings or at a remote storage facility, the charge is the per-page charge not including materials, labor, or overhead.

Senate Bill 861

Effective: 9-1-03

Senate Author: Janek

House Sponsor: Marchant

Senate Bill 861, applicable to birth records maintained by a local registration official or by the Bureau of Vital Statistics of the Texas Department of Health, amends the Government Code and Local Government Code to change from the 50th to the 75th birthday the date when a person's birth record becomes publicly available. The bill, however, retains access on or after the 50th birthday by the Genealogical Society of Utah under a microfilming agreement between that entity and the Archives and Information Services Division of the Texas State Library and Archives Commission.

Senate Bill 919

Effective: 6-20-03

Senate Author: Whitmire

House Sponsor: Elkins

Senate Bill 919 amends the Government Code to add common or contract carriers to the kinds of delivery service that may be used to send a request, notice, or other document required under the code subchapter on open records decisions of the attorney general.

Senate Bill 1388

Effective: 6-20-03

Senate Author: Armbrister

House Sponsor: Kolkhorst

Under the Government Code, information held by a governmental body has been excepted from the open records law if it relates to the home address, home telephone number, social security number, or personal family information of peace officers, Texas Department of Criminal Justice (TDCJ) employees, security officers commissioned by a private college or university or the Texas Commission on Private Security, certain law enforcement personnel killed in the line of duty, and, in certain cases, current or former officials or employees of governmental bodies. Senate Bill 1388 amends the code to clarify that the exception applies to former as well as current TDCJ employees and to employees of predecessor state corrections departments or divisions. The bill also stipulates that those open records exceptions and confidentiality provisions do not apply to documents filed with a county clerk or district clerk.

Senate Bill 1581

Effective: 6-18-03

Senate Author: Wentworth

House Sponsor: B. Keffer

Senate Bill 1581 amends the Government Code to except an audit working paper of a municipal or county auditor from required disclosure under the open records law.

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

HB 13 - Criminal Justice

HB 1027 - Public Officials and Employees

HB 1226 - Public Education

SB 443 - Criminal Justice

SB 1000 - State Government

SB 1050 - Family Law and Juvenile Justice

Parks and Wildlife

This chapter covers legislation on issues relating to parks and wildlife, including hunting and fishing and the Parks and Wildlife Department. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 641
Effective: 5-15-03

House Author: Kolkhorst
Senate Sponsor: Armbrister

House Bill 641 amends the Agriculture Code to require that the state's agricultural policy recognize bison as wild animals indigenous to Texas that are distinct from cattle, livestock, exotic livestock, or game animals and that may be raised and used either for commercial purposes or to preserve the bison species. The bill amends the Health and Safety Code, however, to treat bison as livestock for purposes of the Texas Meat and Poultry Inspection Act.

House Bill 1328
Effective: 6-20-03

House Author: Phillips
Senate Sponsor: Estes

House Bill 1328 amends the Parks and Wildlife Code to require the Parks and Wildlife Department to comply with rules and regulations promulgated by the United States secretary of the interior, rather than the secretary of agriculture, relating to cooperative federal and state wildlife restoration projects.

House Bill 1529
Effective: 9-1-03

House Author: R. Cook
Senate Sponsor: Armbrister

House Bill 1529 amends the Parks and Wildlife Code to authorize a Parks and Wildlife Department game warden or peace officer who observes a person, or believes a person is or has been, engaged in a regulated activity to inspect the person's hunting or fishing license, any device that may be used to hunt and fish, any wildlife resource in the person's possession, and the contents of any container or receptacle commonly used to store or conceal a wildlife resource. The game warden or peace officer is authorized to inspect any wildlife resource that has been taken by a person and is in plain view and is prohibited from conducting a search in a person's residence or temporary residence or on a public road.

House Bill 1989
Effective: 9-1-04

House Author: D. Ellis et al.
Senate Sponsor: Staples

House Bill 1989 adds to the Parks and Wildlife Code a new subchapter that expires September 1, 2014, relating to a freshwater fishing stamp. The bill authorizes the Texas Parks and Wildlife Department to design and issue a stamp valid for fishing and a collectible stamp available for \$5. A person is prohibited from fishing in fresh water for sporting purposes without the stamp. The bill authorizes net receipts from the stamp for fishing to be spent only on maintaining or replacing freshwater fish hatcheries or purchasing stock fish and from the collectible stamp to be spent only on freshwater fish habitats. The bill establishes that the stamp is valid for fishing only during the yearly period for which it is issued and authorizes the commission to issue the stamp during a transition period at a different cost and term. The bill makes failure to acquire or show the stamp or proof of exemption to a game warden or peace officer a Class C Parks and Wildlife Code misdemeanor. House Bill 1989 also repeals the subchapters relating to a muzzleloader hunting stamp and a freshwater trout stamp.

House Bill 2159

Effective: Vetoed

House Author: Garza et al.

Senate Sponsor: Madla

House Bill 2159 amends the Parks and Wildlife Code to authorize a documented member of the Kickapoo Traditional Tribe of Texas who holds a resident hunting license to hunt antlerless white-tailed deer for religious ceremonial purposes any day of the year between certain hours. The bill requires a tribe member to notify a game warden at least 24 hours before hunting the deer if it is not deer season for the general population.

Reason Given for Veto: "House Bill No. 2159 would require the Texas Parks and Wildlife Department (TPWD) to issue a year-round license to only a member of the Kickapoo Traditional Tribe of Texas for hunting antlerless white-tailed deer. This would circumvent TPWD authority to regulate hunting and wildlife management in the State of Texas."

House Bill 2351

Effective: 9-1-03

House Author: Kuempel

Senate Sponsor: Averitt

House Bill 2351 amends the Parks and Wildlife Code to require the Parks and Wildlife Department to transfer 15 percent of the amounts collected in the previous month from vessel registration fees, vessel manufacturer or dealer licensing fees, and vessel and outboard motor titling fees to the state parks account in the state treasury. The bill also adds vessel and outboard motor titling fees to the list of revenue sources for the game, fish, and water safety account.

House Bill 2470

Effective: 6-20-03

House Author: Kuempel

Senate Sponsor: Jackson

House Bill 2470 amends the Parks and Wildlife Code to require the Parks and Wildlife Department to increase funding allocated to commercial license buyback programs for finfish, shrimp, and crabs by \$2 million if the money is available from donations, grants, legislative appropriations, or other sources. This requirement is abolished September 1, 2005. The bill also expands the oyster program at the Texas Department of Agriculture to include shrimp and establishes the Texas shrimp marketing assistance program to promote and advertise the Texas shrimp industry by taking certain actions. The bill requires the commissioner of agriculture to appoint a 10-member shrimp advisory committee to assist in implementing the program and funds the program at a minimum level of \$250,000 per fiscal year from a new surcharge on the annual license fee for shrimp-producing aquaculture facilities and from a 10 percent increase in certain other shrimp-related license fees deposited into the newly created shrimp marketing account. The bill prohibits the fees, with the exception of the wholesale truck dealer's fish license fee, from being increased by more than 10 percent of the September 1, 2002 levels, until September 1, 2005.

Senate Bill 155

Effective: 9-1-03

Senate Author: Zaffirini et al.

House Sponsor: Puente et al.

Senate Bill 155 adds a new subchapter to the Parks and Wildlife Code relating to protected freshwater areas. The bill prohibits a person on or after January 1, 2004, from operating a motor vehicle in or on a protected freshwater area, defined as that portion of the bed, bottom, or bank of any navigable river or stream that lies at or below the gradient boundary of the river or stream, and makes a conviction a Class C misdemeanor and a Class B misdemeanor with two or more previous convictions. The prohibition does not apply to a state, county, or municipal road right-of-way, a private road crossing established on or before a certain date, or operation of a motor vehicle by certain persons. The provisions also do not apply to any river

with headwaters in another state and a mouth or confluence in another state. The bill authorizes a county, municipality, or river authority to adopt a written local plan to allow limited motor vehicle use in a protected freshwater area for a fee, not to exceed a certain amount, payable to the county, municipality, or river authority, and provides that the plan does not take effect until it is approved in writing by the Texas Parks and Wildlife Department. It also sets forth criteria to govern approval and revocation of local plans by the department and requires a county, municipality, or river authority implementing a local plan to remit to the department for administrative costs 20 percent of the gross receipts from collected fees. The bill also prohibits a person from restricting public recreational use of a protected freshwater area, and makes a conviction a Class C misdemeanor and a Class B misdemeanor with two or more previous convictions. Finally, the bill requires the department to establish a program to identify and facilitate, in cooperation with other entities, the development of motor vehicle recreation sites that are not located in or on a protected freshwater area and to report to the legislature about these efforts by September 1, 2004.

Senate Bill 236**Effective:** 6-20-03**Senate Author:** Fraser**House Sponsor:** Hupp

Senate Bill 236 amends the Parks and Wildlife Code to exempt a landowner or the landowner's agent or lessee who is taking depredating feral hogs on the landowner's land from the laws requiring hunting licenses and permits to control certain wildlife.

Senate Bill 607**Effective:** 6-20-03**Senate Author:** Janek**House Sponsor:** Hilderbran

Senate Bill 607 amends the Parks and Wildlife Code to redefine "abandoned crab trap" to mean a crab trap in state public water that is designated as abandoned by the Parks and Wildlife Commission beginning on the first day, rather than after the expiration of the seventh day, of a closed season for crab traps established by the commission.

Senate Bill 608**Effective:** 9-1-03**Senate Author:** Janek**House Sponsor:** Ritter

Senate Bill 608 amends the Parks and Wildlife Code to authorize the Parks and Wildlife Commission to adopt rules relating to issuance and use of resident and nonresident fishing guide licenses, including separate licenses for use in saltwater and freshwater, and sets the license fee at \$75 or an amount for each type set by the commission, whichever amount is more. Previous law authorized the commission to issue one type of guide license and set the fee at \$50 or a higher amount set by the commission. The bill defines "fishing guide" to mean a person who for compensation accompanies, assists, or transports a person or persons engaged in fishing in the water of this state.

Senate Bill 1582**Effective:** 9-1-03**Senate Author:** Wentworth**House Sponsor:** Keel

Senate Bill 1582 amends the Parks and Wildlife Code to authorize the Texas Parks and Wildlife Department to issue a permit to a political subdivision or property owners' association to trap and transport surplus white-tailed deer found within its boundaries. The bill requires the permit to contain specific instructions about where the deer are to be transported or transplanted and authorizes the department to deny a permit if no suitable destination for the deer exists. A permittee must ensure safe and humane handling of the deer and minimize human health and safety hazards in removing the deer. A permit normally is valid only

Parks and Wildlife

between October 1 and March 31. If the deer pose a threat to human health and safety, a permit may be valid at any time and the provision requiring a suitable destination for the deer does not apply. A permit does not entitle a person to take deer found on privately owned land without the landowner's written permission. The bill prohibits the department from charging a fee for the permit.

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

HB 3607 - Property Taxes

SB 624 - Water Districts

SJR 30 - Water Districts

Probate and Guardianship

This chapter covers legislation on issues relating to matters of probate, guardianship, and trusts, including the powers and duties of a guardian, guardian ad litem, or trustee, the jurisdiction of guardianship and probate proceedings, and the administration of a guardianship or a trust. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 1470
Effective: 9-1-03

House Author: Hartnett
Senate Sponsor: Harris

House Bill 1470 amends provisions of the Texas Probate Code relating to matters of guardianship and guardianship proceedings. The bill makes various changes in the law affecting the jurisdiction of guardianship proceedings, including contested matters and appeals. The bill clarifies provisions relating to an application for guardianship and the notice requirements for the application, including revising the contents required in an application for appointment and requiring the attorney bringing an application to mail a notice to certain specified individuals, including family members of the proposed ward, and to provide proper evidence that the notice was sent.

The bill also revises and clarifies certain provisions relating to the administration of the guardianship and the powers and duties of guardians, including the power to establish a trust for the income of the ward to be used for the sole purpose of the ward's eligibility for state medical assistance. The bill requires the guardian to file an application with the court not later than the 30th day after the date the guardian qualifies, requesting a monthly allowance to be expended from the estate for the education and maintenance of the ward and the maintenance of the ward's property. The bill requires the court to consider certain issues related to the estate and the ward and to set a monthly allowance that specifies the types of expenditures the guardian may make on a monthly basis for the ward or the property.

House Bill 1470 updates provisions relating to investment provisions, including putting the duty on the guardian to invest assets not needed for the ward's care, setting the standards by which the assets are to be invested, and providing investment restrictions. The bill also amends the Penal Code to provide that it is a state jail felony to knowingly interfere with the right of the guardian to have physical possession of a ward.

House Bill 1471
Effective: 9-1-03

House Author: Hartnett
Senate Sponsor: Harris

House Bill 1471 amends provisions of the Property Code relating to the duties and removal of a trustee and the adjustment of a charitable trust. The bill allows a court to remove a trustee of property for failure to make an accounting that is required by law or by the terms of the trust, but the trustee may not be removed solely on the grounds that the trustee exercised its power to adjust between the principal and income portions of the trust. The bill specifies the time by which a trustee must respond to a beneficiary's request for a written statement of accounts of all transactions since the last accounting or creation of the trust, and allows a beneficiary to collect attorney's fees and court costs from the trustee if the beneficiary is successful in a suit to compel the trustee to provide a written statement.

House Bill 1471 provides that a charitable trust means a trust with a stated purpose to benefit only one or more charitable entities and that qualifies as a charitable entity. The bill outlines the powers, duties, and authority of a trustee of a charitable trust.

Probate and Guardianship

House Bill 1472

Effective: 9-1-03

House Author: Hartnett

Senate Sponsor: Harris

House Bill 1472 amends the Property Code to provide for rules relating to the exercise of powers of appointment. The bill sets forth the donee's extent of power and the general exercise of power and allows the donee to create additional powers of appointment under certain circumstances.

House Bill 1473

Effective: 9-1-03

House Author: Hartnett

Senate Sponsor: Harris

House Bill 1473 amends provisions of the Texas Probate Code relating to probate matters and proceedings, including various provisions that relate to jurisdiction in probate proceedings. The bill provides that property given to a person by a testator during the testator's lifetime is considered a satisfaction of a devise to the person if certain conditions are met. The bill specifies that a testator is prohibited from exercising a power of appointment through a residuary clause unless the testator makes a specific reference to the power in the will or there is some other indication in writing that the intention was to include the property in the will. The bill allows a contract to make a will or devise, or not to revoke a will or devise, to be established by provisions of a written agreement that is binding and enforceable. The bill clarifies, as it pertains to the entitlement of a pretermitted child, that when a pretermitted child is not mentioned in a testator's will and the testator has one or more children living when the last will is executed, a provision relating to a living child can be vested or contingent.

House Bill 1539

Effective: 9-1-03

House Author: Naishtat

Senate Sponsor: Wentworth

House Bill 1539 amends the Government Code and the Code of Criminal Procedure to replace the term "probate master" with "associate judge," apply provisions relating to statutory probate court associate judges to the Harris County Probate Court No. 1, and allow an associate judge to hear a contested trial on the merits or a jury trial unless a party to the litigation objects.

House Bill 1590

Effective: 9-1-03

House Author: Paxton

Senate Sponsor: Carona

House Bill 1590 amends provisions of the Texas Probate Code relating to multiple-party accounts to establish the rights of a creditor with a secured claim who has a lien on the multiple-party account. The bill authorizes a party to a multiple-party account to pledge the account or otherwise create a security interest in the account without the concurrence of a P.O.D. payee, a beneficiary, a convenience signer, or any other party to a joint account and prohibits a convenience signer from pledging or creating a security interest in an account. In addition, House Bill 1590 requires a secured creditor that is a financial institution, insured by the Federal Deposit Insurance Corporation, to provide written notice of the pledge of a multiple-party account by certified mail to any other party to the account who did not create the security interest, with the exception of a P.O.D. payee, a beneficiary, or a convenience signer, not later than the 30th day after the date on which a security interest on the account is perfected.

House Bill 1709

Effective: 9-1-03

House Author: Casteel

Senate Sponsor: Wentworth

House Bill 1709 amends the Texas Probate Code to establish a 60-day deadline for a guardian to file with the court an affidavit that states the reason the guardianship was terminated and to whom the property of the ward in the guardian's possession was delivered.

House Bill 1985

Effective: 9-1-03

House Author: Casteel

Senate Sponsor: Wentworth

House Bill 1985 amends the Texas Probate Code to provide that a guardian ad litem appointed to represent the interests of an incapacitated person in certain guardianship proceedings is not liable for civil damages arising from a recommendation made or an opinion given in the capacity of guardian ad litem; however the immunity does not apply to a recommendation or opinion that is wilfully wrongful, given with conscious indifference or reckless disregard to the safety of another, given in bad faith or with malice, or grossly negligent.

House Bill 2189

Effective: 9-1-03

House Author: Rodriguez

Senate Sponsor: Wentworth

House Bill 2189 amends provisions of the Texas Probate Code relating to temporary guardianship procedures. The bill deletes the provision that prohibited the presumption of incapacity regarding a person for whom a temporary guardian was appointed. The bill requires, rather than permits, the filing of a sworn, written application to a court before the court appoints a temporary guardian, and changes the maximum period a hearing on the application may be postponed from 60 to 30 days from the day the application was filed. The bill requires the court to set bond when a temporary guardianship is appointed, and it requires the order of appointment to include the reasons for the temporary guardianship in addition to the powers and duties of the temporary guardian. House Bill 2189 allows the court to appoint a new temporary guardian, grant a temporary restraining order, or both, if certain applications for guardianships are challenged or contested and the new appointment or the issuance of the restraining order is necessary to protect the proposed ward or the proposed ward's estate.

House Bill 2238

Effective: 9-1-03

House Author: Paxton

Senate Sponsor: Hinojosa

House Bill 2238 amends provisions of the Texas Probate Code to clarify that convenience accounts apply to multiple-party accounts and allow multiple convenience signers. The bill replaces the term "cosigner" with "convenience signer" and provides that a party to a convenience account is not considered to have made a gift of the deposit, rather than a gift of one-half of the deposit, or of any additions or accruals, to a convenience signer.

House Bill 2241

Effective: 1-1-04

House Author: Paxton

Senate Sponsor: Harris

House Bill 2241 amends the Property Code to reenact the Uniform Principal and Income Act, which is based on the national uniform law that took effect January 1, 2002. The bill establishes the fiduciary duties of a trustee and sets out procedures for administering a trust.

House Bill 2679

Effective: 9-1-03

House Author: Hartnett

Senate Sponsor: Harris

House Bill 2679 amends provisions of the Texas Probate Code relating to a guardian transporting a ward to an inpatient mental health facility and filing for emergency detention. The bill grants a guardian the power to transport a ward to an inpatient mental health facility for a preliminary examination and authorizes the guardian, if the ward is not a minor, to consent to the administration of psychoactive medication. The bill adds a requirement to the annual report submitted by the guardian to include whether the guardian has filed for emergency detention of the ward, the number of times, and the dates of the applications.

House Bill 2679 amends the Health and Safety Code to authorize the guardian to transport the ward, without police assistance, to a facility if the guardian has reason to believe that the ward, who is not a minor, is mentally ill, and because of that mental illness there is a substantial risk of serious harm to the ward or to others unless the ward is immediately restrained. The bill requires the guardian to immediately file an application for detention with the facility and to provide the court that granted the guardianship written notice of the filing of the application.

House Bill 3503

Effective: 9-1-03

House Author: Hartnett

Senate Sponsor: Harris

House Bill 3503 amends the Property Code to set forth new provisions regarding exculpatory clauses in trusts. The bill prohibits a settlor from relieving a trustee of liability for a breach of trust committed in bad faith, intentionally, or with reckless indifference to the interest of the beneficiary, or for a profit derived by the trustee from a breach of trust. The bill amends the Property Code and the Texas Probate Code to provide that a provision in certain trusts that relieves a trustee from a duty, responsibility, or liability is enforceable only if the provision is limited to circumstances unique to the property of that trust and is not applicable generally and the court makes a specific finding that there is clear evidence that the provision is in the best interests of the beneficiary.

The summary for the following bill is in the listed chapter:

HB 1666 - Courts

Property Interests

This chapter covers legislation on issues relating to property interests, including the landlord-tenant relationship, local government regulation, property owners' associations, public lands, and real property. Bills relating to the Veterans Land Program are in the **State Government** chapter, and bills relating to property taxation are in the **Property Taxes** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

Landlord-Tenant

House Bill 560

Effective: 1-1-04

House Author: Pickett

Senate Sponsor: Madla

House Bill 560 amends the Transportation Code to authorize the owner of a parking facility or certain other real property that serves a residential apartment complex to remove an unattended vehicle that obstructs pedestrian or vehicle traffic; is parked in a designated tow away zone; obstructs or is parked in a restricted area; is leaking dangerous fluids; or is a semitrailer, trailer, or truck-tractor unless the parking of the latter class of vehicle is allowed under the terms of the vehicle owner's or operator's rental or lease agreement. The bill exempts certain unattended emergency vehicles from removal. The bill prohibits the parking facility owner from having an unattended vehicle removed merely because it does not display an unexpired license plate, registration insignia, or valid inspection certificate unless the owner or operator of the vehicle is given at least 10 days' written notice that the vehicle will be towed at the vehicle owner's or operator's expense if it is not removed from the parking facility. The bill requires such written notice to be delivered to the vehicle's owner or operator in person or by certified mail with a return receipt requested. The bill specifies that its provisions do not authorize a vehicle owner or operator to leave an unattended vehicle on property that is not designed or intended for parking, and that they do not affect the enforcement of other laws relating to abandoned motor vehicles.

House Bill 3190

Effective: 9-1-03

House Author: Uresti

Senate Sponsor: Carona

House Bill 3190 amends the Property Code to extend the period during which a landlord must either return a security deposit or provide a written description and itemized list of deductions to avoid a presumption of having acted in bad faith. The period is extended from the 30th day after the date the tenant surrenders possession to the 60th day after that surrender to conform with other provisions of the code.

Senate Bill 92

Effective: 6-20-03

Senate Author: R. West

House Sponsor: Kolkhorst

Senate Bill 92 amends the Property Code to prohibit a landlord from limiting a tenant's right to summon police or other emergency assistance in response to family violence or from imposing penalties if a tenant does so. The bill establishes that a tenant is entitled to recover a civil penalty for a violation equal to one month's rent, defined as one month's fair market rent if a tenant's rent is subsidized by a governmental entity, and certain other damages, court costs, and attorney's fees.

Property Interests

Senate Bill 1238

Effective: 5-16-03

Senate Author: Lucio

House Sponsor: Dukes

Senate Bill 1238 amends the Property Code to define “park model unit” as a recreational vehicle that is built on a single chassis, mounted on wheels, and with a gross trailer area of 400 square feet or less in set-up mode and to redefine, for manufactured home community tenancy purposes, “recreational vehicle” as a recreational travel vehicle that is permanently anchored, as in the case of a park model unit. The bill clarifies that the provision requiring a manufactured home community landlord to provide certain information regarding nonrenewal of leases to a prospective tenant applies also to tenancy in recreational vehicles that are permanently anchored on the premises.

Local Government Regulation

House Bill 1204

Effective: 6-20-03

House Author: Baxter

Senate Sponsor: Wentworth

House Bill 1204 amends the Local Government Code to require a municipality and a county that have not reached an agreement on the regulation of subdivisions within the municipality’s extraterritorial jurisdiction (ETJ) by a certain date to enter into arbitration to settle the disputed issues. Either entity can request arbitration, and neither can refuse to participate. The bill sets out the procedures for selecting an arbitrator or a panel of arbitrators, who must render a decision within 60 days of selection. If a decision is not reached by that time, the arbitrator or arbitration panel must issue an interim decision that remains in effect until a decision is reached. The bill places limitations on the arbitrator’s authority, prohibits the municipality and county from arbitrating regulation of an individual plat, and provides that only one of the two entities may approve permits in the ETJ after an agreement has been executed. It holds the municipality and county equally liable for arbitration costs and requires them to certify that their agreement complies with applicable state law. The bill exempts from the regulation agreement a tract of land in an ETJ that is subject to certain development agreements between the municipality and the property owner. The bill stipulates that if a regulation or agreement establishes a plan for future roads that conflicts with a proposal or plan adopted by a metropolitan planning organization (MPO), the MPO proposal or plan prevails. The bill makes property that is released from a municipality’s ETJ and for which approval of certain plat applications is pending subject only to county approval of the application and related permits and county regulation of the plat. The bill stipulates that any expansion or reduction in an ETJ that affects property subject to a plat application or an application for a related permit filed with either the county or the municipality does not affect any rights accrued in the process, and the application’s approval by either entity remains effective regardless of its ETJ designation. The bill provides alternative procedures for the revision of a plat located outside a municipality and the ETJ of a municipality with a population of at least 1.5 million.

House Bill 1207

Effective: 9-1-03

House Author: Kuempel

Senate Sponsor: Armbrister

House Bill 1207 amends the Local Government Code to provide that a zoning regulation relating to the exterior appearance of a single-family house or the landscaping of a single-family residential lot that is adopted after a residential subdivision plat is approved does not apply to that subdivision until the second anniversary of the later of: (1) the date the plat is approved;

or (2) the date the municipality accepts the subdivision improvements dedicated for public use. The bill establishes that these provisions do not prevent a municipality from adopting or enforcing applicable building codes or from prohibiting the use of hazardous building materials.

House Bill 2130**Effective:** 9-1-03**House Author:** Kuempel**Senate Sponsor:** Wentworth

House Bill 2130 amends the Local Government Code to specify that the law governing the issuance of local permits for land use, structures, businesses, and related activities does not apply to regulations to prevent the imminent destruction of property or injury to persons if the regulations do not affect lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of a project, or change development permitted by a restrictive covenant required by a municipality. The bill clarifies that the exemption for regulations to prevent imminent destruction of property or injury to persons pertains only to flooding. It prohibits a water district or regional aquifer authority from imposing permit requirements on or otherwise regulating a project in progress on the date the district or authority adopts any rule requiring a permit or authorization for a project to improve or develop land.

House Bill 2212**Effective:** 9-1-03**House Author:** Mowery**Senate Sponsor:** Madla

House Bill 2212 amends the Local Government Code to prohibit a municipality incorporated after September 1, 2003, from prohibiting a person from continuing to use land in the area in the same manner in which the land was being used on the date of incorporation if the land use was legal at that time. The municipality also cannot prohibit a person from beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the incorporation if a license or other form of authorization is required and a completed application for the initial authorization was filed before the date of incorporation. The bill specifies land use regulations that are not prohibited after incorporation.

House Bill 2540**Effective:** 6-20-03**House Author:** Menendez**Senate Sponsor:** Van de Putte

House Bill 2540 amends the Local Government Code to allow a defense base development authority whose subject property is within the territorial limits of a municipality to exercise the power of eminent domain to acquire property in or adjacent to the base property. Such exercise must be in accordance with the Property Code chapter relating to eminent domain. Furthermore, the authority, before initiating an eminent domain proceeding, must adopt a master development and redevelopment plan for the property, must incorporate and approve the plan as part of the municipality's master plan, and must reach certain findings after conducting a public hearing.

Property Owners' Associations**House Bill 645****Effective:** 9-1-03**House Author:** Puente**Senate Sponsor:** Armbrister

House Bill 645 amends the Property Code to prohibit a property owners' association from creating or enforcing a restrictive covenant that prohibits or restricts a property owner from implementing measures to promote solid-waste composting of vegetation, installing rain barrels or a rainwater harvesting system, or implementing efficient irrigation systems. A property

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owners' association is not prohibited from regulating the requirements for or the location of a composting device, a rain barrel, a rain harvesting device, or any other appurtenance if the restriction does not prohibit the economic installation of the device. The bill also provides that an association may regulate the installation of efficient irrigation systems, including by establishing visibility limitations for aesthetic purposes. House Bill 645 authorizes a property owners' association to encourage or require water-conserving turf and specifies that an association is not prevented from regulating yard and landscape maintenance if the requirements do not restrict or prohibit turf or landscaping design that promotes water conservation. The provisions do not apply to a property owners' association that is located in a municipality meeting certain population, location, and development requirements.

House Bill 1129

Effective: 9-1-03

House Author: Farrar

Senate Sponsor: Gallegos

House Bill 1129 amends provisions of the Local Government Code relating to enforcement of land-use restrictions in a municipality with a population of 1.5 million or more that passes an ordinance to enforce the restrictions with regard to all property and residents or in a municipality that does not have zoning ordinances and that passes an ordinance to enforce the restrictions with regard to all property and residents. The bill clarifies what restrictions the municipality can enforce by redefining "restriction" to include a land-use regulation that affects the character or the use of the property, regulates or restricts the type of activities that may take place, regulates architectural features of a structure, or specifies the type of maintenance that must be performed. The bill prohibits the municipality from initiating or maintaining a lawsuit to enforce a deed restriction if a property owners' association files a lawsuit to enforce the restriction and from enforcing a deed restriction that restricts the rights of public utilities within easements and private or public rights-of-way. The municipality also cannot participate in a lawsuit or other proceeding to foreclose a property owners' association's lien on real property. The bill prohibits a property owners' association from using the work product of the municipality's legal counsel in a suit to enforce a restriction or to foreclose a property owners' association's lien on real property.

House Bill 1454

Effective: 9-1-03

House Author: Eiland

Senate Sponsor: Janek

House Bill 1454 amends provisions of the Property Code to apply the law granting powers to property owners' associations relating to restrictive covenants in certain subdivisions to a county with a population of 250,000 or more that is adjacent to a county having a population of 2.8 million or more and that is adjacent to the Gulf of Mexico.

House Bill 2200

Effective: 9-1-03

House Author: Solomons

Senate Sponsor: Fraser

House Bill 2200 amends provisions of the Property Code relating to condominiums created before and after adoption of the Uniform Condominium Act. The bill renders a provision of a recorded contract that requires owners of apartments in a condominium community to maintain a membership in a specified private club invalid after the 10th anniversary of the date the provision is recorded unless it is renewed in a specified manner and the text of the renewed provision is recorded in the real property records of each county in which the condominium is located. The bill prohibits such a provision from being enacted or renewed as a bylaw by a council of owners or an owners' association.

Public Lands

House Bill 1457

Effective: 6-18-03

House Author: Eiland et al.

Senate Sponsor: Janek

House Bill 1457 amends provisions of the Natural Resources Code relating to the attorney general's authority to enforce the law governing access to public beaches. The bill authorizes the commissioner of the General Land Office to issue an order suspending for two years the submission of a request that the attorney general file suit to obtain a court order to remove a house from a public beach if the commissioner, in consultation with the Bureau of Economic Geology at The University of Texas, makes certain determinations relating to the property. The bill requires an order to be posted on the land office's Internet website, published in the Texas Register, and filed in the real property records of the county in which the house is located and notice of the order to be provided to the attorney general and local prosecuting attorneys. The bill authorizes a local government to issue a certificate or permit authorizing repair, under certain conditions, of a house subject to the order and to allow utilities to be reconnected to the house. The bill specifies that an order does not create a private cause of action, is exempt from certain private property law, and suspends a limitations period established by statute or common law. The bill requires a subdivision of this state, other than a county or municipality, to act in partnership with a county or municipality in erecting a lawful beach structure. The bill removes the attorney general's participation in several activities related to beach access. Finally, the bill amends the law to provide that the attorney general may file suit, only at the request of the commissioner, to prohibit and remedy any violation of beach access and to collect damages to injured natural resources and to recover civil penalties.

House Bill 2044

Effective: 6-20-03

House Author: McReynolds

Senate Sponsor: Staples

House Bill 2044 revises and updates Chapter 31 of the Natural Resources Code, relating to the asset management duties of the General Land Office. The bill authorizes the asset management division of the land office (division) to sell to a political subdivision for market value any real property owned by the state if the governor approves the sale and the land commissioner determines the sale is in the best interest of the state. A state agency or political subdivision is authorized to sell or exchange real property held jointly with the School Land Board for the benefit of the permanent school fund if the sale or exchange is for market value and the governor approves the sale. The bill requires each state agency, at a time set by the division, to furnish the Texas Historical Commission with information related to certain state buildings, and requires the division to maintain the inventory records of the former Texas National Research Laboratory Commission. The bill specifies that the duties of the division to make recommendations regarding real property and of the land commissioner to prepare a report involving real property do not apply to real property of the Texas Historical Commission, Alamo, French Legation, Governor's Mansion, State Cemetery, and property administered by the State Preservation Board, or to highway rights-of-way owned by the Texas Department of Transportation. The bill deletes a provision requiring the division to provide a list of unused or underused state property to the Texas Department of Housing and Community Affairs for evaluation of the suitability of the property for affordable housing and adds provisions relating to review of proposed real estate transactions for use as affordable housing by the department after the land commissioner has submitted them to the governor. For real estate transactions authorized by the governor, the bill authorizes expenses incurred by the land office, including

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brokerage fees, to be deducted from the proceeds of a transaction and specifies where proceeds are to be deposited. The bill requires proceeds from the sale of real property purchased with general revenue funds during calendar years 1995 through 2002 to be deposited in the unobligated portion of the general revenue fund and to be appropriated only to the state agency that possessed the property at the time of the sale. It gives the School Land Board the first option to purchase real property authorized for sale by the legislature or the governor and sets forth procedures for determining the market value of the property. Finally, the bill adds a new subchapter to Chapter 51 of the Natural Resources Code, relating to grants to allow a lessee of real property owned by the permanent school fund and used for grazing or agricultural purposes to apply to the land commissioner for a grant to construct a permanent improvement on the leased property and provides that any improvement constructed with grant funds is the real property of the permanent school fund.

House Bill 2249

Effective: 6-18-03

House Author: Howard

Senate Sponsor: Staples

House Bill 2249 amends the Natural Resources Code to amend provisions relating to the sale and lease of public school land by the General Land Office. The bill authorizes the land office to contract for the services of a real estate broker to assist in real estate transactions and authorizes outside appraisers to determine market value of public school land. It requires the owner of land that surrounds any size tract of public school land to have a preference right to purchase the tract before the land is made available for sale to any other person and specifies that if the surrounding land is owned by more than one person the owners of land with a common boundary with a tract of 1,200 acres or less, instead of 700 acres or less, have the preference right of purchase. It provides that any unpaid principal and interest on public school land sales is considered delinquent after 30 days from the date payment is due. It decreases the amount of time to file a claim to reinstate a land purchase that has been forfeited for nonpayment of principal and interest from five years to six months from the date of the forfeiture and requires a reinstatement fee when a forfeited award is reinstated. The bill authorizes unsold public school land to be leased for any purpose the land commissioner determines is in the best interest of the state and authorizes, rather than requires, the commissioner to require a lessee of public school land for agricultural or grazing purposes to implement an approved soil and water conservation plan. House Bill 2249 authorizes the commissioner to waive or reduce an easement fee if the easement granted is to improve the infrastructure of the land, including production and transportation of alternative or renewable energy resources, and authorizes the lease of timber located on public land. Finally, the bill establishes that any sale of public land, timber, and surface resources must be for market value or higher and under any other terms and conditions that the commissioner determines are in the best interest of the state.

Senate Bill 641

Effective: 9-1-03

Senate Author: R. West

House Sponsor: Turner

Senate Bill 641 amends the Civil Practice and Remedies Code to create a presumption that maps, property descriptions, and qualified surveys filed in the General Land Office in connection with a land grant by the state or any predecessor government accurately depict the boundary between adjacent upland property and state-owned submerged lands in the Gulf of Mexico unless it is shown by clear and convincing evidence that the boundary as described is erroneous.

Real Property

House Bill 335

Effective: 9-1-03

House Author: Hamric et al.

Senate Sponsor: Lindsay

House Bill 335 amends provisions of the Civil Practice and Remedies Code and the Tax Code relating to the public sale of certain real property. The bill prohibits an officer from executing or delivering a deed to a purchaser, unless the purchaser exhibits an unexpired written statement from the county assessor-collector of the county in which the sale is conducted that the purchaser has no delinquent ad valorem taxes owed to the county or to a school district or municipality having territory in the county. The bill prohibits an individual from purchasing property in the name of another and prohibits an officer from delivering a deed to a person other than the successful bidder. The bill establishes that it is a Class B misdemeanor offense for a person to knowingly violate these provisions.

The bill authorizes a person to request a written statement from a county assessor-collector stating whether the person owes any delinquent taxes, and authorizes the assessor-collector to charge a fee of up to \$10 for each statement requested. The bill sets forth procedures for the assessor-collector to acquire the information and to respond to the request.

House Bill 730

Effective: 9-1-03

House Author: Ritter et al.

Senate Sponsor: Fraser

House Bill 730 adopts a new Property Code title establishing the Texas Residential Construction Commission. The bill requires the commission to adopt building and performance standards for residential construction, including standards for mold exposure reduction and remediation measures, and limited statutory warranties of specified time periods, but it allows certain alternative standards to apply to residential construction in colonias. The warranties become the exclusive implied warranties, although certain other express, written warranties may apply. A contract between a builder and homeowner may not waive the commission's warranties or standards, although a contract may include more stringent ones. The bill authorizes commission approval of third-party warranty companies through which a builder may provide a warranty. It requires the commission to appoint a task force to advise the commission on mold reduction and remediation standards and another to develop design recommendations on residential rain harvesting and water recycling.

The bill requires certain builders involved in new home construction or home improvements to register with the commission. Builders must also register new homes with the commission, as well as other homes involved in transactions governed by the new code title. The bill establishes residential construction arbitration procedures for disputes between homeowners and builders regarding construction defects. It requires the commission to appoint an advisory task force on such arbitration, and it provides for commission certification of residential construction arbitrators but does not prohibit noncertificated arbitrators from conducting arbitrations involving residential construction defects. If an arbitration award is filed in court, a summary of the award must be filed with the commission.

The bill creates a state-sponsored inspection and dispute resolution process. In a dispute over an alleged residential construction defect, either the homeowner or the builder may request resolution via that process. A homeowner, moreover, must comply with associated requirements before initiating any legal action for damages or other relief arising from an alleged defect. If a homeowner requests the process, notification must go to the builder, who has certain inspection rights as well as the responsibility to cure a defect that creates an

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imminent threat to the health or safety of inhabitants of the residence. The resolution process involves commission appointment of a third-party inspector, who produces a recommendation addressing the defect based on the applicable warranty and standards and designating a manner of repair, if any. The homeowner or builder may appeal the recommendation. Appeals are heard by state inspectors appointed by the commission. A recommendation by a third-party inspector, or a ruling by an appeals panel of state inspectors, becomes in any lawsuit a rebuttable presumption of the existence or nonexistence of a construction defect or the reasonable manner of its repair. A party legally contesting that presumption has a burden of proof by a preponderance of evidence. The bill includes changes to other code provisions relating to residential construction liability, primarily conforming amendments consistent with the added title.

House Bill 1306

Effective: 6-20-03

House Author: Marchant

Senate Sponsor: Wentworth

House Bill 1306 amends the Natural Resources Code and the Education Code to provide that certain information relating to real property purchased or sold by the General Land Office or by a public college or university is confidential and exempt from disclosure under open government provisions until a deed is executed, rather than when a contract is awarded.

House Bill 2930

Effective: 9-1-03

House Author: Lewis

Senate Sponsor: Madla

House Bill 2930 amends the Property Code to allow for the elimination of social security and driver's license numbers from an instrument such as a deed, mortgage, or deed of trust executed on or after January 1, 2004, and recorded with the county clerk. The bill prohibits an instrument transferring an interest in real property to or from an individual from being recorded unless a notice appears on the first page of the instrument notifying a person of the right to remove or strike the person's social security number or driver's license number before the instrument is filed, and it requires the county clerk to post a notice in the county clerk's office that states that instruments in the real property or official public records of the county, or their equivalents, do not have to contain either of those numbers and that they are available for public inspection.

Senate Bill 1527

Effective: 9-1-03

Senate Author: Brimer

House Sponsor: Solomons

Senate Bill 1527 amends the Property Code to decrease the time allowed for a purchaser to cure a default under an executory contract for conveyance of real property from 60 days to 30 days after the date the seller notifies the purchaser of the seller's intent to enforce a remedy and of the purchaser's right to cure the default.

Senate Bill 1559

Effective: 9-1-03

Senate Author: Madla

House Sponsor: Lewis

Senate Bill 1559 amends the Property Code to allow for the elimination of social security and driver's license numbers from an instrument such as a deed, mortgage, or deed of trust executed on or after January 1, 2004, and recorded with the county clerk. The bill prohibits an instrument transferring an interest in real property to or from an individual from being recorded unless a notice appears on the first page of the instrument notifying a person of the right to remove or strike the person's social security number or driver's license number before the instrument is filed, and it requires the county clerk to post a notice in the county clerk's office

that states that instruments in the real property or official public records of the county, or their equivalents, do not have to contain either of those numbers and that they are available for public inspection.

Senate Bill 1647**Effective:** 6-20-03**Senate Author:** Staples**House Sponsor:** Hope

Senate Bill 1647 amends the Property Code to authorize a developer of a timeshare property to charge a reasonable fee for completing a standardized contract form, a closing document, or a disclosure document required for the sale, exchange, option, lease, or rental of a timeshare interest in the property. The bill provides that such action does not constitute the unauthorized or illegal practice of law in Texas if the document has been accepted by the Texas Real Estate Commission for use in that type of transaction or was prepared by a licensed Texas attorney for that specific purpose.

Senate Bill 1708**Effective:** 1-1-04**Senate Author:** Wentworth**House Sponsor:** Baxter

Senate Bill 1708 amends the Property Code to require a governmental entity to disclose, at the time of acquiring property through eminent domain for a public use, that the owner of the property or the owner's heirs, successors, or assigns are entitled to repurchase the property at a certain price if the public use is canceled within 10 years of the date of acquisition. The bill establishes requirements for notice to the previous property owner by the governmental entity, notice to the governmental entity of the person's intent to repurchase the property, and sale of the property.

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

HB 212 - Local Government
 HB 803 - Water
 HB 1197 - Local Government
 HB 2252 - Environment
 HB 2396 - State Government
 HB 2801 - Housing
 HB 3591 - Local Government
 SB 640 - Civil Remedies and Procedures
 SB 656 - Local Government
 SB 1582 - Parks and Wildlife

Property Taxes

This chapter covers legislation on property tax appraisals, protests, and appeals and the exemptions from, limitations on, and collection of ad valorem taxes. It also includes legislation on the seizure and sale of property under a tax warrant, the determination of school district property values, the Development Corporation Act, and reinvestment zones. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 983**Effective:** 6-20-03**House Author:** Talton**Senate Sponsor:** Staples

House Bill 983 amends the Government Code to entitle a property tax appraisal district to obtain from the Department of Public Safety a criminal history background check on a person who applies for employment with the district.

House Bill 2043**Effective:** 6-20-03**House Author:** Griggs**Senate Sponsor:** Brimer

House Bill 2043 amends the Tax Code to change the deadlines by which the governing body of each taxing unit in an appraisal district must submit to the chief appraiser its vote to elect the board of directors of the appraisal district and its nominee to fill a vacancy on the board of directors. The deadline for submitting a vote for board of directors is changed from November 15 to December 15, and the deadline for submitting a nominee to fill a vacancy is changed from 10 days to 45 days after notification of the existence of the vacancy.

House Bill 3075**Effective:** 6-20-03**House Author:** G. West**Senate Sponsor:** Bivins

House Bill 3075 amends the Development Corporation Act of 1979 to allow agreements between taxing units and certain city development corporations to invest in and share tax revenues from economic development projects that are located outside the taxing unit's territory. The agreement may provide that the taxing unit is entitled to receive from the corporation, in exchange for its investment, an amount equal to a specified percentage of the tax revenue collected by the corresponding taxing unit that taxes property located in the project's defined area. The bill requires a city development corporation that enters into an investment agreement to also enter into an agreement with the corresponding taxing unit where the project is located to recover the amount the corporation pays to the other taxing unit under the investment agreement.

Appraisals and Protests

House Bill 193**Effective:** 1-1-04**House Author:** Pitts**Senate Sponsor:** Averitt

House Bill 193 amends the Tax Code to remove the limit on the number of members on an appraisal review board and to authorize the district board of directors to increase the size of the appraisal review board to the number of members the board of directors considers appropriate.

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House Bill 703

Effective: 1-1-04

House Author: Solomons

Senate Sponsor: Janek

House Bill 703 amends the Tax Code to require that if all chief appraisers of the appraisal districts in which a parcel or item of property is located are not in agreement as to the appraised or market value of the property on May 1, the lowest value as determined by any of the chief appraisers must be entered as the appraised or market value of the property in all of the appraisal districts. If the value is subsequently lowered in one or more districts as a result of a protest, appeal, or other action, the lowest value must be entered as the property's value in all of the districts.

House Bill 893

Effective: 9-1-03

House Author: Haggerty

Senate Sponsor: Brimer

House Bill 893 amends the Tax Code to establish a deadline of not later than the 45th day after the date an ad valorem tax appeal is finally determined for the chief appraiser to correct the appraisal roll and other appropriate records and certify the change to the tax assessor for each affected taxing unit.

House Bill 1082

Effective: See below

House Author: Talton

Senate Sponsor: Staples

House Bill 1082 amends provisions of the Tax Code relating to the appraisal of property for ad valorem taxation. For property that is located in more than one appraisal district, the bill establishes joint procedures for use by chief appraisers to determine the property's appraised or market value. It requires each chief appraiser to enter the lowest appraised or market value of a property, as determined by any of the chief appraisers, on the appraisal records of the appropriate appraisal district if on May 1 all the chief appraisers are not in agreement as to the property's value. Notice of any subsequent reduction in either appraised or market value by any chief appraiser as a result of a protest, appeal, or other action must be provided each appraisal district, and the reduced appraised or market value must also be entered on the appraisal records for each affected appraisal district. These provisions are effective January 1, 2004, and apply to property tax appraisals for a tax year beginning on or after that date.

House Bill 1082 grants the owner of property of a telecommunications provider that runs through or operates in more than one county and that is appraised by more than one appraisal district the same rights to appeal an order of an appraisal review board as are granted to oil and gas or electric utilities who own or operate multicounty pipelines or electric lines.

The bill clarifies the burden of proof placed on an appraisal district in a protest before the appraisal review board on the grounds of unequal appraisal of property by requiring the board to show either that the appraisal ratio of the property is equal to or less than the median level of appraisal of certain specified samples of property in the district or that the appraised value of the property is equal to or less than the median appraised value of a reasonable number of properties appropriately adjusted. The bill requires a district court, in an appeal, to grant relief on the grounds that a property is appraised unequally if the appraisal ratio exceeds the median levels of appraisal of the samples above by 10 percent or more or if the appraised value of the property exceeds the median appraised value of a reasonable number of properties appropriately adjusted. The bill also clarifies the manner of relief granted to a property owner if the owner is entitled to relief under any of the circumstances proven in court. These provisions are effective September 1, 2003.

House Bill 1460**Effective:** 1-1-04**House Author:** Eiland et al.**Senate Sponsor:** Jackson

House Bill 1460 amends the Tax Code to require a chief appraiser, when using the income method of appraisal to determine the market value of real property, to analyze comparable rental data or the potential earnings capacity of the property, or both, to estimate the gross income potential of the property; analyze comparable operating expense data to estimate the operating expenses of the property; analyze comparable data to estimate the rates of capitalization or rates of discount; and base projections of future rent or income potential and expenses on reasonably clear and appropriate evidence. House Bill 1460 requires a chief appraiser, when developing income and expense statements and cash-flow projections for a property, to consider historical information and trends, current supply and demand factors that affect those trends, and anticipated events such as competition from other similar properties under construction. In determining the market value of real property, the chief appraiser must exclude any tangible personal property, intangible personal property, or other property that is not subject to appraisal as real property.

House Bill 2726**Effective:** 1-1-04**House Author:** Talton**Senate Sponsor:** Staples

House Bill 2726 amends the Tax Code to allow an owner of inventory to waive the right to have the inventory specially appraised by one or more taxing units for ad valorem tax purposes at the price for which the inventory would sell as a unit.

House Bill 3607**Effective:** 1-1-04**House Author:** Hilderbran**Senate Sponsor:** Armbrister

House Bill 3607 amends the Tax Code to prohibit a chief appraiser, in calculating net to land in the ad valorem tax appraisal of open-space land used for wildlife management, from considering the income that would be due to the landowner under a hunting or recreational lease of the land.

Senate Bill 340**Effective:** See below**Senate Author:** Staples et al.**House Sponsor:** Hill

Senate Bill 340 amends provisions of the Tax Code relating to the rendition and appraisal of property for ad valorem tax purposes and electronic communication between property owners and appraisal districts. The bill requires that an agreement between a chief appraiser and a property owner to communicate in electronic format specify the means for confirming delivery of a communication and the electronic mail address of the property owner, and it requires the comptroller to set rules prescribing acceptable media, formats, content, and methods for electronic transmission of appraisal notices to the property owner. It specifies the information that must be contained in a person's rendition statement on tangible personal property used in the production of income, and it allows the owner of property that is regulated by the Public Utility Commission of Texas, the Railroad Commission of Texas, or the Federal Energy Regulatory Commission to submit a copy of the annual regulatory report for the property plus other necessary information to satisfy the requirement for a rendition statement. The bill allows a chief appraiser to request a property owner to provide a statement that indicates how the property value on the rendition statement was determined; the property owner must provide the statement within 21 days of the request or be subject to a penalty for failure to render in a timely manner.

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Senate Bill 340 establishes a 30-day deadline for rendering property for which an application for tax exemption has been denied by the chief appraiser. It extends the deadline for filing a delayed rendition statement or property report from April 30 to May 15, and it establishes a penalty equal to 10 percent of the tax liability for failure to file in a timely manner and a penalty equal to 50 percent of the tax liability for filing a false statement or engaging in any conduct with the intent to commit fraud or tax evasion. For the purposes of appraising property, the bill establishes conditions under which an improvement to property damaged by mold or water is considered a new improvement.

Senate Bill 340 is effective January 1, 2004, except for provisions relating to communications in electronic format, which take effect January 1, 2005, and provisions relating to the filing deadline for a rendition statement or property report, which take effect September 1, 2003.

Senate Bill 480

Effective: 6-20-03

Senate Author: Madla

House Sponsor: Mercer

Senate Bill 480 amends a provision of the Tax Code relating to sanctions, in the form of additional tax and interest, imposed by a chief appraiser if the use of land that an owner has qualified to be appraised as open-space land for property tax purposes is changed. The bill provides that sanctions do not apply if the change of use occurs as the result of the property being transferred from the state, a political subdivision of the state, or certain nonprofit corporations created under the Development Corporation Act of 1979 to an individual or a business entity for purposes of economic development if the comptroller determines that the economic development is likely to generate an amount of revenue for deposit in the general revenue fund during the next two bienniums that exceeds 20 times the amount of revenue provided by the sanctions. Within a year of the conclusion of the two bienniums, the chief appraiser may request that the comptroller determine whether the amount of revenue met the projected increases and, based on the comptroller's finding, determine whether the sanctions should be imposed.

Senate Bill 671

Effective: 6-20-03

Senate Author: Staples

House Sponsor: Wohlgemuth

Senate Bill 671 amends provisions of the Government Code and the Tax Code relating to the determination of school district property values and the accountability of appraisal districts. The bill provides that if the comptroller determines that the local value of property in a school district is invalid, the taxable value of property is the state value, unless the local value exceeds the state value, in which case the taxable value of property is the local value. In such instances, the commissioner of education is required to compute the amount by which funding to the school district under wealth equalization provisions must be reduced for the 2003-2004 school year, and allocate those funds to school districts whose taxable value is the state value and whose maintenance and operations tax rate exceeds \$1.42 on the \$100 valuation of taxable property. Senate Bill 671 establishes a methodology for use by the comptroller in determining whether the local value for a school district is valid, and whether a school district is eligible to use the local value, rather than state value. It amends provisions relating to the comptroller's review of the appraisal standards used by each appraisal district, compliance with the comptroller's recommendations to improve appraisal standards, and the appointment of a board of conservators by a district court judge to implement the comptroller's recommendations if the appraisal district fails to comply. Senate Bill 671 authorizes the comptroller to audit the effectiveness and efficiency of the policies, management, and operations of an appraisal district.

Senate Bill 902**Effective:** 6-20-03**Senate Author:** Staples**House Sponsor:** Hopson

Senate Bill 902 amends the Tax Code to require the depository for an appraisal district to serve for a term of two years and until its successor has been designated and has qualified. The bill authorizes the district's board of directors and the depository to agree to extend the depository's contract for one additional two-year period.

Senate Bill 1452**Effective:** 9-1-03**Senate Author:** Harris**House Sponsor:** Harper-Brown

Senate Bill 1452 amends the Tax Code to make it a Class C misdemeanor offense for a member of an appraisal review board and the chief appraiser or another employee of an appraisal district to communicate with one another on the specific evidence, argument, facts, merits, or property involved in a hearing currently pending before the appraisal review board.

Senate Bill 1646**Effective:** 1-1-04**Senate Author:** Staples**House Sponsor:** Christian

Senate Bill 1646 amends provisions of the Tax Code relating to the ad valorem tax appraisal of qualified timberland. In the definition of "net to land," the calculation of the land's annual net income is changed. The bill also changes the capitalization rate used to determine the appraised value of qualified timberland.

Senate Bill 1833**Effective:** See below**Senate Author:** Staples**House Sponsor:** Christian

Senate Bill 1833 amends the Tax Code to require the comptroller to prescribe acceptable media, formats, content, and methods for the exchange of electronic information between a chief appraiser and a property owner regarding a notice of appraised value and to authorize the comptroller to take similar action with regard to other notices, renditions, and applications. The bill requires that a written agreement between a chief appraiser and a property owner to communicate in electronic format specify the means for protecting the e-mail address of the property owner and the means for confirming delivery of a communication. If requested by a property owner who has 25 or more accounts, a chief appraiser is required to enter into an agreement to communicate with the property owner in an electronic format. Senate Bill 1833 takes effect January 1, 2005, except in counties with a population of 500,000 or less, where it takes effect January 1, 2006.

Collection Issues**House Bill 1125****Effective:** See below**House Author:** Flores**Senate Sponsor:** Staples

House Bill 1125 amends the Tax Code to allow the owner of a mineral interest sold for unpaid ad valorem taxes to a purchaser other than a taxing unit to redeem the mineral interest on or before the second anniversary of the date on which the purchaser's deed is filed for record. House Bill 1125 takes effect January 1, 2004, contingent on voter approval of the constitutional amendment proposed by House Joint Resolution 51.

Property Taxes

House Bill 2148

Effective: 6-20-03

House Author: Gattis

Senate Sponsor: Wentworth

House Bill 2148 amends the Tax Code to provide that an unauthorized restriction or condition placed by the maker of the check on a check in payment of delinquent ad valorem taxes or penalties and interest that purports to limit the amount of delinquent ad valorem taxes or penalties and interest owed by the maker to a lesser amount is void.

House Bill 3232

Effective: Vetoed

House Author: T. Smith

Senate Sponsor: Brimer

House Bill 3232 amends the Health and Safety Code to provide that, on the request of a municipality, a person who assesses ad valorem taxes for the municipality must include on the annual tax bill sent to a property owner a separate item for expenses imposed by the municipality, including accrued interest. The tax bill must also show the total amount due, including ad valorem taxes assessed, expenses incurred, and interest accrued. The bill requires the property owner to pay the expenses and interest concurrent with payment of ad valorem taxes to the person who collects those taxes for the municipality. If the person who assesses or collects such taxes is not an officer or employee of the municipality, the municipality must negotiate a reasonable fee to be paid to that person for those services.

Reason Given for Veto: "House Bill No. 3232 would require Tarrant County tax assessor-collectors to implement a costly system whereby fines written by City of Fort Worth officials for health and safety violations could be specifically listed on annual property tax bills sent to landowners. Current law provides adequate means for all Texas cities to enforce the collection of fines associated with violations of health and safety ordinances. In addition, the bill does not address the effect unpaid health and safety fines have on the status of title of the underlying property. Moreover, the bill does not adequately address issues concerning how fines would be paid by people who choose to escrow their property taxes and insurance with third parties."

House Bill 3419

Effective: 6-18-03

House Author: J. Davis

Senate Sponsor: Lindsay

House Bill 3419 amends provisions of the Tax Code relating to the seizure and sale of property at a tax sale and to the distribution of tax sale proceeds. In a county with a population of three million or more, the bill allows the posting of notice and subsequent sale of seized personal property to be conducted by a peace officer or a collector specified in a warrant; as an alternative, the bill also allows the commissioners court to authorize a peace officer or collector for the county to enter into an agreement with a licensed auctioneer or service provider to advertise and conduct the auction sale of property against which a tax warrant has been issued. The bill provides for on-line advertising, bidding, and sale under an agreement with a service provider. House Bill 3419 requires proceeds of a sale to be applied to compensation owed for auction services; to all usual costs of the seizure and sale of a property, including the costs of advertising the sale or of moving, storing, or safeguarding the seized property pending its sale; to court costs associated with issuance of a tax warrant; and to all taxes, penalties, and interest included in the application for the tax warrant. House Bill 3419 establishes conditions under which real property, whether improved or unimproved, may be presumed to have been abandoned for at least one year and is therefore subject to seizure for unpaid taxes by a municipality or a county; the bill allows the municipal or county collector to rely on an affidavit of a person with personal knowledge of the facts determining whether property has been abandoned or is vacant. If notice has not been served by a municipality or county that the taxes on a person's property are delinquent and the property is subject to seizure, the assessor or collector for the

municipality or county must give notice by either serving a true and correct copy of the application for a tax warrant to each person known who has an interest in the property or, if ownership of the property or the address of the owner cannot be determined, publishing notice of the intent to seize the property in a newspaper or, if publication is not possible, by posting the notice of intent in three public places, including at the county courthouse door. The bill establishes that a person is considered to have been provided notice if the application for the tax warrant contains the certificate of service or if the tax warrant is accompanied by an affidavit stating the fact of publication or posting. On institution of seizure of real property under a tax warrant, the collector also is entitled to recover attorney's fees to compensate an attorney with whom the collector has contracted for the collection of delinquent taxes, penalties, and interest if the request is specified and justified in the warrant application and the delinquent tax to be recovered is not subject to an additional penalty to defray collection costs.

House Bill 3419 allows the sale of real property seized under a tax warrant to take place in an area of the county courthouse or at another location in the county as designated by the commissioners court. The bill provides that the inclusion of dues and assessments for maintenance paid to a property owners' association may not be construed either as a waiver of any immunity to which a taxing unit may be entitled from a suit or from liability for those dues or assessments or as the authority for a taxing unit to spend public funds in violation of certain provisions of the Texas Constitution.

House Bill 3504

Effective: 9-1-03

House Author: J. Davis

Senate Sponsor: Lindsay

House Bill 3504 amends provisions of the Tax Code relating to the collection of taxes on the residence homestead of an elderly or disabled person to allow an individual who is 65 years of age or older or disabled to defer the collection of a property tax assessed on a residence homestead or to abate a sale to foreclose a tax lien. A sale or a pending suit to collect a delinquent tax may not proceed until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead. House Bill 3504 also provides that the additional penalty for collection costs may be imposed only if the taxes for which collection is deferred or abated remain delinquent on or after the 181st day after the date the deferral or abatement period expires. The bill provides for the continuation of a deferral or abatement for the surviving spouse of an individual who dies.

House Bill 3540

Effective: 9-1-03

House Author: Chavez

Senate Sponsor: Shapleigh

House Bill 3540 amends the Tax Code to authorize a tax collector who collects taxes for more than one taxing unit to make a refund to a person who has made an erroneous payment or overpayment of ad valorem taxes in excess of \$2,500, if the auditor for the taxing unit and the governing body that employs the tax collector each determine that an erroneous payment or overpayment was made, and if the refund is approved.

House Joint Resolution 51

For Election: 9-13-03

House Author: Flores

Senate Sponsor: Staples

House Joint Resolution 51 proposes a state constitutional amendment to establish a two-year period for a person to redeem a mineral interest sold for unpaid ad valorem taxes at a tax sale. The provision is applicable only to a sale for which the purchaser's deed is filed for record on or after January 1, 2004.

Property Taxes

Senate Bill 173

Effective: 5-28-03

Senate Author: Nelson

House Sponsor: E. Jones

A legislative enactment passed in 1991 allows eligible taxpayers serving on active duty in the United States armed forces during Persian Gulf hostilities to pay delinquent property taxes without penalties or interest no later than 60 days after the date the person is discharged from active military service, the date the person returns to Texas for more than 10 days, the date the person returns to non-active reserve duty, or the date the war or national emergency ends, whichever is earliest. Senate Bill 173 amends the Tax Code to make the provision applicable to those serving in any branch of the armed forces during a war or national emergency declared in accordance with federal law. Eligible taxpayers include active-duty personnel and mobilized reservists who are transferred out of the state as a result of the war or national emergency. The revision to the law applies to penalties and interest on delinquent taxes if the taxes are paid on or after the bill's effective date, even if the penalties or interest accrued before the effective date.

Senate Bill 725

Effective: 9-1-03

Senate Author: Wentworth

House Sponsor: Casteel

Senate Bill 725 amends the Tax Code to provide that if a mailed tax bill includes taxes for preceding years because property was erroneously omitted from the tax roll, then the delinquency date is postponed to February 1 of the first year that will provide at least 180 days after the mailing date to pay the taxes before they become delinquent. The bill revises provisions relating to interest and penalties on tax delinquencies. It allows the governing body of a taxing unit to waive the interest, and requires the governing body to waive penalties, if the tax is paid not later than the 21st day after the date the taxpayer knows or should know of the delinquency.

Senate Bill 853

Effective: 9-1-03

Senate Author: Madla

House Sponsor: Martinez Fischer

Senate Bill 853 amends the Property Code to require a person who contacts a homeowner by mail or by telephone and offers to aid the homeowner in obtaining a property tax refund to disclose the name of the tax appraisal district or other governmental body that owes the homeowner a refund before accepting money or signing a contract with the homeowner for the person's services.

Exemptions

House Bill 179

Effective: 1-1-04

House Author: D. Ellis

Senate Sponsor: R. Ellis

House Bill 179 amends the Tax Code to include a county fair association in the list of entities entitled to a property tax exemption that, once allowed, need not be claimed in subsequent years.

House Bill 1223

Effective: 6-18-03

House Author: Madden

Senate Sponsor: Estes

House Bill 1223 amends the Tax Code to provide that an ad valorem tax exemption on a residence homestead remains in effect if the owner temporarily stops occupying it as a principal residence for a period of less than two years and intends to reoccupy the homestead, or if the owner is serving as a member of the state or federal armed forces outside of the United States or is residing in a facility that provides services related to health, infirmity, or aging.

House Bill 1278**Effective:** See below**House Author:** Zedler**Senate Sponsor:** Janek

House Bill 1278 amends the Tax Code to exempt land that is owned by a religious organization for the purpose of expanding or constructing a place of regular religious worship from ad valorem taxation if the religious organization qualifies certain other property that produces no revenue for an exemption. The exemption is limited to six years for a tract of land that is contiguous to the tract of land on which the place of regular religious worship is located and is limited to three years for a noncontiguous tract. If the land is sold by the religious organization to another person, additional taxes and interest are imposed to cover the period of the exemption. The bill also exempts from taxation real property owned by a religious organization that is leased to another person for use as a school. House Bill 1278 takes effect January 1, 2004, contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 55.

House Bill 2147**Effective:** 6-20-03**House Author:** Gattis**Senate Sponsor:** Wentworth

House Bill 2147 amends the Tax Code to change the deadline for filing a late application for a residence homestead exemption to one year after the delinquency date for the taxes on the homestead, rather than the earlier of one year after the date the taxes on the homestead were paid or one year after the date the taxes on the homestead became delinquent.

House Bill 2383**Effective:** 1-1-04**House Author:** Hegar**Senate Sponsor:** Janek

House Bill 2383 amends the Tax Code to exempt from taxation property that is owned by the state or other political subdivision but is held or occupied by a qualifying religious organization for use primarily as a place of regular worship.

House Bill 2416**Effective:** 6-18-03**House Author:** Hochberg et al.**Senate Sponsor:** Janek

House Bill 2416 amends provisions of the Tax Code relating to the exemption of land from ad valorem taxation. The bill extends the period for which an incomplete improvement on property that is owned by certain nonprofit organizations may be exempt from taxation from not more than three years to not more than five years. The five-year extension period, effective January 1, 2003, reverts to a three-year extension period January 1, 2006. The bill provides that the sanctions of additional taxes and interest that apply to open-space land that is converted and loses its tax-exempt status do not apply to open-space land that, within five years, is converted back to a tax-exempt status by a charitable organization to provide housing and related services to a retirement community.

House Bill 3546**Effective:** 1-1-04**House Author:** Hamric et al.**Senate Sponsor:** Lucio

House Bill 3546 amends provisions of the Tax Code relating to the exemption from ad valorem taxation of property used to provide affordable housing for low-income to moderate-income persons. The bill provides that a community housing development corporation may not receive an ad valorem tax exemption beginning on or after January 1, 2004, for improved or unimproved real property or tangible personal property owned by the corporation, unless the corporation qualified for an exemption during any part of the 2003 tax year. House

Property Taxes

Bill 3546 establishes requirements for an organization, or an owner of real property that is not an organization, that constructs or rehabilitates real property for affordable housing to qualify the real property for a tax exemption.

House Joint Resolution 55

For Election: 9-13-03

House Author: Zedler et al.

Senate Sponsor: Janek

House Joint Resolution 55 proposes a state constitutional amendment to authorize the legislature to exempt from ad valorem taxation property that is owned by a church or strictly religious organization and that is leased for use as a school or that is owned for the purpose of expanding or constructing a place of religious worship.

Senate Bill 510

Effective: 9-1-03

Senate Author: Staples

House Sponsor: Chisum

Senate Bill 510 amends the Tax Code to repeal provisions that authorized taxing units, other than school districts, to exempt non-income-producing travel trailers from ad valorem taxation, regardless of whether they are real or personal property. The bill removes all Tax Code language about travel trailers and effectively provides that a travel trailer that qualifies as tangible personal property is exempt from ad valorem taxation by any taxing unit unless it is held or used for the production of income or is substantially affixed to real estate and used or occupied as a residential dwelling.

Senate Bill 658

Effective: 6-20-03

Senate Author: Brimer

House Sponsor: Woolley

Senate Bill 658 repeals a provision of the Tax Code that provided for the expiration of the exemption from ad valorem taxation of motor vehicles leased for personal use.

Senate Bill 1659

Effective: Vetoed

Senate Author: Madla

House Sponsor: Mercer

Senate Bill 1659 amends provisions of the Tax Code relating to ad valorem tax exemptions. The bill authorizes a property owner to direct each taxing unit in the appraisal district to deliver tax refunds to a person specified by the property owner. It allows an application for a residence homestead exemption to be filed after the filing deadline has passed if it is filed not later than one year after the delinquency date for the taxes on the homestead, rather than the earlier of one year after the date the taxes on the homestead were paid or became delinquent. Senate Bill 1659 provides that a person 65 years of age or older who receives an ad valorem tax exemption on a residence homestead and who subsequently establishes a different homestead during the same tax year does not qualify for an ad valorem tax exemption on the subsequent residence homestead until January 1 of the following tax year.

Reason Given For Veto: "Senate Bill No. 1659 would authorize property owners to designate an agent to receive tax refunds on their behalf. It would have allowed property owners to designate an agent to receive tax refunds on their behalf. This change would enable firms that help people obtain tax refunds to receive a person's refund in order to deduct its fee, usually 50 percent of the amount recovered. While these firms claim to provide a public service, appraisal districts provide this information to homeowners at no cost. The Attorney General has sued some firms of deceiving homeowners about how they can obtain a homestead exemption.

"The bill also requires senior citizens who establish a different homestead in the middle of the year to wait until the following January 1 to qualify their new residence for a homestead exemption and corresponding tax ceiling, or "freeze." Current law allows citizens who are 65 or over to immediately qualify for the tax exemption on their new residence."

Senate Joint Resolution 25
For Election: 9-13-03

Senate Author: Staples et al.
House Sponsor: Chisum

Senate Joint Resolution 25 proposes a constitutional amendment to allow the legislature by general law to exempt a travel trailer that is not held or used for the production of income from ad valorem taxation. If voters approve the amendment, it takes effect January 1, 2004, and applies only to a tax year that begins on or after January 1, 2002.

Tax Limitations

House Bill 136
Effective: See below

House Author: F. Brown et al.
Senate Sponsor: Nelson

House Bill 136 amends the Tax Code to require that the residence homestead of a person who is 65 years of age or older or disabled be appraised and taxed based on the property qualifying for a limitation of county, municipal, or junior college district taxes that may be imposed. The bill limits the ad valorem taxes that a county, municipality, or junior college district may impose on the residence homestead of a disabled person or of a person 65 years of age or older, or of a surviving spouse who is disabled or who is 55 years of age or older, to not more than the amount imposed on the residence homestead during the first year immediately following the first year for which the individual qualified the residence homestead for the tax exemption. House Bill 136 provides a method for determining the increase in ad valorem taxes on a residence homestead to which the owner makes an improvement, the tax limitation on a different residence homestead that an owner subsequently qualifies for exemption in the same county, municipality, or junior college district, and the imposition of back taxes on a limitation that was erroneously allowed. The bill establishes conditions under which a limitation on ad valorem taxes imposed on a residence homestead expires. House Bill 136 takes effect January 1, 2004, contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 16.

House Bill 217
Effective: See below

House Author: Hamric et al.
Senate Sponsor: Van de Putte

House Bill 217 amends the Tax Code to limit the amount of school district ad valorem taxes that may be imposed on the homestead of a disabled person to the amount imposed in the first tax year in which the individual qualified that residence homestead for an exemption. The bill takes effect January 1, 2004, contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 21.

House Bill 390
Effective: 1-1-04

House Author: Pitts
Senate Sponsor: Averitt

House Bill 390, which amends the Tax Code, applies to effective tax rate and rollback tax rate calculations for a taxing unit, other than a school district, that is located in a county with a population of less than 500,000, and includes property in a reinvestment zone. For such calculations, the bill specifies that the captured appraised value that corresponds to the taxes to be paid into the tax increment fund does not include any value that is included in the calculation of new property value as defined by the Tax Code. The change eliminates a duplicative deduction of the same value at two different steps in the calculation.

Property Taxes

House Joint Resolution 16

For Election: 9-13-03

House Author: F. Brown et al.

Senate Sponsor: Nelson

House Joint Resolution 16 proposes a state constitutional amendment to authorize a county, city or town, or junior college district to establish an ad valorem tax freeze on residence homesteads of persons who are disabled or 65 years of age or older. A freeze on a homestead continues after the person's death if the surviving spouse is 55 years of age or older. The ad valorem tax freeze may be established by official action of the governing body or determined by majority vote at an election called in response to a petition signed by five percent of the registered voters of the county, city or town, or junior college district.

House Joint Resolution 21

For Election: 9-13-03

House Author: Hamric et al.

Senate Sponsor: Van de Putte

House Joint Resolution 21 proposes a state constitutional amendment to prohibit an increase in the total amount of school district ad valorem taxes that may be imposed on the residence homestead of a person who is disabled. If voters approve the amendment, it takes effect January 1, 2004.

Senate Bill 657

Effective: 1-1-04

Senate Author: Brimer

House Sponsor: Lewis

Senate Bill 657 amends the Tax Code to provide that the portion of a tax increment that a taxing unit has agreed to pay into a tax increment fund for a reinvestment zone is not excluded from the amount of taxes imposed by the unit if, in the same tax rate calculation, there is no portion of captured appraised value excluded from the value of property taxable by the unit for the same investment zone. The bill makes provisions relating to treatment of captured appraised value and tax increments applicable to all taxing units except school districts by deleting language limiting application to taxing units in counties with a population of less than 500,000.

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

HB 195 - Public Education

SB 392 - Water Districts

Public Education

This chapter covers issues relating to the state's public school system, including public school accountability, school finance, and school district, campus, and charter school operations. It includes legislation affecting the powers and duties of the Texas Education Agency and the State Board of Education, school district boards of trustees, school administrators, teachers, professional staff, and school employees, as well as legislation affecting students in general, students with special needs, and students at risk of dropping out of school. The chapter includes legislation relating to school curricula, compensatory and special education, student discipline, and other issues affecting student performance. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 219

Effective: 6-20-03

House Author: Hope et al.

Senate Sponsor: Staples

House Bill 219 amends the Education Code to authorize a public elementary or secondary school or an institution of higher education to display the national motto, "In God We Trust," in each classroom, auditorium, and cafeteria.

House Bill 242

Effective: See below

House Author: Seaman et al.

Senate Sponsor: Van de Putte

House Bill 242 amends the Education Code to allow the State Board of Education to develop and implement a plan to incorporate foundation curriculum requirements into the career and technology curriculum. The bill also allows a school district board of trustees to develop and offer a career and technology education program that provides a rigorous course of study consistent with the state's required curriculum and that allows a student to (1) receive specific education in a career and technology profession that either leads to higher education or meets or exceeds business and industry standards and (2) obtain a district award for distinguished achievement in career and technology education and a notation on the student's transcript indicating receipt of the award.

The bill allows the board of trustees of a school district to contract with another school district, a public or private college or university, or a state-regulated technical or trade school for aid in developing the program or providing instruction to students in the program. The board also may contract with a local business for similar aid and, under certain conditions, may insure the business against liability for the injury or death of a student in the program.

The bill allows property-wealthy districts to reduce their per-pupil property wealth to the equalized wealth level by contracting with one or more other districts to serve students in the other district or districts through a designated area program if the commissioner of education certifies that the agreement meets certain conditions relating to the affected districts' per-pupil property wealth. Such agreements to reduce a district's property wealth do not require voter approval.

The bill takes effect September 1, 2003, except that Sections 1 and 3 take effect May 16, 2003, and apply beginning with the 2003-2004 school year.

Public Education

House Bill 319

Effective: 9-1-03

House Author: Grusendorf et al.

Senate Sponsor: Shapiro

House Bill 319 amends the Education Code to add as an express objective of public education that educators will prepare students to be thoughtful, active citizens who appreciate the basic values of our state and national heritage and who can understand and function productively in a free enterprise society.

House Bill 673

Effective: 6-20-03

House Author: Madden

Senate Sponsor: Shapiro

House Bill 673 amends the Education Code to exempt a school from the state's parental notification requirement regarding the assignment of an inappropriately certified or uncertified teacher to a classroom for more than 30 consecutive class days if the school is required by federal law to provide similar notification to a parent or guardian of the assignment of a teacher who is not highly qualified as that term is defined by that federal law.

House Bill 1776

Effective: 6-20-03

House Author: Hughes et al.

Senate Sponsor: Nelson

House Bill 1776 amends the Education Code to move Celebrate Freedom Week from the last full week of classes in September to the week in which November 11 falls. The bill requires the State Board of Education to adopt rules regarding the specific instruction required in each social studies class during Celebrate Freedom Week.

House Bill 1949

Effective: 6-2-03

House Author: Eissler et al.

Senate Sponsor: Van de Putte

House Bill 1949 amends the Education Code to establish the finality of an examination or course grade issued by a teacher and to prohibit anyone from changing that grade except on a determination by a school district's board of trustees that the grade is arbitrary, erroneous, or inconsistent with the school district's grading policy. The bill makes a determination by the board in such case not subject to appeal but does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities.

House Bill 2528

Effective: 6-20-03

House Author: Madden

Senate Sponsor: Fraser

House Bill 2528 amends the Education and Local Government codes to allow school districts to participate in forming a political subdivision corporation that will act as an agent on their behalf to negotiate the purchase of electricity from an electric utility that has implemented customer choice. The bill makes this option available for school district contracts valued at \$25,000 or more per 12-month period if that option provides the best value among all the options available.

Senate Bill 76

Effective: 9-1-03

Senate Author: Zaffirini et al.

House Sponsor: Grusendorf et al.

Senate Bill 76 amends the Education Code to enhance coordination of early childhood care and education programs and services. The bill requires a school district to consider the possibility of sharing an existing Head Start or other child-care program site as a prekindergarten site before establishing a new prekindergarten program, and it allows the commissioner of education to use certain appropriated funds to provide for coordinating early childhood care

and education programs, developing and disseminating prekindergarten instructional materials and school-readiness information for parents, and developing standards for model early childhood care and education coordination that focus on certain preliteracy skills. The bill allows the commissioner to administer grants for early childhood care and education programs in a manner that provides the greatest flexibility under federal law.

The bill requires program providers to coordinate with the Texas Education Agency, the Texas Workforce Commission, and local workforce development boards regarding subsidized child-care services and establishes requirements for that coordination, including providing applicants for child care with relevant information and ensuring that full-day, full-year services are available to low-income parents in the workforce or in workforce training programs.

The bill requires each provider of government-funded child-care services to furnish each enrolled child's parent with information regarding effective early education settings and any indicators that a child is ready for kindergarten that have been developed at the time of enrollment.

The bill provides for the development by the State Center for Early Childhood Development, in conjunction with a school district, regional education service center, college or university, local government, local workforce development board, or community organization, of a quality rating system demonstration project for assessment of the various types of program providers. The entities above also may develop coordination-of-resources demonstration projects under which government-funded child-care services are operated in a coordinated manner. Any entity implementing a project must report to the legislature and to the agency with regulatory jurisdiction and must include a project evaluation and any recommendations for statewide implementation.

Finally, the bill requires the State Center for Early Childhood Development to appoint a 15-member advisory committee to evaluate the feasibility of coordinating government-funded child-care programs to promote program access and improve school readiness, prescribes the committee's composition, and requires the committee to submit a report with its recommendations to the governor, the legislature's presiding officers, and the appropriate legislative committees by September 1, 2004.

Senate Bill 83

Effective: 9-1-03

Senate Author: Wentworth et al.

House Sponsor: Branch et al.

Senate Bill 83 amends the Education Code to require a school district board of trustees to require students at each school in the district to recite the pledges of allegiance to the United States and Texas flags once each school day. The bill requires a school district to excuse a student from the required recitations on written request of the student's parent or guardian.

The bill also requires a school district board of trustees to provide for the observance of one minute of silence following the pledge recitations, during which period a student may reflect, pray, meditate, or engage in any nondisruptive silent activity, and it requires a teacher or other person supervising the students to ensure that each student remains silent and does not distract another student.

Senate Bill 358

Effective: 9-1-03

Senate Author: Shapiro

House Sponsor: Goodman

Senate Bill 358 amends the Government Code to grant constitutional county courts in counties with a population of two million or more original jurisdiction over certain truancy cases. The bill authorizes a county judge, with the consent of the commissioners court, to

appoint full-time magistrates to hear the cases, with the county judge retaining final authority over the decisions rendered by the magistrate. The bill sets forth the qualifications, compensation, and powers of the magistrate.

Senate Bill 358 amends provisions of the Family Code to redefine delinquent conduct to provide that the costs assessed for a truancy case in a constitutional county court must be the same as those assessed in a justice court and to establish procedures for recording truancy cases. The bill also amends the Education Code and Code of Criminal Procedure to make conforming changes.

Senate Bill 578

Effective: 6-20-03

Senate Author: Shapiro

House Sponsor: Branch et al.

Senate Bill 578 amends the Education Code to require the principal of each school participating in the Texas Advanced Placement Incentive Program to convene, at least once a year, a team of up to five members to determine the use of funds awarded to the school under the program. The team must include at least three teachers, one of whom must be a teacher participating in the program and one of whom must be a teacher preparing students to participate in the program. The bill requires a school's program funds to be used in the manner determined by the team, which may include the use of student-performance-based funds for awards to individual teachers participating in the program.

Senate Bill 929

Effective: 9-1-03

Senate Author: Shapiro

House Sponsor: Grusendorf

Senate Bill 929 amends the Education Code to make regional education service centers and their employees subject to various laws generally applicable to governmental entities, officials, and employees, including laws prohibiting certain political activities by public officials and employees with public funds or resources or in an official capacity, laws regulating conflicts of interest between public officials doing business with entities in which they have substantial interests, and laws governing the use of depositories for public funds. The bill also makes the centers subject to the Texas Sunset Act and provides for their abolition on September 1, 2005, unless they are continued in existence as provided by that act. The bill provides for a review of the centers in conjunction with a review of the Texas Education Agency, and it requires the comptroller to assist the Sunset Advisory Commission in its review by conducting a review of the centers, in consultation with the commission, and to report the results of that review to the commission not later than June 1, 2004.

The bill establishes limits on school district compensation of a regional education service center for the center's services as a fiscal agent or broker regarding an inter-district agreement. It also requires the comptroller to contract with a consultant for a comprehensive regional education service center audit, establishes specific requirements for the scope of that audit, and requires the comptroller to submit a report on the audit's results to the legislature not later than June 1, 2004.

Senate Bill 1108

Effective: 6-20-03

Senate Author: Shapiro

House Sponsor: Grusendorf

Senate Bill 1108 amends the Education Code to allow a school district board of trustees or a home-rule district's governing body, on its own motion, to grant a charter for a new campus or a program operated within the district by a contracted provider of educational services. A revision of such charter is subject only to approval by the board that granted the charter.

The bill allows the commissioner of education to establish a statewide standard for certifying each school district that is preparing, training, and recruiting high-quality teachers in accordance with the federal No Child Left Behind Act, and it separately requires the commissioner and the Texas Education Agency to develop and make available training materials and resources to aid teachers in developing the expertise needed to help limited English proficiency students meet state performance expectations.

The bill requires a principal to designate a guidance counselor, teacher, or other person to develop and administer a personal graduation plan for each middle, junior high, or high school student who does not perform satisfactorily on a statewide standardized test or who is not likely to graduate within five years of entering ninth grade. The bill also requires each district to use funds appropriated for an intensive program of instruction to provide instruction and activities to help a student satisfy state and local high school graduation requirements and provides for need-based program funding; it also allows compensatory education funds to be used for extended year programs for students in grade 12 who are likely not to graduate before the start of the next school year.

The bill allows a district to offer electronic courses through a designated campus or a full-time program serving students throughout the district and requires each district offering such courses to post on its website an “informed choice” report providing specific detailed information about each electronic course as well as related requirements, procedures, policies, and services. It also provides for the funding of such electronic course programs through the school finance formulas.

The bill requires the commissioner, in coordination with college, university, and school district representatives, to develop and post on the Internet a diagnostic and assistance program for each subject included in a statewide standardized test and other academic programs of mutual benefit to school districts, colleges, and universities, and it allows the commissioner to permit a low-performing campus to participate in a redesign of the campus to improve campus performance as an alternative to imposing other sanctions.

Senate Bill 1357

Effective: 9-1-03

Senate Author: Nelson

House Sponsor: Capelo et al.

Senate Bill 1357 amends the Education Code to require the board of trustees of each school district to establish a local school health advisory council, rather than a local school health education advisory council, to assist the district in ensuring that local community values are reflected in the district’s health education instruction. The bill adds to the list of recommendations the council is required to make as part of a coordinated school health program for the district and requires a school district to make available for public inspection statements relating to policies regarding elementary schoolchildren’s physical activity requirements, vending machine and food service guidelines, and penalties for the use of tobacco products by students. The bill also requires the Texas Education Agency to make available to each school district one or more, rather than one, coordinated health programs designed to prevent obesity, cardiovascular disease, and Type 2 diabetes in elementary school students.

Senate Bill 1366

Effective: 9-1-03

Senate Author: Bivins

House Sponsor: Eissler et al.

Senate Bill 1366 amends the Education Code to specify completion of the recommended or advanced high school curriculum in not more than 36 consecutive months as a requisite to eligibility for the Early High School Graduation Scholarship Program. The bill extends

eligibility to a student who does not meet that curriculum requirement within the time allotted solely because necessary courses were not available at the appropriate times for reasons beyond the student's control if that fact is noted on the student's high school transcript. The bill also requires a school district to make such notation on a student's transcript if the facts apply to an otherwise eligible student.

Bilingual, Compensatory, and Special Education

House Bill 447

Effective: See below

House Author: Hochberg

Senate Sponsor: Zaffirini

House Bill 447 amends the Education Code to provide for subject-specific alternative testing of a student in a special education program, based on the subjects in which that student receives modified instruction, if the standardized test administered statewide for each of those subjects would be inappropriate for the student. The bill also adds the percentage of students in special education programs who are so tested to the list of performance indicators used to determine each campus's academic performance under the public school accountability system, and it requires the commissioner of education to authorize special accreditation investigations when excessive numbers of special education students in a district are tested by means of these alternative tests.

The bill takes effect June 20, 2003, except for the provision requiring the special accreditation investigations, which takes effect September 1, 2004.

House Bill 1339

Effective: 9-1-03

House Author: Eissler

Senate Sponsor: Williams

House Bill 1339 amends the Education Code to require the Texas Education Agency to produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The bill requires each district to provide that explanation each year to each student's parent by including it in the student handbook or by other means. The bill also amends the deadline for completing a full initial evaluation of a student for special education purposes from the 60th calendar day after the date a referral for evaluation is initiated to the 60th calendar day after the date the district receives written consent for the evaluation signed by the student's parent or guardian.

House Bill 1441

Effective: 9-1-03

House Author: Eissler

Senate Sponsor: Williams

House Bill 1441 amends the Education Code to require the Texas Education Agency annually to compile and disseminate a list of school districts that for two consecutive years maintain a ratio of students placed in partially or totally self-contained classrooms to students placed in resource or mainstream instructional arrangements that is 25 percent higher than the statewide average ratio. The bill deletes a requirement for the agency to review such districts for the appropriateness of student placement and repeals the commissioner of education's authority to reduce such districts' special education allotments to certain specified levels.

House Bill 1691
Effective: 9-1-03

House Author: Phillips
Senate Sponsor: Zaffirini

House Bill 1691 amends the Education Code to allow a school district to use a portion of its compensatory education allotment to fund an accelerated reading program for students in kindergarten or first or second grade who have been diagnosed by means of a reading test as being at risk for dyslexia or other reading difficulties or to fund a treatment program for students who have dyslexia or a related disorder. The bill allows a district to use compensatory education funds for such programs in proportion to the percentage of students in those programs who are determined to be at risk of dropping out of school.

House Bill 2823
Effective: 6-20-03

House Author: Eissler
Senate Sponsor: Shapiro

House Bill 2823 amends the Education Code to require the commissioner of education to adopt procedures to ensure that services designed to help students enrolled in special education programs in their transition from public school comply with applicable federal requirements relating to such transition services. The bill requires those procedures to specify the manner in which a student's admission, review, and dismissal committee must consider and address certain enumerated transition-related issues in the student's individualized education program.

Senate Bill 1470
Effective: 6-18-03

Senate Author: R. West
House Sponsor: Grusendorf et al.

Senate Bill 1470 amends the Education Code to allow any school district or open-enrollment charter school to apply for authorization to operate a high school equivalency program regardless of whether the district or school was operating a similar program on a specific date, as the application previously required. The bill also allows a district or school that was authorized to operate such a program by the commissioner of education on or before August 31, 2003, to continue operating that program, and it repeals the expiration date for the provisions authorizing the operation of high school equivalency programs by school districts and open-enrollment charter schools.

The bill makes a student eligible to participate in a program if the student has been ordered by the Texas Youth Commission to prepare for or to take a high school equivalency examination. The bill also allows a student to have accumulated up to one third of the credits required under the district's or charter school's minimum graduation requirements and still be eligible to participate in such a program if at least two years have elapsed since the student entered ninth grade, but the student must have taken the statewide standardized tests for grade nine before entering the program and must take each grade-level test given during the period in which the student is enrolled in the program.

Charter Schools

House Bill 1146
Effective: 9-1-03

House Author: Dutton
Senate Sponsor: Janek

House Bill 1146 amends the Education Code to prohibit the commissioner of education from conducting more than one on-site audit of an open-enrollment charter school's records per fiscal year without specific cause to conduct an additional audit. For purposes of this limitation, the bill provides that an audit of a charter holder or management company associated with an open-enrollment charter school is not considered an audit of the school.

House Bill 1202

Effective: 6-20-03

House Author: Dutton

Senate Sponsor: Van de Putte

House Bill 1202 amends the Education Code to prohibit the commissioner of education from garnishing or recovering state funds paid to an open-enrollment charter school if all three of the following apply: (1) the garnishment or recovery is based on the fact that the school's enrollment in a school year exceeded the enrollment specified in the school's charter and the state funding was based on that actual enrollment; (2) either the school submits a timely request to revise the enrollment limit in the school's charter and the commissioner does not object to the charter revision in writing within 90 days after receiving that request, or the excess enrollment is due to a court order to enroll a specific child in the school; and (3) the school used all of its state funds to provide education services to students. The bill also limits a charter school to one request for a charter revision on the basis of enrollment per year.

House Bill 1564

Effective: 6-2-03

House Author: Truitt

Senate Sponsor: Nelson

House Bill 1564 amends the Education Code to allow a municipality that is granted a charter for an open-enrollment charter school to borrow funds, issue bonds, or otherwise spend its funds to acquire land or acquire, construct, expand, or renovate school buildings or related improvements for the charter school within its city limits in the same manner as it may undertake such activities to finance any other public works project.

Dropouts and At-Risk Students

House Bill 1518

Effective: Vetoed

House Author: Dutton

Senate Sponsor: R. West

House Bill 1518 amends the Education Code to require a school district's evaluation of the effectiveness of accelerated instruction in reducing certain disparities between at-risk students and all other students to include an analysis of the effectiveness of each program described in the campus and district improvement plans for reducing those disparities. The bill also requires the Texas Education Agency (TEA) to evaluate systematically the effectiveness of accelerated instruction and support programs for at-risk students and to organize and share information collected during its evaluation with local districts. The bill requires the Legislative Budget Board, the office of the state auditor, and the comptroller to review TEA standards and definitions for dropouts and students completing school before the agency implements those standards and definitions.

The bill also requires the commissioner of education to adopt rules for exempting a school district that consistently achieves significant reductions in the disparity between at-risk students and other students from a state audit of its expenditures of compensatory education funds, and it prohibits exemption of a district that does not make consistent significant progress in reducing its dropout rate.

Reason Given for Veto: "House Bill No. 1518 would require the review of the Texas Education Agency's dropout data definitions by the Comptroller of Public Accounts, the State Auditor and the Legislative Budget Board. However, I am signing Senate Bill No. 186, which will require the Texas Education Agency to use the federal dropout definitions adopted by the National Center for Education Statistics. Senate Bill No. 186 removes all state agency discretion regarding the adoption of dropout definitions for use in the state's education accountability system, eliminating the need for a review of the state's dropout definitions.

“The bill also seeks to grant mandate relief to school districts relating to compensatory education funding audits. However, I have signed House Bill No. 3459 and Senate Bill No. 894 to provide greater opportunities for relief from compensatory education audits by exempting school districts that succeed in improving the performance of students at-risk of dropping out of school. The approach taken by these bills is consistent with my desire to provide mandate relief to school districts and my High School Completion Initiative’s goal of ensuring that students do not drop out on life by dropping out of school.”

Senate Bill 16**Effective:** 9-1-03**Senate Author:** Staples et al.**House Sponsor:** Woolley

Senate Bill 16 amends the Education Code to allow a school district to provide a mentoring services program for students at risk of dropping out of school, to use funds from its compensatory education allotment to fund the program, and to arrange for any public or nonprofit community-based organization to implement the program in the district’s schools. The bill requires the commissioner of education, in consultation with the governor and the legislature’s presiding officers, to determine by rule accountability standards for a district providing a mentoring services program with compensatory education funds. The bill also requires a district’s board of trustees to obtain consent from a student’s parent or guardian before allowing the student to participate in the program.

Senate Bill 346**Effective:** 6-20-03**Senate Author:** Ogden**House Sponsor:** Grusendorf

Senate Bill 346 amends the Education Code to allow a school district to: (1) provide an optional flexible year program for students who did not or are likely not to perform successfully on a statewide standardized test or whose promotion to the next grade level is jeopardized; and (2) with approval from the commissioner of education, provide the additional instructional days for such a program by shortening the regular school year by up to 10 days and using up to five staff development days for instructional purposes.

The bill also provides for inclusion of attendance in a district’s flexible year program in the formulas for determining the district’s Foundation School Program allotment.

Senate Bill 894**Effective:** 9-1-03**Senate Author:** Bivins**House Sponsor:** Grusendorf

Senate Bill 894 amends the Education Code to require the commissioner of education to develop a process for auditing school district dropout records electronically and either develop or use existing systems and standards for audit reviews designed to identify districts that are at high risk of having inaccurate records and that consequently require on-site records monitoring. The bill prohibits on-site monitoring of a district if the audit indicates the district is not at high risk, and it provides a district identified as a high-risk district the opportunity to respond to that finding before any on-site monitoring begins. A district must respond within 30 days of being notified of that finding; if it does not respond within that time or if the response does not alter the finding, the bill requires the commissioner to order the on-site monitoring. The electronic audits provision replaces a previous requirement for each district to have its dropout records audited annually at its expense.

Senate Bill 894 also allows the use of compensatory education funding to support certain programs at a campus where at least 40 percent of the students are educationally disadvantaged, rather than the 50 percent minimum threshold previously required for authorization, and it clarifies that programs serving students at risk of dropping out of school qualify for compensatory education funding. The bill also requires electronic reporting of district and campus expenditures

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of compensatory education funds and the development of a similar risk-based system for identifying districts that are at high risk of misusing funds or of inadequately reporting expenditures, with the consequences for a misuse of funds or a failure to take corrective action with regard to report procedures being a required local audit, on-site monitoring by the state, or, in the first case, both.

Senate Bill 976

Effective: 9-1-03

Senate Author: Shapiro

House Sponsor: Morrison

Senate Bill 976 amends the Education Code to require each district-level and middle, junior high, or high school campus-level planning and decision-making committee to analyze specific items of information related to dropout prevention and to use that information in developing district or campus improvement plans. If a district is rated academically unacceptable for two years or more because of its dropout rates, the bill requires the commissioner of education to impose specific sanctions designed to improve high school completion rates.

The bill requires the commissioner to establish a middle college education pilot program for students at risk of dropping out of school or wishing to accelerate high school completion, enabling them to combine high school and college-level courses in grades 11 and 12, finish high school, and simultaneously receive at least a high school diploma and associate degree, or access postsecondary educational and training opportunities at a college, university, or technical school campus. It also requires the Texas Higher Education Coordinating Board to establish a pilot program to study the feasibility of allowing junior colleges to offer bachelor's degree programs in applied science and applied technology, and it requires the board to prepare a progress report not later than January 1, 2009, and a final report with its findings and recommendations to the legislature not later than January 1, 2011.

Professional Educators and Other School Employees

House Bill 411

Effective: 9-1-03

House Author: Grusendorf

Senate Sponsor: R. Ellis

House Bill 411 amends the Education Code to require the State Board for Educator Certification to establish master science teacher certificates for elementary, middle, and high school teachers. The bill establishes eligibility criteria for certification as a master science teacher and requires the commissioner of education to establish a grant program to provide year-end stipends of up to \$5,000 to selected certified master science teachers at high-need campuses identified by the commissioner, beginning with the 2005-2006 school year. The bill requires the commissioner to develop, in consultation with appropriate college and university faculty members, teacher training materials and resources to help school districts further develop science teachers' expertise. The bill also allows school districts to provide intensive after-school or summer programs for students not performing at grade level in science or not succeeding in science courses, and it requires that all nonexempt students be tested in science in eighth grade as well as in grades five and 10.

House Bill 558

Effective: 6-20-03

House Author: Grusendorf

Senate Sponsor: Shapiro

House Bill 558 amends the Education Code to allow a school district to rehire, under a probationary contract rather than a term or continuing contract, a teacher who was formerly employed by the district but who has had a lapse of service in the district of at least two years.

House Bill 912
Effective: 9-1-03

House Author: Madden
Senate Sponsor: Shapiro

House Bill 912 amends the Education Code to make a school district board of trustees' distribution of its employment policies to a teacher contingent on the teacher's request. The bill also requires a school district that has an Internet website to post the district's employment policies on the website, and it requires every board of trustees to make a copy of the board's employment policies available for inspection at each school in the district.

House Bill 1022
Effective: 9-1-03

House Author: Eissler et al.
Senate Sponsor: Williams

House Bill 1022 amends the Education Code to render void a public school educator's employment contract if the educator does not hold an appropriate state-issued certificate or permit or fails to fulfill the requirements for an extension of a temporary or emergency certificate or permit. The bill allows a school district, after notifying an employee that the employee's contract is void, to terminate the employee, suspend the employee with or without pay, or retain the employee for the rest of the year on an at-will employment basis in a nonteaching position at a salary that is the same as or lower than the contract salary. A school district's decision in such case is not subject to appeal or to certain notice and hearing requirements, and the affected employee is no longer entitled to the minimum salary prescribed by the minimum salary schedule for professional school staff.

The bill provides an exception to this automatic nullification of employment contracts for certified teachers assigned to teach a subject for which they are not certified.

House Bill 1113
Effective: 9-1-03

House Author: Crownover
Senate Sponsor: Zaffirini

House Bill 1113 amends the Education Code to allow a teacher to agree to be returned to probationary contract status after receiving written notice that the school district's board of trustees has proposed discharge, termination, or nonrenewal or that the superintendent intends to recommend such action. The bill requires notice in the latter case to inform the teacher of the district's offer to return the teacher to probationary contract status, the period during which the teacher may consider the offer, and the teacher's right to seek counsel. The bill requires a district to give the teacher at least three business days after receipt of the notice to accept the change in status, but it does not require the superintendent to give notice of the intent to make such a recommendation.

House Bill 1406
Effective: 6-20-03

House Author: B. Brown et al.
Senate Sponsor: Staples

House Bill 1406 amends the Education Code to prohibit a school district employee from recommending that a student use a psychotropic drug, suggesting any particular diagnosis, or using a parent's refusal to consent to administration of a psychotropic drug to a student or to psychiatric evaluation or examination as ground for barring a student's attendance in a class or participation in a school-related activity. The bill clarifies that it does not prohibit appropriate referrals under certain federal provisions, recommendations by a school nurse, physician, or mental health professional for an evaluation by an appropriate medical practitioner, or discussions by a school employee with a parent or another district employee about any aspect of the student's behavior or academic progress.

House Bill 1440

Effective: 6-18-03

House Author: Eissler

Senate Sponsor: Van de Putte

House Bill 1440 amends the Education Code to provide an exception to the mandatory annual teacher evaluations to allow a school teacher to be appraised less frequently than once each school year if the teacher agrees in writing and the teacher's most recent evaluation rated the teacher as at least proficient, or the equivalent, and did not identify any area of deficiency. The bill requires a teacher who is appraised less often than once a year to be appraised at least once during each five-year period.

House Bill 1844

Effective: 6-18-03

House Author: Grusendorf et al.

Senate Sponsor: Shapiro

House Bill 1844 amends the Education Code to require the commissioner of education to establish a reimbursement program to provide school districts with funds to reimburse teachers who use personal funds to purchase classroom supplies. The bill requires a school district to match any funds provided for that purpose, and it prohibits a district from using program funds that it receives to replace local funds used for that same purpose. The bill also requires the commissioner to identify state and federal funds available for use in such program, requires the program's establishment for implementation not later than the 2005-2006 school year, and makes its implementation contingent on either specific appropriation of program funds or the commissioner's identification of non-general revenue funds available for program use. A temporary provision prohibits any legislative appropriations from the general revenue fund for the program during the fiscal biennium ending August 31, 2007.

House Bill 2072

Effective: 6-20-03

House Author: Grusendorf

Senate Sponsor: Shapiro

House Bill 2072 amends the Education Code to prohibit a school district board of trustees from requiring a district employee to pay for a textbook or instructional technology that is stolen, misplaced, or not returned by a student.

House Bill 3257

Effective: See below

House Author: Delisi

Senate Sponsor: Duncan

House Bill 3257 amends the Insurance Code to require the state to annually contribute, and the Teacher Retirement System (TRS) of Texas to distribute, either \$1,000 or the amount specified in the General Appropriations Act to a health reimbursement arrangement (HRA) account established for each active public school employee for payment of qualified health care expenses. The bill repeals provisions that allow account funds to be used for salary compensation, a medical savings account, or a cafeteria plan. It sets out the qualifications for an HRA, adds several definitions, and establishes that, for purposes of this provision, a public school employee is considered an employee of both the state and the school district or other educational entity. It establishes requirements for monthly installments paid to an HRA, qualified health care expenses, and disposition of any unspent funds. The bill requires TRS, in consultation with the comptroller, to develop a funding structure for the HRA program. It authorizes TRS to contract with an independent group insurance consultant or actuary for advice in implementing and administering the program, and establishes competitive bidding requirements for TRS and qualifying criteria for the bidders.

The bill takes effect September 1, 2003, except the HRA program takes effect September 1, 2004, and applies to the 2004-2005 school year.

Senate Bill 741**Effective:** 6-20-03**Senate Author:** Van de Putte**House Sponsor:** Griggs

Senate Bill 741 amends the Education Code to require a school district employee who serves as the head director of a school marching band to maintain and submit to the district proof of current certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or another organization that provides equivalent training and certification.

Senate Bill 893**Effective:** 6-20-03**Senate Author:** Bivins**House Sponsor:** Grusendorf

Senate Bill 893 amends Education Code provisions relating to procedures in a hearing on a teacher's suspension or contract termination. The bill requires a teacher requesting a hearing to provide the commissioner of education with a copy of the notice of the proposed action, and it allows the teacher and the district to agree in writing to extend the deadline for filing a request by up to 10 days. The bill allows the district and teacher to select a hearing examiner from a list maintained by the commissioner or a person who is not certified as an examiner but who is licensed to practice law in this state; if the parties agree on an examiner, they must notify the commissioner in writing before the date the commissioner may assign an examiner. If an examiner is not selected, the commissioner must assign an examiner within six to 10 business days after receiving a hearing request. The bill allows the parties to agree to reject, for any reason, an examiner assigned by the commissioner.

The bill extends by 15 days the deadline for an examiner to complete the hearing and make a recommendation, and it allows both parties to agree in writing to extend by up to 45 days the right to a recommendation by the examiner. The bill also allows a party to file a request for rehearing not later than 20 days after the party or the party's representative receives notice of the commissioner's decision. If either party files a request for a rehearing, the bill allows a judicial appeal of the commissioner's decision to be perfected within 30 days after the commissioner denies that request.

Senate Bill 930**Effective:** 9-1-03**Senate Author:** Shapiro**House Sponsor:** Hope

Senate Bill 930 amends the Education Code to expand the definition of a "professional employee of a school district" to include a substitute teacher, a teacher employed by a company that contracts with a school district to provide the teacher's services to the district, and a member of the board of trustees of an independent school district. The bill prevents a professional employee of a school district (employee) from being subject to disciplinary proceedings for the use of physical force, as defined by the Penal Code, against a student if the force is justified to maintain discipline.

The bill provides that a person may not file a suit against an employee unless the person has exhausted the school district's remedies for resolving complaints. Before a person may file suit against an employee, the bill requires the person to provide 90 days' written notice to the employee describing the incident relating to the claim. If proper notice is not provided, the employee may file a plea in abatement with the court, and the bill requires the court to abate the suit for 90 days after the employee receives written notice. The bill also authorizes a court to refer a case to an alternative dispute resolution procedure. The bill limits an employee's liability to \$100,000 for an act incident to or within the scope of the employee's duties, but the

limit does not include any attorney's fees or court costs awarded against the employee. In certain actions against an employee, the employee is entitled to recover attorney's fees and court costs from the plaintiff if the employee is found immune from liability.

Senate Bill 930 also amends provisions of the law relating to the adoption of school policies relating to immunity from civil liability for the administration of medication to a student to clarify that a properly labeled container includes a properly labeled unit dosage container filled by a registered nurse or another qualified district employee.

Senate Bill 1109

Effective: 6-20-03

Senate Author: Shapiro et al.

House Sponsor: Van Arsdale

Senate Bill 1109 amends the Education Code to require the State Board for Educator Certification (SBEC) to revoke the certificate of a person convicted of either a violent felony offense or an offense requiring the person's registration as a sex offender where the victim was younger than 18 years of age and to provide that person and the school district or open-enrollment charter school employing the person at the time of revocation a written notice of the revocation and the basis for the revocation. The bill requires the revocation and notice not later than the fifth day after the date the board receives notice of the conviction. The bill also requires the school district or charter school employer to immediately remove the person from campus or from an administrative office to prevent the person from having any contact with a student and to terminate the person's employment as soon as possible in accordance with the person's contract and applicable state law. The bill allows a person whose certificate is revoked under these conditions to reapply for certification.

Senate Bill 1109 also amends the Code of Criminal Procedure to require the clerk of the court in which the conviction or deferred adjudication of a certified educator is entered to provide SEBC written notice of the conviction or deferred adjudication, including the offense on which the court's action was based, not later than the fifth day after the date of that court action.

Senate Bill 1369

Effective: See below

House Author: Duncan

Senate Sponsor: Delisi

House Bill 1369 amends Insurance Code provisions relating to the retired school employees group insurance program, as administered by the Teacher Retirement System of Texas (TRS). The bill increases the state's contributions to the fund from 0.5 percent to 1 percent of each active employee's salary, and it increases an active employee's contribution from 0.25 percent to 0.5 percent of the employee's salary. The bill establishes a standard for sharing the fund's operating costs by requiring the state to pay not more than 55 percent of the fund's total costs, retirees to pay at least 30 percent, and active employees and school districts to contribute the balance. It establishes a general rule that participating retirees be age 65 with 10 years of service or retire under the rule of 80 (the sum of age and years of service equals or exceeds 80). It includes provisions relating to open enrollments and special enrollments and requires TRS to establish a range of premium levels for retirees. The bill provides for a state contribution to assist retirees with dependent coverage, and it eliminates a requirement that a retiree must be enrolled in a basic plan unless certain conditions apply. It requires the comptroller of public accounts to transfer \$42 million from the Texas school employees uniform group coverage trust fund to the retired school employees group insurance fund to compensate the latter for money transferred from that fund to pay startup costs for the active public school employees' health insurance program.

The bill takes effect September 1, 2004, except provisions relating to increased payroll contributions and cost-sharing ratios take effect September 1, 2003.

Senate Bill 1394**Effective:** 9-1-03**Senate Author:** Shapiro**House Sponsor:** Griggs

Senate Bill 1394 amends the Education Code to allow a school district to hire a person as a principal or classroom teacher under a term contract if the person has experience in that capacity, regardless of whether the person is being employed by the district for the first time or whether a probationary contract would otherwise be required.

Senate Bill 1488**Effective:** 6-18-03**Senate Author:** Ogden**House Sponsor:** Grusendorf

Senate Bill 1488 amends the Education Code to require the superintendent or director of a school district, regional education service center, shared services arrangement, or open-enrollment charter school to notify the State Board for Educator Certification if that person reasonably believes that (1) an educator employed by or applying to the district, center, arrangement, or charter school has a criminal record; (2) an educator was fired based on a finding that the educator engaged in certain forms of misconduct; or (3) the educator resigned and reasonable evidence supports a recommendation by the superintendent or director to fire the educator because of such misconduct. The bill requires the superintendent or director to notify the board in writing not later than seven days after the date that person first learns about the alleged misconduct and also to notify both the governing body of the district, center, or arrangement, and the educator of the filing of the report. The bill provides immunity from civil liability for a person filing a report in good faith and requires the board to determine whether to sanction a person who fails to file a report as required.

The bill also amends the Family Code to require the Department of Protective and Regulatory Services to orally notify a school district superintendent if the department finds that a case of abuse or neglect of a student in the district involves a district employee at the same school.

Public School Accountability**House Bill 2683****Effective:** 6-20-03**House Author:** Denny**Senate Sponsor:** Shapiro

House Bill 2683 amends the Education Code to exclude the academic performance of a student who has been confined by court order in a Texas Youth Commission residential facility or program from the performance of other students in the district in which the program or facility is located for the purpose of determining that district's performance and accreditation status under the state's public school accountability system. The bill requires a confined student's performance on a statewide standardized test or on any other measure on the state's academic excellence indicator system to be determined, reported, and considered separately from that of students enrolled in the district.

Senate Bill 186**Effective:** 9-1-03**Senate Author:** Janek et al.**House Sponsor:** Dutton

Senate Bill 186 amends the Education Code to specify that the high school dropout and completion rates included as performance indicators in the state's public school accountability system are to be computed in accordance with standards and definitions adopted by the National Center for Education Statistics (NCES) of the U.S. Department of Education. The bill adds high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the federal No Child Left Behind Act, to the list of performance

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indicators. It also requires the Texas Education Agency to modify its data collection system to permit application of the NCES dropout definition no later than the 2005-2006 school year and to assist school districts in computing the required rates as necessary to apply for federal dropout reduction grants.

Senate Bill 618

Effective: 9-1-03

Senate Author: Shapleigh et al.

House Sponsor: Dutton

Senate Bill 618 amends the Education Code to remove a provision that allowed the commissioner of education to order the closing of a school that has been rated low-performing for two or more consecutive years and in its stead requires the commissioner to reconstitute such a campus, with a special campus intervention team being assembled to determine which educators may be retained at that campus. The bill also provides for the reassignment or termination of any educator not retained.

The bill establishes a deadline of August 1 for the Texas Education Agency to report on its evaluation of the performance of each campus and each open-enrollment charter school under the public school accountability system's academic excellence indicators. The bill makes a conforming amendment to the Labor Code to reflect an amended citation in the Education Code.

Senate Bill 1820

Effective: 6-20-03

Senate Author: Van de Putte

House Sponsor: Grusendorf et al.

Senate Bill 1820 amends the Education Code to allow consideration of the effectiveness of a district's career and technology programs as an additional performance measure in determining that district's rating under the state's public school accountability system. The bill requires such consideration to be based on data collected for accountability purposes through the Public Education Information Management System and to include the results of student performance on the required statewide standardized examinations.

School Districts and School Board Trustees

House Bill 195

Effective: 9-1-03

House Author: Griggs

Senate Sponsor: Nelson

House Bill 195 amends the Tax Code to require a successor-in-interest to a county education district (CED) to transfer all of the delinquent CED property taxes and penalties collected after August 31, 1993, to the school districts encompassed by the CED, less any unreimbursed costs of collection or fund maintenance. The bill requires such funds to be transferred by September 15, 2003, and spells out the manner in which the amount to be distributed to each component school district is calculated. Any delinquent CED property taxes that remain uncollected as of that date become the responsibility of each component school district where property subject to those delinquent taxes is located.

House Bill 1024

Effective: 9-1-03

House Author: Crownover et al.

Senate Sponsor: Shapiro

House Bill 1024 amends the Education Code to transfer the responsibility for developing applicable staff development standards from the commissioner of education to the individual school districts. The bill deletes previous requirements for specific content and instead requires the locally developed standards to be designed to improve education in the district. The bill

deletes the enumeration of certain goals for staff development activities and the forms that such activities can take, and it allows rather than requires staff development to include training in technology, conflict resolution, and discipline strategies; training that relates to instruction of students with disabilities and is designed for teachers working primarily outside of special education; and instruction regarding what is permissible under law.

House Bill 1226
Effective: 6-2-03

House Author: Eissler
Senate Sponsor: Williams

House Bill 1226 amends the Government Code to provide an exception to the open meetings law, allowing a school district's board of trustees to conduct a closed meeting on a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation. This exception does not apply if a parent or guardian or a student 18 years of age or older requests, in writing, an open meeting on the matter. The bill clarifies when directory information about a student is to be considered personally identifiable information in such cases.

House Bill 2964
Effective: 9-1-03

House Author: Howard
Senate Sponsor: R. Ellis

The Education Code allows a school district operating under former provisions governing municipal school districts to continue operating under those provisions as they existed before their repeal and under state law generally applicable to school districts that does not conflict with those provisions. House Bill 2964 amends the code to delineate the powers and duties of both the municipal school district's board of trustees and the municipality's governing body with respect to the manner in which the district's annual budget and tax rate are to be approved and adopted.

The bill also requires the comptroller to conduct a performance review of each municipal school district and to report the results of that review not later than February 1, 2004.

Senate Bill 688
Effective: 6-18-03

Senate Author: R. West
House Sponsor: Giddings

Senate Bill 688 amends the Education Code to exempt the board of trustees of school districts with an enrollment of more than 125,000 and less than 200,000 and a central administrative office located in a county with a population of more than two million from certain requirements relating to the election of trustees from single-member trustee districts. The bill allows the board of trustees in such a district to adopt rules necessary to govern the term, election, and residency requirements of board members that may be adopted under general law by other districts. The bill also prohibits a trustee in such district from serving a term of more than four years.

Senate Bill 805
Effective: 9-1-03

Senate Author: Zaffirini
House Sponsor: Hilderbran

Senate Bill 805 amends the Education Code to include a state agency among those entities to whom a school district board of trustees may donate certain real property and improvements formerly used by a school campus. The bill removes a condition that restricted donations of property to property that was donated to the district and that is in use as a community center at the time of its transfer, and it removes a requirement for the recipient to continue using the property as a community center, requiring only that the property continue being used for public purposes.

Senate Bill 815

Effective: 9-1-03

Senate Author: Van de Putte

House Sponsor: Eissler

The Education Code requires each district that offers kindergarten through grade 12 to offer a foundation curriculum and an enrichment curriculum, each of which must include instruction in specific subject areas, and it requires the State Board of Education (SBOE) to identify the essential knowledge and skills that a student must be able to demonstrate in each subject area in each curriculum. Senate Bill 815 amends the code to require each district to provide instruction in the essential knowledge and skills in the subject areas of both curricula as a condition of accreditation. The bill allows a school district to apply to the commissioner of education for an extension in complying with rules adopted by the SBOE regarding that requirement. The bill also repeals a provision that required districts to use the essential knowledge and skills as guidelines in providing instruction in the enrichment curriculum.

Senate Bill 900

Effective: 9-1-03

Senate Author: Shapiro

House Sponsor: Eissler

Senate Bill 900 amends the Education Code to require each school district to compute and report to the commissioner of education the percentage of its total expenditures for the preceding fiscal year that was used to fund direct instructional activities and the percentage of its full-time equivalent employees whose job was directly to provide classroom instruction to students. The bill requires a district at least annually to provide its educators with a list of district staff directly providing classroom instruction and the percentage of time spent by each employee in such activity. The bill requires the computation of instructional activity spending to include the salary and value of any benefits provided to any employee who directly provided classroom instruction to students, but only in proportion to the percentage of time spent by that employee in that activity.

The bill also requires the commissioner to adopt rules as necessary to implement these provisions, providing to the extent possible for the development of the required information using data compiled for reporting through the Public Education Information Management System; requires campus report cards to include the district and statewide average ratios; requires the Texas Education Agency's annual report to include a summary and analysis of those ratios; and repeals a provision that placed certain limits on administrative costs as determined by a district's administrative cost ratio.

School Finance

House Bill 415

Effective: 9-1-03

House Author: Flores

Senate Sponsor: R. West

House Bill 415 amends the Education Code to exclude the time during which a student attends a course for which the student receives joint high school and junior college credit from the number of hours counted toward the minimum requirement for the student's consideration as a full-time student when calculating a school district's average daily attendance for school finance formula purposes. The provision expires September 1, 2004. The bill also repeals a provision that required the commissioner of education and the commissioner of higher education to develop a mechanism to identify and eliminate duplication of state funding when state funding is provided to both a school district and a public junior college for a student enrolled in a course at the junior college for dual credit.

House Bill 1295
Effective: 5-20-03

House Author: Hochberg
Senate Sponsor: Shapiro

House Bill 1295 amends the Education Code to increase the statutory limit on the amount of school district bonds that the commissioner of education may approve for guarantee by the corpus and income of the permanent school fund (PSF). The bill allows the commissioner to approve bonds for guarantee provided the total amount of outstanding guaranteed bonds does not exceed 2-1/2 times the PSF's cost value or its market value, whichever is less. The total amount of bonds that can be guaranteed is also increased by including real estate in the assets used to determine the PSF's cost value and market value.

House Bill 1363
Effective: 9-1-03

House Author: Crownover
Senate Sponsor: Estes

House Bill 1363 amends Education Code provisions relating to the Texas Academy of Mathematics and Science to treat the academy, for state funding purposes, as if it were a school district with no local property tax base or local tax revenue. For any year in which the allotment to which the academy is entitled exceeds the amount of state funds it received in the 2003 fiscal year, the bill requires the commissioner of education to make up the difference by subtracting that amount from the total amount of funds to be distributed to school districts from the foundation school fund, distributing the required amount to the academy, and reducing each district's allocation accordingly.

House Bill 1619
Effective: 9-1-03

House Author: Laubenberg et al.
Senate Sponsor: Estes

House Bill 1619 amends the Education Code to raise the cap on the tuition that a district that does not offer instruction in certain grade levels may pay to another district for the education of the home district's students in those grade levels at the receiving district. The bill prohibits tuition payments that exceed the greater of either: (1) the difference between the receiving district's actual expenditures per student and the amount of state aid it receives for each transfer student; or (2) an amount specified by commissioner rule. The bill also limits the taxable property value adjustment for a district that is required to pay tuition under a contract for the education of its students in another district to an amount not to exceed an amount specified by commissioner rule.

House Joint Resolution 68
For Election: 9-13-03

House Author: Hupp et al.
Senate Sponsor: Fraser

House Joint Resolution 68 proposes two state constitutional amendments. One amendment would authorize the Veterans' Land Board (VLB) to use excess assets from the Veterans' Land Fund, Veterans' Housing Assistance Fund, or Veterans' Housing Assistance Fund II for various purposes relating to veterans homes. It would also delete a provision that has limited the circumstances under which the VLB may use excess receipts from the funds to pay the principal of and interest on revenue bonds or to make bond enhancement payments.

The other amendment would revise the Available School Fund (ASF) to include not just Permanent School Fund (PSF) interest but distributions made from the total return on all PSF investment assets, including capital gains. The distribution rate would be determined by two-thirds vote of the State Board of Education (SBOE), acting before the legislative regular session, or by the legislature by general law or appropriation if the SBOE did not act. The amendment would limit the total distribution in each year of a fiscal biennium to not more than

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six percent of the average of the market value of the PSF, excluding real property, on the last day of each of the 16 fiscal quarters preceding the regular session and would not allow the total distribution over the current and nine preceding fiscal years to exceed the total return on all PSF assets over those 10 fiscal years. For fiscal years 2004 and 2005, a temporary constitutional provision would set a fixed distribution rate of 4.5 percent of the average of the market value of the PSF, excluding real property, on the last day of each of the 16 fiscal quarters preceding the 2003 regular session of the legislature. The amendment requires that PSF management expenses be paid by appropriation from the PSF.

Senate Bill 206

Effective: See below

Senate Author: R. Ellis

House Sponsor: Pitts

Senate Bill 206 amends the Education Code to change the composition of the permanent school fund (PSF) and the available school fund (ASF) by providing that the ASF consists in part of distributions from the PSF required by the Texas Constitution instead of certain interest, dividends, and income required by law. The bill requires the comptroller each month to transfer an amount equal to one-twelfth of the annual distribution from the PSF to the ASF as required by the Texas Constitution and provides certain exceptions for transfers during the 2003-2004 school year. The bill also amends the Natural Resources Code to require the following funds to be credited to the PSF instead of the ASF: (1) money, in addition to permit fees, received by the School Land Board for management of coastal public lands; (2) payments on public school land, including payments received as interest on the purchase of public school land, received by the commissioner of the General Land Office; (3) income received by the commissioner for easements to land, timber, and surface resources on public school land; (4) interest on funds received from the sale of permanent school fund land, timber, and surface resources; (5) the principal and allocated interest of protested royalty payments for oil and gas on state land; (6) interest received on compensation for damages to surface state land in prospecting for, exploring, developing, or producing oil, gas, coal, lignite, and other leased minerals; and (7) all income received for easements on state land for water supply projects by the Nueces County Water Control and Improvement District No. 4.

Senate Bill 206 takes effect January 1, 2004, contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 68.

Student Discipline

House Bill 469

Effective: 6-20-03

House Author: Berman

Senate Sponsor: Deuell

House Bill 469 amends the Education Code to extend until September 1, 2005, certain notice requirements relating to the expulsion from school and placement in a county juvenile justice alternative education program (JJAEP) of a student with disabilities who receives special education services. The notice requirements allow a representative of the JJAEP to attend a meeting of the student's admission, review, and dismissal (ARD) committee and to take part in any discussion about the student's placement; if, after placement, the JJAEP administrator notifies the school district of concerns that the student's needs are not being met in the program, further notice requirements allow a JJAEP representative to attend a subsequent meeting of the ARD committee and to take part in discussions regarding the student's continued placement. These reciprocal notice requirements were scheduled to expire September 1, 2003.

House Bill 552**Effective:** 6-18-03**House Author:** Hegar**Senate Sponsor:** Janek

The Education Code requires the expulsion of a student from school if the student engages in conduct involving any of several specific serious offenses on school property or while attending a school-sponsored or school-related activity. House Bill 552 amends the code to allow the expulsion of a student for engaging in that same conduct on school property of a district other than the student's home district or during a school-sponsored or school-related activity in another district.

House Bill 567**Effective:** 6-20-03**House Author:** Berman**Senate Sponsor:** Deuell

House Bill 567 amends the Education Code to allow the expulsion from school of a student who commits any of certain violent or criminal offenses against another student, without regard to where or when the conduct occurred.

House Bill 1314**Effective:** 6-20-03**House Author:** Pitts**Senate Sponsor:** Averitt

House Bill 1314 amends the Education Code to clarify provisions relating to disciplinary measures available to school officials in response to various types of student misconduct. The bill requires the governing body of an open-enrollment charter school to adopt a code of conduct establishing standards of behavior and outlining the types of prohibited behaviors and their possible consequences as well as the due process protections for students facing expulsion. The bill requires a school district's code of conduct to specify whether self-defense is considered as a factor in a decision to suspend, remove to a disciplinary alternative education program (DAEP), or expel a student; to provide guidelines for setting the duration of a removal or expulsion; and to address parental notification of a code of conduct violation that results in suspension, removal, or expulsion. The bill clarifies definitions, procedures, and exceptions in the use of physical restraint, confinement, suspension, removal, and other disciplinary measures applied to students, including students with disabilities in special education programs.

House Bill 1314 allows, but does not require, a school official to remove a student to a DAEP for off-campus conduct otherwise requiring removal if the school official does not become aware of the conduct within a year of its occurrence. It adds to the list of serious offenses for which expulsion is mandatory and also allows expulsion if any such serious offense occurs within 300 feet of school property. The bill requires each teacher in a district's off-campus DAEP to be certified, and it requires each teacher in a DAEP of any kind to be certified by the start of the 2005-2006 school year. It also requires a district to provide in a DAEP a course required for graduation and to offer a student in a DAEP, in in-school suspension, or in any other setting, the opportunity to complete course work before the start of the next school year, which it may do through any of various methods available. The bill allows a district under certain conditions to place a transfer student in a DAEP if the student had been similarly placed by an open-enrollment charter school or an out-of-state school district from which the student transferred. The bill requires the commissioner of education to develop a process for evaluating DAEPs electronically and to develop or use an existing system and standards for evaluation review to identify districts at risk of having inaccurate DAEP data or of noncompliance with applicable DAEP requirements.

The bill also allows a school district's board of trustees, after due process, to place a student in a DAEP if the student has received deferred prosecution for or been found guilty of certain felony offenses and the board determines that the student's presence in the regular classroom threatens the safety of others, will be detrimental to learning, or is not in other students' best interest. Such placement may be ordered regardless of when or where the misconduct occurred or whether the student has completed any court disposition requirements and may be ordered for any period deemed necessary by the board, but a student so placed is entitled to periodic review of the placement. The bill requires a placement or expulsion order to give notice of any inconsistency between the placement or expulsion period and the code of conduct guidelines, and it limits placement or expulsion to a period not to exceed one year unless, after review, the board determines that the student is a threat to others or the extended placement or expulsion is in the other students' best interest. Any decision of the board under these provisions is final and not subject to appeal.

The bill provides for the completion of certain proceedings and the enforcement of an order against a student who transfers from a district before the order is entered and who subsequently reenrolls in the district that ordered the student's placement or expulsion if the student has not completed the terms of the order at another district; it also allows proceedings to be completed and entered at another district to which the student transfers. The bill allows a school district under certain conditions to continue the expulsion of a transfer student, or to place such student in a DAEP, if the student has been expelled by an out-of-state school district from which the student transferred.

The bill requires the delivery of timely educational services to a student in a juvenile justice alternative education program (JJAEP) in the county in which the student resides regardless of the student's age or whether the juvenile court has jurisdiction over the student if the student is eligible for admission to a public school. A district that expels a student for conduct that allows but does not require expulsion is required to provide a certain level of funding to the county's juvenile board for a student served by a JJAEP but is not required to provide funding for a student assigned by a court to a JJAEP who has not been expelled by the district.

The bill also clarifies notification and reporting responsibilities of various entities involved in disciplinary proceedings.

House Bill 2061
Effective: 6-20-03

House Author: Grusendorf
Senate Sponsor: Janek

House Bill 2061 amends the Education Code to require the governing body of a school district or charter school that takes certain disciplinary action against a student who subsequently transfers to another district or school to provide the receiving district or school with a copy of the disciplinary action order along with other student records. The bill allows the receiving district or school either to continue the disciplinary action under the same terms or to waive the student's completion of the period of disciplinary action. The bill also repeals a similar provision that required an interdistrict transmittal of orders regarding disciplinary actions but that applied only to school districts and only to the placement of a student in an alternative education program.

Texas Education Agency and State Board of Education

House Bill 591

Effective: 6-20-03

House Author: Delisi et al.

Senate Sponsor: Fraser

The Education Code previously authorized reciprocity agreements between Texas and other states to facilitate the transfer of military personnel and their dependents to and from Texas public schools by addressing the transfer of student records and the award of credit for completed course work. House Bill 591 amends the code to require, rather than permit, the Texas Education Agency (TEA) to pursue such agreements and adds to the procedures that must be addressed in an agreement to include permitting a student to satisfy Texas secondary exit-level performance requirements through successful performance on a comparable exit-level assessment instrument in another state. The bill directs the TEA to give priority to the pursuit of agreements with Florida, Georgia, North Carolina, and Virginia. It requires the TEA, not later than January 1, 2004, to report the results of its efforts to the chairs of the Senate Committee on Veterans Affairs and Military Installations and the House Committee on Defense Affairs and State-Federal Relations.

Senate Bill 396

Effective: 6-20-03

Senate Author: Shapleigh et al.

House Sponsor: Grusendorf

Senate Bill 396 amends the Education Code to allow the Texas Education Agency to establish a three-year technology immersion pilot project to provide students in participating schools with wireless mobile computing devices and to implement the use of software, on-line courses, and other learning technologies known to improve academic achievement and other performance measures. The bill establishes administrative requirements and allows the agency to solicit, accept, and use funds from any source for the project's implementation, provided the funds are used solely to purchase the individual students' computing devices and related equipment, hire technical support staff, and purchase technology-based learning materials and resources; it also allows the agency to implement the project only if sufficient funds are available for that purpose.

The bill allows a school district to apply for a district-wide project or for a project limited to a school or group of schools, and it sets forth criteria for the agency's selection of districts and schools for project participation. Each participating district's board of trustees must submit a detailed annual progress report to the agency not later than August 1 of each year that it participates in the project, including specific student performance data and other effects, and the agency must review the project after it expires based on the annual reports it receives from each participating district's board of trustees.

Senate Bill 491

Effective: 5-12-03

Senate Author: Shapleigh

House Sponsor: Uresti

Senate Bill 491 requires the Texas Education Agency, in conjunction with the Texas Department of Mental Health and Mental Retardation, the Texas Department of Health, and the Texas Commission on Alcohol and Drug Abuse, to assess existing school-based mental health and substance abuse programs and to make recommendations regarding further development of those programs. The agency is required to report on the results of the assessment to the legislature not later than January 11, 2005.

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Senate Bill 1038

Effective: 9-1-03

Senate Author: Barrientos

House Sponsor: Hupp et al.

Senate Bill 1038 amends provisions of the Family Code, Education Code, and Labor Code to transfer the Communities In Schools program from the Department of Protective and Regulatory Services to the Texas Education Agency and makes conforming changes.

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

- HB 320 - Family Law and Juvenile Justice
- HB 1050 - Family Law and Juvenile Justice
- HB 1882 - Higher Education
- HB 2425 - Miscellaneous Taxes and Tax Administration
- HB 2493 - Government Purchasing
- HB 2721 - Health
- HB 3459 - Appropriations
- SB 474 - Health
- SB 671 - Property Taxes
- SB 1082 - Transportation

Public Officials and Employees

This chapter includes legislation on conflict-of-interest provisions applicable to certain elected and appointed officials, leave accrual and use generally, leave and salary provisions for public officials and employees called to active military duty, employee and retiree benefit programs, a public employer's access to and use of criminal history record information regarding an employee or job applicant, and public access to and interagency disclosure of personal information relating to public employees. The chapter includes legislation affecting retirement systems, pension funds, and death benefit programs for state, county, and municipal employees, officers, and judges. The chapter also includes legislation on issues relating to the employment, qualifications, rights, and benefits of police officers and firefighters. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 76

Effective: Vetoed

House Author: Wise et al.

Senate Sponsor: Van de Putte

House Bill 76 amends the Government Code to establish enforcement procedures for the law entitling veterans to an employment preference with respect to public entities and public works over other applicants who are not more qualified. Under the procedures, if a public official fails to comply with the law, the entitled individual may file a motion, petition, or other appropriate pleading with the district court to seek compliance. The bill requires the court to order a speedy hearing and to advance the hearing on its calendar. The individual, furthermore, may apply to the district attorney, criminal district attorney, or county attorney for representation. If the attorney reasonably believes that a preference entitlement exists, he or she either must appear and represent the individual in an amicable adjustment of the claim or must file or prosecute the motion, pleading, or other appropriate pleading on the individual's behalf. The bill prohibits the charging of court costs or fees for such filings with a district court. It requires public entities to prepare and make available for public inspection a statement of measures taken by the entity to ensure that veterans receive the employment preference and remedies that are available through the entity if an individual who is entitled to the preference is not hired or appointed.

Reason Given for Veto: "House Bill No. 76 would require county or district attorneys to represent veterans in claims they were not given employment preference allowed under current state law. This is an unfunded mandate and would potentially create a specific hardship in Travis County, where the majority of state employment is available. Further, this bill unnecessarily increases litigation in the state.

"I fully support efforts to employ qualified military veterans, and I encourage all state agencies, boards and commissions to be mindful of the state law that requires veterans to be given hiring preference."

House Bill 89

Effective: 9-1-03

House Author: McClendon et al.

Senate Sponsor: Barrientos

House Bill 89 amends the Government Code to entitle a state employee to a leave of absence not exceeding five working days in a fiscal year to donate bone marrow, or not exceeding 30 working days in a fiscal year to serve as an organ donor. The leave comes without a salary deduction. The bill also requires a state agency to allow an employee sufficient time off to donate blood, provided that prior approval is obtained from the employee's

Public Officials and Employees

supervisor. No deduction in salary or accrued leave results if the employee afterward provides the supervisor with proof of the donation. An employee may receive time off for blood donations a maximum of four times per fiscal year.

House Bill 554

Effective: 9-1-03

House Author: Chisum et al.

Senate Sponsor: Madla

House Bill 554 amends the Local Government Code to prohibit an elected county or precinct officer from filing suit regarding the officer's salary or personal expenses unless a hearing has been requested and held.

House Bill 608

Effective: 9-1-03

House Author: Denny

Senate Sponsor: Nelson

House Bill 608 amends the Local Government Code to authorize a county judge, at a meeting of the county commissioners court to select public members of the committee to review grievances regarding the salaries and expenses of elected county or precinct officers, to make a list of alternate public members from which an appointment may be made to replace an initial selection who refuses or is unable to serve or to fill a subsequent vacancy. The bill allows the county judge to make this list by repeating the process that was used to make the initial selections at the same meeting.

House Bill 686

Effective: 1-1-04

House Author: Lewis

Senate Sponsor: Nelson

House Bill 686 amends the Local Government Code to lower from 1.5 million to 1.3 million the minimum county population threshold required for an exemption from the state's continuing education requirements for county commissioners. Provided they meet other continuous service and professional development criteria, commissioners in such counties are exempt from having to complete the 16 classroom hours of continuing education per year otherwise required of county commissioners.

House Bill 725

Effective: See below

House Author: Haggerty et al.

Senate Sponsor: Whitmire

House Bill 725 amends the Insurance Code to allow certain active and retired employees of a community supervision and corrections department (CSCD), as well as their eligible dependents, to participate in the state's Uniform Group Insurance Program. The bill establishes procedures for employees to obtain coverage in the program and requires the criminal justice assistance division of the Texas Department of Criminal Justice to make contribution payments to the program in the same amount for a CSCD employee as it would for a state employee.

The bill takes effect September 1, 2003, and the insurance coverage takes effect September 1, 2004.

House Bill 898

Effective: 9-1-03

House Author: Hamilton et al.

Senate Sponsor: Staples

House Bill 898 amends the Education Code to prohibit a public junior college or school district from reimbursing an officer or employee for travel services expenditures in excess of the applicable amount determined from the comptroller's state travel allowance guide. It amends the Government Code to authorize an officer or employee of a public junior college or school district who is engaged in official business to participate in the Texas Building and Procurement Commission's contract for travel services.

House Bill 935

Effective: 5-15-03

House Author: Casteel

Senate Sponsor: Wentworth

House Bill 935 amends the Government Code to allow the Commissioners Court of Comal County to authorize the district and statutory county court judges in the county to appoint magistrates. The bill sets forth the qualifications, compensation, jurisdiction, responsibility, and powers of such appointed magistrates.

House Bill 1027

Effective: 6-20-03

House Author: Hupp

Senate Sponsor: Armbrister

House Bill 1027 amends open records provisions of the Government Code to give a crime victim who is an employee of a governmental body, or a guardian if the victim is incapacitated, the option to allow public access to information held by the attorney general's office or other governmental body that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. The bill establishes procedures and a deadline for exercising the option and provides that if none has occurred, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed.

House Bill 1075

Effective: 9-1-03

House Author: McCall

Senate Sponsor: R. Ellis

House Bill 1075 amends the Government Code to entitle a state agency to obtain from the Department of Public Safety criminal history record information on an employee, job applicant, contractor, subcontractor, intern, or volunteer with the agency or an agency contractor who has access to information resources or information resources technologies other than a telephone or desktop computer. The agency first must adopt policies and procedures providing that criminal conviction evidence or other information obtained from the record does not automatically disqualify a person from employment. The attorney general must review the policies and procedures for compliance with due process and other legal requirements and may charge the agency a fee for the review. Policies and procedures must provide for a case-by-case determination of employment suitability by the hiring official, based on factors listed in the bill. The bill restricts an agency's release or disclosure of the information and requires destruction of the information once an employment decision or personnel action has occurred. A criminal history record information provision in another law that is more specific to a state agency prevails over the provisions added by the bill, to the extent of any conflict.

House Bill 1087

Effective: 9-1-03

House Author: Olivo

Senate Sponsor: Gallegos

House Bill 1087 amends the Local Government Code to authorize the commissioners court of a county with a population of 150,000 or more to provide each county jailer of the sheriff's department longevity pay in an amount not less than \$5 a month for each year of service in the department, up to and including 25 years.

House Bill 1681

Effective: 6-20-03

House Author: Stick et al.

Senate Sponsor: Wentworth

House Bill 1681 amends the Local Government Code to allow the amount of compensation and allowances for a county auditor in a county with a population of more than 800,000 that uses an automated system to enhance internal controls of county finances to exceed the limit imposed by current law if the compensation and allowances are approved by the commissioners court.

House Bill 1767

Effective: 9-1-03

House Author: R. Ellis

Senate Sponsor: Williams

House Bill 1767 amends the Local Government Code to extend a requirement previously applicable only to the post-election expenditures of certain incumbent county commissioners in a county with a population of less than 50,000, and make it applicable to such expenditures by any county or precinct officer in any county regardless of its population. The bill requires the commissioners court to approve any post-election spending by a county or precinct officer that is over an amount set by the commissioners court if that official is not renominated or is not re-elected to the same office. The bill also extends the time period in which the commissioners court must approve expenditures to the date the primary election results are returned.

House Bill 1940

Effective: See below

House Author: Luna et al.

Senate Sponsor: Hinojosa

Under previous law, the required monthly longevity pay supplements made to assistant prosecutors by counties were to be reimbursed by the comptroller; however, funds have not been available to make reimbursements. House Bill 1940 amends the Government Code to require a county to make longevity pay supplements to eligible assistant prosecutors on a quarterly basis only if the county receives funds from the comptroller. The bill revises procedures for making longevity pay supplements and establishes procedures for the apportioning of funds when sufficient funds are not available. The bill also establishes the felony prosecutor supplement fund in the state treasury for the payment of longevity pay, generates funds with the assessment of a \$15 cost on bail bonds for certain offenses, and provides that two-thirds of the funds are to be deposited into the felony prosecutor supplement fund and one-third of the funds are to be deposited into the existing fair defense account. The bill takes effect December 1, 2003, except that provisions relating to the establishment of the fund and the associated \$15 cost take effect September 1, 2003.

House Bill 2053

Effective: 9-1-03

House Author: W. Smith

Senate Sponsor: Janek

House Bill 2053 amends provisions of the Local Government Code relating to group health benefits for certain persons whose salaries are paid from the funds of either the county, a flood control district located entirely in the county, or another governmental entity for which the county is obligated to provide benefits. The bill authorizes the county commissioners court to provide group health and related benefits through insurance or self-insurance or through a contract with a county-operated hospital, a hospital operated jointly by a municipality and county, or a private hospital.

House Bill 2053 authorizes a county providing coverage to reinsure its potential liability or buy stop-loss coverage for any amount of potential liability in excess of projected paid losses. The bill requires the commissioners court to provide a notice of a hearing before adopting any rule and to include the rule in a covered employee's employment contract or other written communication. The bill authorizes the commissioners court to require persons participating in the plan to contribute toward the payment of the plan and to establish a fund to pay for the group health and related benefits.

House Bill 2063

Effective: 9-1-03

House Author: Bohac

Senate Sponsor: Lindsay

House Bill 2063 amends the Local Government Code to remove adult probation department employees from the class of employees affected by certain county grievance procedures in a county with a population of more than 2.4 million.

House Bill 2116

Effective: 6-20-03

House Author: F. Brown et al.

Senate Sponsor: Ogden

House Bill 2116 amends the Education and Labor codes to provide temporary workers' compensation insurance coverage for members of Texas Task Force 1 who are not state employees. The bill provides coverage for such members as if they were state employees during any period in which the task force is activated by the governor's division of emergency management or during any task force-sponsored or -sanctioned training session, requires the division to reimburse the State Office of Risk Management for benefits paid on behalf of a covered member at the start of the fiscal year following the date the benefits are paid, and provides for the computation of the average weekly wage of a task force member in determining income or death benefits. The bill requires the Texas Engineering Extension Service to perform all duties of an employer regarding an injured task force member receiving benefits.

House Bill 2376

Effective: 9-1-03

House Author: Elkins

Senate Sponsor: Averitt

The State Employee Bonding Act concerns surety bonds that traditionally have been authorized or required of employees or officers of state agencies and institutions of higher education toward the payment of losses caused by performance shortcomings or dishonest acts of such personnel. In 2001, the legislature amended the act to limit the purchase of surety bonds by those entities and move to the greatest extent practicable toward self-insurance. House Bill 2376 deletes and repeals surety bond statutes that were made obsolete by the 2001 changes.

House Bill 2678

Effective: 6-20-03

House Author: Hartnett

Senate Sponsor: Deuell

House Bill 2678 amends the Local Government Code to allow a commissioners court, on the request of a county employee, to authorize an additional payroll deduction to be made from the employee's wages or salary for payment to an entity or for a purpose not otherwise specified by law if the commissioners court determines the payment serves a public purpose.

Senate Bill 89

Effective: 9-1-03

Senate Author: Wentworth

House Sponsor: J. Davis

Senate Bill 89 amends the Government Code to prohibit a member of the governing body of a state agency in the executive or judicial branch, or a single state officer who governs such an agency, from accruing compensatory time. The bill clarifies that the prohibition does not apply to an employee who acts as the administrative head of an agency.

Senate Bill 189

Effective: 1-1-04

Senate Author: Carona

House Sponsor: J. Jones

Under previous law, public members of a committee to review salaries and expenses of elected county or precinct officers were selected by the county commissioners court each January and served until a successor was appointed the following January. Senate Bill 189

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amends the Local Government Code to provide that the public members of the salary grievance committee are to be selected by the commissioners court not later than 15 days after a request for a hearing is received and that the court is not required to select the public members if a request for a hearing is not received. The bill provides that the public members are to serve until the end of the fiscal year or the time the committee takes a final vote on the last of the grievances for which a public hearing was held, and it requires the committee to hold a public hearing not later than the 10th day after the date the request is received or the date the court selects the committee members.

Senate Bill 430

Effective: 4-24-03

Senate Author: Hinojosa

House Sponsor: Luna et al.

Senate Bill 430 amends provisions of the Civil Practice and Remedies Code relating to a legislative continuance in a judicial matter. The bill expands the application of the law to allow a member-elect of the legislature a legislative continuance in a judicial matter. Senate Bill 430 also provides that, for an attorney who is a member or member-elect of the legislature and who was employed on or after the 30th day, rather than within 10 days, before the trial date, and for an attorney in a criminal case who is a member or member-elect of the legislature and who was employed on or after the 15th day before the trial date, a continuance is discretionary with the court.

Senate Bill 532

Effective: 9-1-03

Senate Author: Williams

House Sponsor: Ritter

Senate Bill 532 amends the Government Code to make it a Class B misdemeanor for certain judges to solicit or accept a gift or referral fee in exchange for referring any legal business to an attorney or law firm. The bill establishes certain affirmative defenses to prosecution, allows the State Commission on Judicial Conduct to sanction or institute formal proceedings after an investigation determines that the judge engaged in the conduct, and requires an attorney or judge who has information concerning a violation to file a complaint with the commission not later than the 30th day after the date the information was obtained.

Senate Bill 735

Effective: 6-20-03

Senate Author: Lindsay

House Sponsor: Flynn

Senate Bill 735 amends the Government Code to allow an individual who holds an elected or appointed local government office to be appointed to the governing body of a state agency. The bill prohibits the individual from receiving compensation for serving in that latter capacity, but it allows the individual to be reimbursed for a reasonable and necessary expense incurred in the performance of an official function.

Senate Bill 755

Effective: 6-20-03

Senate Author: Ratliff

House Sponsor: Chisum

Senate Bill 755 amends the Government Code to require a member of the executive committee or another committee of the Office of Community Affairs, if the member has a financial interest in an entity that applies for a monetary award, to disclose the financial interest before a vote on the award. The bill requires the committee to enter the disclosure into the minutes of the meeting, and prohibits the member from voting on or otherwise participating in an activity that relates to awarding the monetary award. If the member fails to comply with the provisions, the entity is not eligible for the award. Similarly, if the executive director has a financial interest in an entity that applies for a monetary award, the bill requires the director to

disclose it as soon as possible to the executive committee, prohibits the director from participating in related staff evaluations, and establishes certain other procedures if the director has a vote on a matter that involves the award. If the director fails to comply with the provisions, the entity is not eligible for the award. Finally, if an executive committee member is employed by an entity that applies for or is affiliated with an entity that applies for a monetary award or contract, the bill requires the member to disclose the employment before a vote on the monetary award or contract, and the executive committee is required to enter the disclosure into the minutes of the meeting. The member is prohibited from voting on or otherwise participating in an activity that relates to awarding the monetary award or contract. If the executive committee member does not comply with the provisions, the entity is not eligible for the monetary award or contract.

Senate Bill 828**Effective:** 9-1-03**Senate Author:** Whitmire**House Sponsor:** Nixon

Senate Bill 828 amends the Government Code to temporarily allow the Harris County Commissioners Court, notwithstanding state law governing judicial salaries, to set the annual supplemental salary of district court judges having jurisdiction in that county until September 1, 2007, at which time previous salary levels are reenacted to the annual supplemental salary of not less than \$12,000 nor more than \$25,000.

Senate Bill 1047**Effective:** 6-20-03**Senate Author:** R. Ellis**House Sponsor:** Goodman

Senate Bill 1047 amends the Government Code to protect the independence of a state or local elected or appointed officer when acting in a legislative capacity on a bill, resolution, order, or other proposal involving a statute, ordinance, rule, or policy of general application. Protection also applies to an action on a proposal relating to a zoning ordinance or on a proposed constitutional or charter amendment. The bill provides that the officer, with respect to an action on any legislative measure to which the protection extends, may not be subject to a disciplinary action, sanction, penalty, disability, or liability for a breach of duty, in connection with the practice of his or her profession or occupation, to disclose information or obtain a waiver or consent regarding the measure. Additionally, the officer may not be subject to such consequences for a lawful official action or advocacy for or against a measure, or for its effects. The bill amends the Local Government Code to make county judges and county commissioners subject to certain conflict-of-interest provisions if they have entered a court appearance or signed court pleadings in a matter relating to that entity, and it establishes when they may practice law in local courts. It also clarifies the authority of the governing body of a general-law municipality to appoint and prescribe the powers and duties of municipal officers and employees.

Senate Bill 1087**Effective:** 9-1-03**Senate Author:** Staples**House Sponsor:** Marchant

Senate Bill 1087 amends the Government Code to repeal a requirement that an applicant to be a notary public have the constitutionally required oath signed and sworn to or affirmed by a person authorized to administer oaths in this state.

Senate Bill 1173

Effective: 9-1-03

Senate Author: Janek

House Sponsor: Delisi

Senate Bill 1173 amends the Insurance Code to require the health benefit plans of the Employees Retirement System of Texas (ERS) and the Teacher Retirement System of Texas (TRS), both of which use a drug formulary in providing a prescription drug benefit, to require prior authorization for coverage of the following drug categories if the specific drug prescribed is not included in the formulary: (1) a gastrointestinal drug; (2) a cholesterol-lowering drug; (3) an anti-inflammatory drug; (4) an antihistamine drug; or (5) an antidepressant drug. The bill requires the boards of trustees of ERS and TRS to submit every six months to the comptroller and to the Legislative Budget Board a report regarding any cost savings achieved through this prior authorization requirement. The bill requires each report to cover the previous six-month period, with the initial report due September 1, 2005.

The bill allows the board of trustees of ERS to contract for or provide a coverage plan that covers smoking cessation prescription drugs at a lower benefit level than it provides for other prescription drugs. The board also is prohibited from requiring a participant in the group benefits program to purchase a prescription drug through a mail order program. If a participant chooses to obtain a drug through a method other than mail order, the bill requires the board or the health benefit plan to require the participant to pay a deductible, a copayment, or other cost-sharing obligation to cover the additional cost of obtaining the drug through that method.

Senate Bill 1303

Effective: 7-1-03

Senate Author: Madla

House Sponsor: Chisum et al.

Senate Bill 1303 amends provisions of the Local Government Code relating to compensation for a county auditor, assistant auditor, court reporter, or sheriff department personnel. The bill specifies that a notice of a public hearing for setting compensation for a county auditor, assistant auditor, and court reporters must be posted not earlier than the 30th or later than the 10th day before the date of the hearing, rather than on or before the 15th day before the date of the hearing. The bill allows the amount of compensation and allowance of a county auditor in a county with a population of 500,000 or more to exceed that of the highest paid elected county officer other than a statutory county court judge if the compensation and allowances are approved by the commissioners court of the county.

Senate Bill 1303 allows a county government in a county that has a population of more than 7,500, is located on an international boundary, and contains no incorporated territory of a municipality to classify all positions in its sheriff's department, specify the duties, and prescribe the salary for each classification, and it allows the qualified voters to petition the commissioners court of the county to increase the minimum salary of each member of the sheriff's department. The bill also allows the county government in such a county to provide longevity pay for each commissioned deputy of the sheriff's department of not less than \$5 a month for each year of service in the department, up to and including 25 years.

Senate Bill 1370

Effective: 9-1-03

House Author: Duncan

Senate Sponsor: Delisi

Senate Bill 1370 amends provisions of the Insurance Code relating to the group insurance programs provided by the Employees Retirement System of Texas (ERS), the Teacher Retirement System of Texas (TRS), The University of Texas System (UT), and The Texas A&M University System (A&M).

It establishes a general rule that retirees participating in the ERS plan, except persons who are eligible to retire under the ERS elected class, as judges, or as law enforcement officers, be age 65 with 10 years of service or retire under “the rule of 80” (the sum of age and years of service equals or exceeds 80). Similar requirements are imposed for the UT and A&M plans.

A waiting period equal to the first day of the calendar month after 90 days of employment is required for enrollment in the ERS, UT, and A&M plans as an employee. For the ERS plan, “full-time employee” is redefined as someone who normally works at least 40, rather than 20, hours a week, with discretionary exceptions for a few educational institutions. For the UT and A&M plans, adjunct professors are allowed to participate under certain circumstances.

The bill returns the \$1,000-a-year stipend to active school district employees for health insurance or other purposes, beginning September 1, 2005; transfers \$42 million from the active school employees plan to the retired school employees plan; and raises the contribution rate of active school employees to the retired school employees plan from 0.25 to 0.5 percent of salary.

The bill also requires the A&M plan to elect whether to join the ERS plan by November 1, 2004.

Police Officers and Fire Fighters

House Bill 769

Effective: 9-1-03

House Author: Solis et al.

Senate Sponsor: Averitt

House Bill 769 amends the Government Code to add Department of Public Safety employees who perform communications or dispatch services related to traffic law enforcement to those department employees granted compensatory time when required to work on a national or state holiday that falls on a weekend.

House Bill 873

Effective: 9-1-03

House Author: R. Cook

Senate Sponsor: Armbrister

House Bill 873 amends the Government Code to expand the rural volunteer fire department insurance program to include a fire department that participates in a certification program administered by the National Wildlife Coordinating Group. It eliminates eligibility qualifications for the insurance program’s advisory committee, except for the requirement that the five members be appointed from different geographic regions. The bill entitles advisory committee members to travel expense reimbursement but prohibits their receipt of compensation for their services.

House Bill 1189

Effective: 9-1-03

House Author: Talton

Senate Sponsor: Gallegos

House Bill 1189 amends the Local Government Code to authorize the head of a police department to develop and implement an alternative dispute resolution program for the mediation of certain disputes involving police officers. The bill establishes time limitations and deadlines for the mediation process, and it includes provisions to protect the confidentiality of mediation proceedings and any oral or written communication relevant to the dispute, except a final written agreement to which the police department or municipality is a signatory, and to prohibit their disclosure or discovery except under restricted circumstances or conditions. Information in the final written agreement is subject to open records provisions and other law. If the provisions of this bill conflict with other legal requirements for disclosure of

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communications or materials, the issue of confidentiality may be presented to a district court to determine if those items warrant a court's protective order or if they are subject to disclosure. Except for any conflict, Civil Practice and Remedies Code statutes and police department rules relating to mediation and Government Code statutes relating to alternative dispute resolution procedures for use by governmental bodies apply to a mediation under the above provisions.

House Bill 1247

Effective: 6-20-03

House Author: Ritter et al.

Senate Sponsor: Madla

House Bill 1247 amends the Government Code to require the Texas State Affordable Housing Corporation (TSAHC) to establish a program to make low-interest home mortgage loans available to fire fighters and police officers who reside in Texas and have incomes no greater than 115 percent of the area median family income, adjusted for family size. The bill requires that, of the portion of the state ceiling available until August 1 of each year for reservations by issuers of qualified mortgage bonds, \$25 million be made available exclusively to TSAHC to issue qualified mortgage bonds to fund this program. The bill authorizes TSAHC to supplement the money from the state ceiling with gifts, grants, and other funds and to set and collect from each applicant any reasonable and necessary fees to cover the costs of administering the program. The bill requires TSAHC to ensure that a loan under this program is structured to comply with any requirements associated with the source of funds used for the loan. The bill requires TSAHC to implement the program no later than September 1, 2004, and provides for its expiration on September 1, 2014. If TSAHC is abolished on or prior to its sunset review date of January 1, 2005, the bill requires the Texas Department of Housing and Community Affairs to administer this program.

House Bill 2038

Effective: 9-1-03

House Author: Lewis

Senate Sponsor: Madla

House Bill 2038 amends the Local Government Code to require that the entrance examination taken by a person applying for a beginning position with a fire or police department in a municipality with a population of 10,000 or more test the applicant's general knowledge and aptitude, rather than specific knowledge about and qualifications for fire fighting or police work.

House Bill 2361

Effective: Vetoed

House Author: Bailey

Senate Sponsor: Gallegos

House Bill 2361 amends the Local Government Code to require the investigator of a complaint filed against a fire fighter or police officer in certain municipalities to inform the fire fighter or police officer in writing, not later than 30 days after the date the investigator receives the complaint, of the nature of the investigation and the name of each complainant, if known, unless a criminal investigation has been initiated as a result of the complaint or if the disclosure of such information would hinder a criminal investigation.

Reason Given for Veto: "House Bill No. 2361 requires Houston police and firefighters to be given the names of complainants, if known, and the basis of complaints made against firefighters and police officers within 30 days of the complaint being filed. Labor relations between the City of Houston and its police officers and firefighters are governed by meet and confer agreements. Under the specific terms of those agreements, any issues affecting the labor relations of the City of Houston, on the one hand, and its police officers or firefighters, on the other hand, should be resolved through the meet and confer process. The Texas Legislature is not the appropriate forum to address this issue."

House Bill 2400

Effective: 6-18-03

House Author: Noriega

Senate Sponsor: Gallegos

House Bill 2400 amends a Local Government Code chapter applicable to a municipality of population 10,000 or more that has paid fire and police departments, if it has adopted the chapter or the law the chapter codifies. The bill requires the municipality to continue existing insurance and benefits coverage for a fire fighter or police officer who is called to active military duty. The bill also requires the municipality to establish a military leave account for each of the two departments. Fellow fire fighters or police officers may donate vacation, holiday, sick, or compensatory leave to the account, and the donated leave must be distributed on an equal basis to all eligible beneficiaries. Fellow fire fighters or police officers also may voluntarily substitute for a reservist or National Guard member from their department who is called to active federal military duty for a period expected to last 12 months or longer. If continuous service on such active duty has reached that duration and the mobilized reservist or National Guard member has exhausted all leave, he or she becomes an eligible beneficiary for distributions from the military leave time account.

Senate Bill 255

Effective: 9-1-03

Senate Author: Averitt

House Sponsor: Solis

Senate Bill 255 amends the Government Code to add Department of Public Safety employees who perform communications or dispatch services related to traffic law enforcement to those department employees granted compensatory time when required to work on a national or state holiday that falls on a weekend.

Senate Bill 482

Effective: 9-1-03

Senate Author: Madla et al.

House Sponsor: Haggerty et al.

Senate Bill 482 amends the Government Code to add to the list of those persons eligible for certain state benefits the survivors of an individual employed or designated as the chaplain for a volunteer fire-fighting unit or other fire department, a law enforcement agency, or the Texas Department of Criminal Justice who dies in the line of duty. The bill clarifies that the survivors are eligible if the listed public safety individual died as a result of a personal injury sustained in the line of duty, and defines certain terms as they are used by the Employees Retirement System of Texas. The bill specifies that in determining whether the survivor is eligible for the payment of assistance, any reasonable doubt arising from the circumstances of the individual's death should be resolved in the survivor's favor.

Senate Bill 674

Effective: 6-20-03

Senate Author: Estes

House Sponsor: Rose et al.

Senate Bill 674 amends the Government Code to include state employees who are peace officers commissioned by a state officer or by certain state agencies, rather than just Department of Public Safety officers, among those granted compensatory time when required to work on a national or state holiday that falls on a weekend.

Senate Bill 804

Effective: 9-1-03

Senate Author: Zaffirini

House Sponsor: Y. Davis

Senate Bill 804 amends the Government Code to require the director of the Department of Public Safety (DPS) to make reasonable efforts to accommodate a working condition request of a pregnant commissioned DPS officer and to assign the officer to a temporary work assignment, if one is available and requested by the officer.

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Senate Bill 959

Effective: 5-20-03

Senate Author: Duncan

House Sponsor: Isett

Senate Bill 959 amends the Government Code to entitle eligible surviving spouses of certain law enforcement officers, firefighters, and others to continue to purchase health coverage provided by or through a political subdivision that employed the deceased individual under a health insurance policy or health benefit plan written by a health insurer.

Senate Bill 1459

Effective: 9-1-03

Senate Author: Lindsay

House Sponsor: W. Smith

Senate Bill 1459 amends the Government Code to authorize a county fire marshal to obtain from the Texas Department of Public Safety and disclose to the department chief or chief executive of a fire department or an emergency medical services provider for an unincorporated area any criminal history record information that relates to a prospective or current employee of the requesting department or provider.

Public Officials and Employees on Active Military Duty

House Bill 2385

Effective: 6-20-03

House Author: Griggs et al.

Senate Sponsor: Harris

House Bill 2385 adds a chapter to the Government Code to authorize temporary salary payments to certain public employees called to active military duty. The bill applies to a municipal or county employee who is a member of a reserve component of the United States armed forces, including a part of the state military forces, and is called to active military duty by federal officials. The bill does not apply to active duty that is voluntarily sought or extended. It authorizes a municipality or county, if the individual has exhausted all military leave, to continue his or her governmental salary in an amount the local government determines until the active duty requirement ceases. The bill establishes related conditions and procedures. It extends eligibility retroactively to a military call-up that occurs before the bill's effective date, as well as to a call-up that occurs on or after that date.

House Joint Resolution 84

For Election: 9-13-03

House Author: Uresti et al.

Senate Sponsor: Van de Putte

House Joint Resolution 84 proposes a state constitutional amendment to provide that an elected or appointed officer of the state or of any political subdivision who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated, does not vacate the office held and to provide for the appointment of a temporary acting officer to serve in place of the one on active duty in the armed forces. For an officer other than a member of the legislature, the authority who has the power to appoint a person to fill a vacancy may appoint a temporary acting officer; the governor may appoint a temporary acting officer for a state or district office if a vacancy would normally be filled by a special election; and the governing body of a political subdivision may appoint a temporary acting officer for an office of that political subdivision. For an officer who is a member of the legislature, the member of the legislature is required to select a person who meets certain criteria to serve as the temporary acting representative or senator, contingent on approval by a majority vote of the appropriate house of the legislature. Other provisions of the resolution relate to the powers, privileges, duties, and terms of temporary acting officers.

Senate Bill 1669
Effective: 6-20-03

Senate Author: Averitt
House Sponsor: Corte

The Government Code provides that a state or political subdivision officer or employee who is a member of the state military forces or a reserve component of the armed forces and takes a leave of absence for training or other ordered duty may not be subjected to a loss of time, efficiency rating, vacation time, or salary during that leave. Senate Bill 1669 amends the code to extend that protection to prevent loss of personal time or sick leave. The bill amends the Education Code to entitle a school district employee to use available personal or sick leave for compensation during a term of active military service. Also, a school district may adopt a policy providing for a paid leave of absence for employees on active military service as part of the consideration of employment by the district.

Senate Bill 1800
Effective: 9-1-03

Senate Author: Van de Putte
House Sponsor: Corte et al.

Senate Bill 1800 amends the Government Code to require a state agency to grant sufficient emergency leave to an employee who is away on military duty to make up the difference between the pay the employee earns from the state and the pay he or she earns from the military, if the military pay is smaller. The bill allows a reservist or National Guard member who is called to active duty in the national armed services to use accrued leave of specified types to draw whatever threshold amount of state salary is necessary to maintain benefits while on military duty, including benefits for dependents, and whatever amount is necessary to continue to earn service credit with the Employees Retirement System of Texas. Otherwise, exclusive of those threshold salary amounts and the make-up pay, the mobilized individual cannot draw both state and military pay. The bill requires the agency to review with an employee, before he or she leaves for military duty, issues relating to the maintenance of his or her state health insurance. The agency must provide the employee a statement on accrued compensatory time and must accommodate any request to use the balance of such time before it expires. Other code amendments extend to a state employee in the State Guard, when called to state active duty by the governor, the same entitlement to paid emergency leave as a state employee in the National Guard when called to state active duty.

Retirement

House Bill 258
Effective: 6-20-03

House Author: Pickett et al.
Senate Sponsor: Madla

House Bill 258 amends the Government Code to require the governing body of a public retirement system to correct an error in the distribution of retirement benefits that results in a person receiving an incorrect benefit payment and, where practicable, to adjust that person's future payments so that the person receives the actuarial equivalent of the benefit to which the person is entitled. If the error results in an overpayment of benefits and no future payments are due the recipient, the bill authorizes the governing body to recover the overpayment from the recipient through regular debt collection processes. The bill limits such recovery to an overpayment made during the three years preceding the governing body's discovery of the error, except that the limitation does not apply to recovery of an overpayment that a reasonable person receiving the benefit should know is an overpayment or to an overpayment that has been resolved by an agreement prior to the bill's effective date.

House Bill 264

Effective: 6-20-03

House Author: F. Brown

Senate Sponsor: Hinojosa

House Bill 264 amends the Government Code to authorize the governing board of an institution of higher education to make a supplemental contribution to the optional retirement program each fiscal year, with the amount to be equal to or less than the difference between the amount the state is required to contribute to the program (up to 8.5 percent of the aggregate annual compensation of all program participants during that year) and the amount the state appropriates for that purpose. The bill authorizes the governing board to use any source of funds for the contribution, and to contribute an amount that is different for a participant employed on or before August 31, 1995, and a participant hired after that date.

House Bill 601

Effective: 5-15-03

House Author: Thompson

Senate Sponsor: Gallegos

House Bill 601 authorizes the board of a municipal pension system in a city with a population of 1.5 million or more to enter into a written agreement with the city regarding the pension system's benefits and issues relating to it. The bill requires any such agreement, enforceable against and binding on the city and the pension system's participants and beneficiaries, to be approved by both the board and the city's governing body and to be signed by the mayor and either the pension board or the board's designee. The bill allows a pension benefit or allowance provided under such an agreement to be increased if (1) a qualified actuary chosen by the board has determined it will not jeopardize the pension system's ability to pay existing benefits; (2) it is approved in writing by the board and the city; and (3) it does not deprive any members or retirees, without their consent, of benefits for which they were eligible before the increase. The bill changes the composition of the board by reducing from three to one the number of trustees appointed to represent the general public, requiring an appointed trustee to be a resident of Texas, rather than the city, for the three years preceding the initial appointment, and removing the requirement for an appointed trustee to be a registered voter in the city. The bill authorizes the elected members of the board, rather than the city, to appoint, reappoint, remove, or replace an appointed trustee, and requires a majority vote of the board's elected trustees for these actions. The bill limits the terms of the current appointed trustees to the effective date of this bill, and requires the board no later than October 1, 2003, to appoint or reappoint a trustee who meets the requirements established by these provisions, with that term to expire in January 2004.

House Bill 752

Effective: 9-1-03

House Author: Woolley et al.

Senate Sponsor: Williams

House Bill 752 amends provisions relating to the administration of a police officers pension system in a municipality with a population of at least 1.5 million to reflect changes agreed to by the city and the board of trustees and specify the city's contributions through June 30, 2005.

The bill raises the multiplier from 2.5 to 2.75 percent for certain benefits and raises the monthly amount of a retired member's service pension, a survivor's benefit, and a retired member's disability benefit for insurance. It also specifies that the average total direct pay is to be computed on the highest biweekly pay received by a member during a specified period. It increases the maximum age of a "dependent child" from 22 to 24 and defines "normal retirement age" as the earlier of either the age at which a member attains 20 years of service or the age at which a member attains 60 years of age and 10 years of service, and it modifies provisions relating to the operations and responsibilities of the pension system's board of trustees. It requires the pension system to accept an eligible rollover distribution from another

plan; includes provisions relating to deferred retirement option plans, certain types of disability retirement, and military service; and establishes that information in the pension system's records relating to a member or beneficiary is confidential.

House Bill 820

Effective: 9-1-03

House Author: Grusendorf

Senate Sponsor: Jackson

House Bill 820 amends the Government Code to allow a member of the Judicial Retirement System of Texas Plan Two to retire and receive a service retirement annuity if the member has served at least two full terms on an appellate court and the sum of the member's age and the amount of service credited in the retirement system equals or exceeds the number 70. It adds a requirement for retiring with 20 years of service in the system that the person must be at least 55 years old. The bill provides that these criteria apply regardless of whether the member currently holds a judicial office.

House Bill 1153

Effective: 10-1-03

House Author: Puente

Senate Sponsor: Madla

House Bill 1153 amends provisions of law relating to retirement and disability benefits for firefighters and police officers in certain municipalities. The bill provides for immediate coverage of new recruits by removing the two-month waiting period following state certification, but it exempts a municipality from the requirement to make a corresponding employer contribution during the first 60 days of a new member's participation in the fund for members who join the fund after September 30, 2003, and before October 1, 2005. The bill provides a disability retirement annuity for a member who is disabled as a result of military service and increases the minimum disability annuity for certain retirees. The bill allows a member who leaves the retirement fund to reestablish service credit for the prior period of employment by paying to the fund a lump sum equal to the refunded contributions plus interest. The bill clarifies the definition of "dependent child" and it allows the benefits payable to a fund beneficiary who is a minor dependent child to be accrued by the fund, at the discretion of the fund's board of trustees, and paid directly to the child on the child's 18th birthday in lieu of payments to a court-appointed guardian.

House Bill 1822

Effective: 1-1-04

House Author: Kuempel

Senate Sponsor: Armbrister

House Bill 1822 amends Government Code provisions relating to the Texas Municipal Retirement System to conform those provisions with federal law. The bill eliminates restrictions on investment options and adds prudent person investment standards that correspond to the Texas Constitution. The bill authorizes the board to establish rules to correct reporting errors in service credit and clarifies other board responsibilities. The bill makes changes to members' service credit and retirement application requirements, including reducing from 10 years to 5 years the amount of service required before applying for military service credit, eliminating the monthly deposit required for military service credit, reducing the minimum period for submitting an application for service retirement, and increasing the lump-sum supplemental death benefit from \$5,000 to \$7,500. The bill allows a member to purchase not more than 60 months of military service credit if the member, on December 31, 2003, and at the time of purchase, is an employee of a municipality that has adopted an ordinance allowing eligible employees to establish retirement credit for certain active military service as provided by Section 853.504(b), Government Code, as that law existed immediately before the effective date of this provision.

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House Bill 1984

Effective: 1-1-04

House Author: Kuempel

Senate Sponsor: Armbrister

House Bill 1984 amends Government Code provisions that apply specifically to the Texas County and District Retirement System (TCDRS).

The bill allows any public employer that has assumed the functions of a dissolved participating special district to assume the retirement obligations incurred before the dissolution. It authorizes a simplified procedure for correction of enrollment or credit errors and allows a member who resumes service, after withdrawal of contributions, to repay any amount up to the actuarial value of the amount withdrawn. It also allows establishment of military service credit at the number of years required to retire at age 60, whether 8, 10, or 12.

The bill allows individual plans within TCDRS that are not enrolling new members to make benefit changes with TCDRS board consent and actuarial approval.

The bill also changes maximum amortization periods to conform to upcoming standards of the federal Governmental Accounting Standards Board, makes corrective and minor administrative changes, and allows a TCDRS retiree to be named to or remain a member of the board.

House Bill 2169

Effective: 6-20-03

House Author: Telford et al.

Senate Sponsor: Shapiro

House Bill 2169 amends the Government Code to specify that a retiree of the Teacher Retirement System of Texas employed by a third-party entity that provides personnel to a public educational institution is considered an employee of the institution and is ineligible for service or disability retirement benefits during that employment.

The bill authorizes the commissioner of education to elect to participate in the Teacher Retirement System of Texas, rather than the Employees Retirement System of Texas or the optional retirement program, in the same manner and under the same conditions as a member who is an employee of a public school system.

House Bill 2359

Effective: 9-1-03

House Author: Ritter

Senate Sponsor: Armbrister

House Bill 2359 amends the Government Code and Insurance Code provisions that specifically govern the systems and programs administered by the Employees Retirement System of Texas (ERS)—namely retirement systems for state officers and employees and state judicial officers, a group insurance plan for those officers and employees plus officers and employees of most institutions of higher education, optional deferred compensation and supplemental benefits programs for state officers, employees, and judges, and a death benefit program that pays benefits to survivors of public service personnel.

With regard to the retirement system for state officers and employees, the bill makes persons first employed or resuming employment, after withdrawing contributions, before September 1, 2005, to wait 90 days before becoming a member of the employee class, but allows those persons to purchase credit for the first 90 days at its actuarial present value. The bill removes the prohibition on membership for temporary employees who are over 65 years of age and authorizes purchase of service credit and designation of beneficiaries electronically. The bill removes the limitation on members of the system or the teacher retirement system from repurchasing credit in the other system.

The bill allows members of the newer judicial retirement system to purchase military or calendar year service without being contributing members.

The bill makes members of small volunteer fire-fighting units eligible for the public service personnel death benefit program, makes minor administrative changes in the deferred compensation program, and authorizes a tax-deductible transportation benefit for the supplemental benefits program.

Finally, the bill clarifies ERS procedures relating to confidentiality of records, administrative hearings, and judicial appeals.

House Bill 2561

Effective: 6-20-03

House Author: Rose et al.

Senate Sponsor: Madla

House Bill 2561 amends provisions relating to Texas local firefighters' retirement systems to clarify that, for purposes of determining a vested accrued benefit, the date benefits are determined is the date before any addition or change is adopted by the board of trustees of the retirement system, or the date of divorce for a member or retiree whose benefits are subject to a qualified domestic relations order. The bill provides that a disability retirement benefit is not a vested accrued benefit until the member becomes disabled and that a death benefit is not a vested accrued benefit until the member or retiree for whom the benefit is payable dies.

House Bill 2916

Effective: 9-1-03

House Author: Ritter

Senate Sponsor: Armbrister

House Bill 2916 amends the Government Code to allow a member of the Judicial Retirement System of Texas Plan Two who has at least 120 months of membership service credit to purchase up to 60 months of equivalent membership service credit in the retirement plan by depositing with the retirement system, for each month of service credit the member seeks to establish, the actuarial present value at the time of the deposit of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit.

House Bill 3208

Effective: 6-20-03

House Author: Heflin

Senate Sponsor: Averitt

House Bill 3208 adds a temporary provision to the Government Code to offer a lump-sum retirement incentive payment to certain members of the Employees Retirement System of Texas (ERS) who retire between the last day of state fiscal year 2003 and the last day of state fiscal year 2005. Eligibility excludes disability retirement. Otherwise, to receive the payment, an ERS member who is eligible to retire on August 31, 2003, must retire on that date, and a member who becomes eligible to retire after that date and before September 1, 2005, must retire in the month in which the member first becomes eligible to do so. The lump-sum amount equals 25 percent of the member's total regular salary for the 12 months preceding the month of retirement. The temporary provision authorizes the ERS board of trustees and the comptroller to adopt implementation rules and requires the ERS to report to the comptroller at least once monthly on the number of retiring members who are eligible to receive a lump-sum payment. The provision expires January 1, 2006.

House Bill 3237

Effective: 6-20-03

House Author: T. Smith

Senate Sponsor: Harris

House Bill 3237 amends the Government Code to prohibit the Teacher Retirement System of Texas from withholding the monthly benefit payment of a service retiree or a disability retiree if that person works in more than one of various substitute teacher positions during the

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same month as long as the total number of days worked does not exceed the number of days per month for work on a half-time basis. This provision applies beginning with the 2003-2004 school year.

House Joint Resolution 54 **For Election:** 9-13-03

House Author: King et al.
Senate Sponsor: Brimer

House Joint Resolution 54 proposes a state constitutional amendment to prohibit the reduction or other impairment of service and disability retirement benefits and death benefits to public officers and employees of a local public retirement system, with the retirement system and each political subdivision that finances its benefits being jointly responsible for ensuring those benefits are maintained. The amendment excludes a retirement system that provides such benefits to firefighters and police officers employed by the City of San Antonio and excludes life insurance and certain disability benefits. The amendment prohibits the reduction or other impairment of benefits that were granted to a retiree or other annuitant before the effective date of this provision and that were in effect on that date, or due to a change in the program's benefits if the person could have or has terminated employment before the change's effective date and the person would have been eligible for those benefits without accumulating additional service. The amendment limits the liability for these benefits by active members of a retirement system to payment contributions required by law to the system.

House Joint Resolution 54 exempts from the application of these provisions a political subdivision that finances retirement system benefits if the political subdivision holds an election in May 2004 on the date specified for electing its officers, if the majority of voters at the election favor exempting the political subdivision and the retirement system from the application of these provisions, and if that exemption is the only issue on the ballot relating to the funding and benefits of the retirement system. If voters approve H.J.R. 54, it takes effect September 13, 2003.

Senate Bill 297 **Effective:** 9-1-03

Senate Author: Janek
House Sponsor: Hamric

Senate Bill 297 amends provisions relating to a firefighters' relief and retirement fund in a municipality with a population of at least 1.6 million. The bill requires a member in active service to contribute to the fund in an amount equal to 8.35 percent, rather than 7.7 percent, of the member's salary at the time of the contribution, and as of July 1, 2004, in an amount equal to 9 percent of the member's salary at the time of the contribution. It requires a municipality's contribution rate to be the normal cost plus the level percentage of salary payment required to amortize the unfunded actuarial liability over a constant period of 30, rather than 40, years. It prevents investment losses from being credited to a member's deferred retirement option plan (DROP) account and specifies that the credit to a member's DROP account must be at an annual rate of between 5 and 10 percent. It also adds provisions relating to the board's authority, including provisions relating to open meetings, and includes provisions relating to disability benefits and benefits to a member's eligible spouse.

Senate Bill 977 **Effective:** 6-20-03

Senate Author: Staples
House Sponsor: Hope

Senate Bill 977 amends the Government Code to authorize a local public retirement system to designate a brokerage firm as custodian for the system's assets if the governing body chooses to contract for professional investment management services. The bill requires the brokerage firm to meet certain requirements before entering into such a contract and to provide

insurance against errors, omissions, mysterious disappearances, or fraud in an amount equal to the amount of the assets in its custody. The bill prohibits the brokerage firm from having discretionary authority over those assets and requires the brokerage firm to discharge its duties solely in the interest of the retirement system.

Senate Bill 1442**Effective:** 9-1-03**Senate Author:** Barrientos**House Sponsor:** Keel

Senate Bill 1442 authorizes certain municipal police retirement boards to establish criteria that a member of the police retirement system, or a member's eligible surviving spouse, must meet to receive military service credit or permissive service credit. The bill prohibits the board from adopting a rule that authorizes the purchase of service credit unless an actuarial study shows that adoption of such a rule will not make the retirement system financially unsound and that, after its adoption, the retirement system's unfunded actuarial liability can be amortized within the maximum period adopted by the Governmental Accounting Standards Board. The bill also prohibits the police retirement board from adopting any rule that conflicts with provisions of the Internal Revenue Code.

The bill requires the board to establish a separate retiree death benefit fund to pay death benefits only from the fund and specifies that such benefits are not an obligation of any other retirement system fund. The bill requires the retirement system's actuary to value the assets and liabilities of the retiree death benefit fund and requires the board, based on the actuary's recommendations, to adopt rates and tables to determine the municipality's contribution rate. The bill authorizes the board to transfer money from the general retirement fund to the retiree death benefit fund to cover any shortfall and requires repayment of that money when fiscally prudent. The municipality must contribute to those two funds concurrently and reduce its general retirement fund contribution each pay period by the amount of its contribution to the retiree death benefit fund for the same period.

Senate Bill 1696**Effective:** 9-1-03**Senate Author:** Wentworth**House Sponsor:** Hill

Senate Bill 1696 amends the Local Government Code to authorize a municipality to issue obligations to pay for all or part of an unfunded liability to a public pension fund.

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

HB 43 - Environment
 HB 301 - Corrections
 HB 622 - Local Government
 HB 999 - Elections
 HB 1065 - Water Districts
 HB 1230 - Labor and Employment
 HB 1458 - Criminal Justice
 HB 2157 - Courts
 HB 3306 - Courts
 SB 88 - Courts
 SB 322 - Courts
 SB 749 - Courts
 SB 1603 - State Government
 SB 1923 - Courts
 SJR 19 - Water Districts

State Government

This chapter covers legislation on state agencies, fiscal management, auditing, electronic government, and other topics relating to state government and the interaction between state and local and regional governmental entities. The chapter also covers legislation on the Texas National Guard and Texas State Guard, as well as other matters of general interest to the military and veterans, including veterans' land and housing assistance. Defense base matters are found in the **Economic Development** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 7 (3rd C.S.)

Effective: See below

House Author: Swinford et al.

Senate Sponsor: Ogden

House Bill 7 amends various laws to reorganize state governmental functions and accomplish other objectives. It transfers from the comptroller to the Legislative Budget Board (LBB) powers relating to the performance review of state agencies, state records management, school districts, and interscholastic competition, and it grants the LBB performance review powers also with respect to public junior colleges and general academic teaching institutions. The bill requires the state auditor and the Legislative Audit Committee to review tax settlements and similar actions of the comptroller. It sets a deadline for the comptroller's evaluation and certification of appropriations regarding the sufficiency of revenue to cover budgeted expenditures. The comptroller must act not later than the 10th day, excluding Sundays, after the date an act making an appropriation is enrolled by the legislative chamber of origin.

The bill revises the composition of the Texas Legislative Council to give the senate and house of representatives an equal number of council members. It establishes the lieutenant governor and speaker of the house as joint chairs of both the council and the Legislative Audit Committee. The bill gives the state auditor a greater role in the oversight of regional planning commissions. It allows the LBB to hold teleconference meetings.

Provisions relating to the Employees Retirement System of Texas (ERS) and the Teacher Retirement System of Texas (TRS) reverse certain limitations of Senate Bills 1369 and 1370 and House Bill 3459 passed by the 78th Legislature, Regular Session, 2003, relating to retiree eligibility for health insurance benefits. Retirees employed on or before August 31, 2003, who lost prospective benefit eligibility under either of those bills have eligibility restored but must pay for the insurance at actuarial cost until they reach age 65, subject to cost payment changes specified by the General Appropriations Act or similar legislation. The bill includes other clarification as to how benefits apply to TRS members.

It reduces the size of the Board of Pardons and Paroles from 18 to 7 members but allows the appointment of parole commissioners to assist with parole review matters, excluding the parole of capital felons. Three-member parole panels will consist of at least one board member and a combination of other board members or parole commissioners. The bill eliminates the policy board and revises various duties and functions of the Board of Pardons and Paroles and its presiding officer. It requires the board to adopt rules relating to the decision-making processes used by the board and parole panels.

The bill eliminates certain solid waste planning and reporting duties and creates a study committee on permitting by the Texas Commission on Environmental Quality (TCEQ). It requires state agencies with 10 or more motor vehicles or nonroad diesels to reduce associated fuel consumption by five percent compared to fiscal year 2002. The fuel reduction provisions assign related roles to the comptroller's State Energy Conservation Office, the Texas Department of Transportation (TxDOT), the TCEQ, and other entities. Before using appropriations to make a capital expenditure for a state facility purpose, agencies must determine whether the expenditure can be financed with money generated by a utility cost savings contract for energy or water conservation.

The bill requires state agencies to report to the Texas Building and Procurement Commission on the number of open records requests they receive and the costs of responding to such requests. It authorizes TxDOT to enter into an interagency contract with the State Aircraft Pooling Board, whose appropriations were vetoed by the governor. Ethics provisions allow any independent school district, by the adoption of a resolution by its school board, to mandate the filing of financial disclosure statements by board members and delete a provision that made such filing mandatory for trustees in school districts with 5,000 or more students.

Agricultural provisions establish a Texas Beef Council to undertake certain research, education, promotion, and marketing programs, and they authorize the agriculture commissioner, on recommendation of the council, to conduct a beef producer referendum on assessments to support such programs. Alcoholic beverage provisions authorize mixed beverage permits for boats regularly used for voyages in international waters, notwithstanding mixed beverage law in the boat's home port. Miscellaneous provisions address insurance commissioner qualifications, low-performing school campuses, and numerous other matters.

The bill takes effect January 11, 2004, except for provisions relating to the review of tax settlements and similar actions of the comptroller, which take effect February 1, 2004, and certain provisions relating to retirees, which take effect September 1, 2004.

House Bill 294
Effective: 6-20-03

House Author: J. Davis et al.
Senate Sponsor: Barrientos

House Bill 294 amends the Government Code to recognize March as Texas History Month and to require regular observance of the month in public schools and other places to promote interest in and knowledge of Texas history.

House Bill 1499
Effective: 6-20-03

House Author: Dukes
Senate Sponsor: Barrientos

House Bill 1499 amends Government Code provisions relating to the preservation of the view of the Texas State Capitol in designated geographic corridors. Under the bill, building restrictions and other code provisions affecting the corridors are inapplicable to the construction, redevelopment, or improvement of Robert Mueller Municipal Airport under a redevelopment and reuse plan for the airport adopted by the City of Austin.

House Bill 2562
Effective: 6-20-03

House Author: Rose
Senate Sponsor: Barrientos

Provisions of the Government Code stipulate who is eligible to be buried in the state cemetery and allot grave spaces for those persons, their spouses, and certain children. The list includes certain former state officials. House Bill 2562 amends the code to allot spaces also for those who clearly will become eligible, such as current officials.

House Bill 2582**Effective:** 6-20-03**House Author:** E. Jones et al.**Senate Sponsor:** Wentworth

House Bill 2582 amends the Government Code to require the Texas Commission on the Arts to develop and implement a Texas music compact disc project featuring the work of established and emerging Texas music artists. The bill requires all proceeds from the project to be deposited in the Texas cultural endowment fund and requires the commission to use part of the interest earned on the proceeds to fund grants that promote music education.

House Bill 2933**Effective:** See below**House Author:** Flores**Senate Sponsor:** Barrientos

House Bill 2933 amends the Government Code to abolish the Commission on Human Rights, as previously organized. It amends the Labor Code and Property Code to create a civil rights division as an independent division of the Texas Workforce Commission (TWC) and to transfer to that division powers and duties relating to employment discrimination and the Texas Fair Housing Act. Labor Code provisions create a new Commission on Human Rights to govern the division, which is charged to collect and analyze statewide information relating to employment and housing discrimination complaints for inclusion in the annual report of the TWC to the governor and legislature. The bill takes effect upon certification of the TWC civil rights division by the appropriate federal agency and the transfer of related federal funds.

House Bill 3441**Effective:** Vetoed**House Author:** Pickett**Senate Sponsor:** Staples

House Bill 3441 amends several statutes relating to the Commission on Human Rights civil rights division, the Crime Victims' Institute, the management of certain accounts and funds, premarital education, and certain election-related forms. House Bill 3441 amends the Labor Code to create the civil rights division of the Texas Workforce Commission. It abolishes the existing Commission on Human Rights and transfers its powers and duties to the civil rights division, which is governed by a new seven-member human rights commission appointed by the governor. House Bill 3441 amends and transfers provisions of Chapter 412, Government Code, relating to the Crime Victims' Institute and the Crime Victims' Institute Advisory Council, to Chapter 96, Education Code. The bill transfers the supervision and direction of the institute from the office of the attorney general to the president of Sam Houston State University, and it transfers the power to appoint the advisory council from the attorney general to the governor.

House Bill 3441 amends the Government Code to create the Capitol trust fund, the Capitol account, and the Capitol renewal account. The bill requires that income from the Capitol gift shops, cafeteria, and Visitors Parking Garage be held in the Capitol trust fund outside the state treasury and that funds generated from other sources be deposited in the general revenue fund's Capitol account. The Capitol renewal account, which is to be used to maintain and preserve the Capitol and was formerly a trust fund outside the treasury, is created as a dedicated account in the general revenue fund. House Bill 3441 allows a state agency to transfer a portion of the savings or revenues realized through the state employee incentive program to the Texas Incentive and Productivity Commission for operational expenses.

House Bill 3441 amends the Family Code to make the distribution of a premarital education handbook to each applicant for a marriage license optional rather than mandatory. The bill amends the Election Code to repeal provisions that required the Texas Ethics Commission to send certain report forms relating to political funds and campaign finances and activities to persons required to submit the forms to the commission.

State Government

Reason Given for Veto: “Some of the provisions of House Bill No. 3441 have been accomplished in other legislation that I have signed. However, House Bill No. 3441 also would have the unintended consequence of not providing the State Preservation Board with access to funds currently used for emergencies or unexpected maintenance in and around the Capitol Complex.

“Transfer of the Human Rights Commission to the Texas Workforce Commission already has been accomplished by House Bill 2933, and Senate Bill No. 1245 gives oversight of the Crime Victim’s Institute to Sam House State University.”

House Bill 3506

Effective: 9-1-03

House Author: Marchant

Senate Sponsor: Harris

House Bill 3506, a continuation of the legislature’s ongoing statutory revision program, renumbers and reletters provisions of various laws and makes changes to various statutory cross-references. If a statutory number, letter, or designation it assigns conflicts with one assigned by another act of the 78th Legislature, the other act controls and the conflicting House Bill 3506 change, as well as any conforming cross-reference change, has no effect.

House Bill 3507

Effective: 9-1-03

House Author: Marchant

Senate Sponsor: Harris

House Bill 3507 contains nonsubstantive additions, revisions, and corrections to existing codes, including codifications and conforming amendments to reflect changes enacted by the 77th Legislature in 2001.

House Bill 3508

Effective: 4-1-05

House Author: Marchant

Senate Sponsor: Harris

House Bill 3508, a continuation of the legislature’s ongoing statutory revision program, adopts the Special District Local Laws Code, a nonsubstantive codification of enabling laws relating to various types of special districts. Code chapters are reserved for expansion of the code through the addition of other special districts whose enabling laws have yet to be codified. The bill includes conforming amendments and repeals source laws from which the present code content is derived.

Senate Bill 349

Effective: 9-1-03

Senate Author: Armbrister

House Sponsor: Pitts

Senate Bill 349 amends the Government Code to authorize the Texas Department of Information Resources (DIR) to acquire, apply for, register, secure, hold, protect, and renew patents, copyrights, trademarks, and other intellectual property. The department is also authorized to contract for the use or distribution of the intellectual property and to waive, increase, or reduce the amount of compensation secured by such a contract if it furthers a goal or mission of the department and results in a net benefit to the state. Except for money from the sale or lease of software, payments to the DIR for intellectual property must be deposited in the general revenue fund. The bill also repeals a requirement for biennial audits of state agency software licenses.

Senate Bill 912

Effective: 6-20-03

Senate Author: Ratliff

House Sponsor: Naishtat

Senate Bill 912 amends a Government Code chapter relating to the transfer or disposition of surplus and salvage property, including computer equipment, by state agencies. It adds a nonprofit computer bank that solicits, stores, refurbishes, and redistributes used computer

equipment to public school students and their families to the list of assistance organizations entitled to receive surplus state computer equipment. Should such equipment not be sold after it is posted on the comptroller's website, previous law mandates transfer to a school district, an open-enrollment charter school, or the Texas Department of Criminal Justice. The bill adds transfer to an assistance organization specified by the school district. For institutions and agencies of higher education, the bill adds an assistance organization designated by a school district as a recipient for surplus and salvage property generally. It creates an exception to the chapter's procedures for the surplus computer equipment of other state agencies involved in the areas of education, health, or human services, but similarly requires them to give preference to a public school, a school district, or an assistance organization specified by the school district.

Senate Bill 1603

Effective: 5-14-03

Senate Author: R. Ellis

House Sponsor: Casteel

Senate Bill 1603 amends the Natural Resources Code to allow the General Land Office to be considered a charitable organization entitled to participate in the state employee charitable campaign for the sole purpose of managing the Adopt-A-Map/Adopt-A-Document Program and to entitle a state employee to authorize a payroll deduction for contributions to the land office program.

Agencies

House Bill 425

Effective: Vetoed

House Author: Christian et al.

Senate Sponsor: R. West

House Bill 425 amends the Government Code, including the Administrative Procedure Act, to eliminate a statutory process by which state agencies' proposed rules are referred to legislative standing committees for review before adoption and to establish two different processes to help ensure that agencies consider legislative intent. For appropriations enactments, the bill authorizes the Legislative Budget Board to issue a letter clarifying or explaining such intent and provides that a state governmental entity may rely on the letter in interpreting a provision of law. For rulemaking purposes, the bill requires an agency to research and prepare a legislative history document, to undertake an internal review to ensure consistency of a proposed rule with that history, and to notify the legislator who authored or sponsored the related legislation at certain stages in the rule formulation process.

Reason Given for Veto: "House Bill No. 425 would disregard the constitutional doctrine of separation of powers. Set forth in Article II of the Texas Constitution, this doctrine establishes that there be three distinct departments of our government—legislative, executive and judicial—and that no department "shall exercise any power properly attached to either of the others." This bill would allow the Legislative branch to improperly infringe upon the powers and duties of the Executive branch, dictating to the Executive branch how it should exercise its powers and duties.

"The bill also would improperly allow the legal opinion of an unelected government staff employee to supercede the expressed will of the Legislature, by giving that unelected staff employee the ability to issue independent opinions on the legislative intent of bills already passed by the Legislature. House Bill No. 425 also would disregard numerous opinions issued by the courts, which have ruled clearly that post-enactment statements of individual legislators should be given little weight in the determination of legislative intent.

"Finally, the bill requires executive branch state agencies to determine legislative intent, a function constitutionally left to the courts."

House Bill 1606
Effective: 9-1-03

House Author: Wolens
Senate Sponsor: R. Ellis

House Bill 1606 amends the Government Code to provide for the Texas Ethics Commission to undergo sunset review before the regular legislative session in 2015 and to include and update standard sunset provisions.

The bill requires, rather than authorizes, the commission to perform facial audits of randomly selected statements and reports, and it provides procedures for the facial audits. The bill expands the contents of the commission's biennial report to the governor and the legislature.

The bill establishes a two-tiered enforcement process in which complaints within the commission's jurisdiction are categorized as either Category One, which allege violations that are generally not difficult to ascertain, and Category Two, which are more complex. The commission is required to put the complaint form on the Internet. The bill shifts from the commission to the executive director the initial determination of whether a complaint is within the jurisdiction of the commission and provides for a commission review of the executive director's determination of no jurisdiction if requested by the complainant.

The bill shortens the period the commission has to send a written notice to the complainant and the respondent to not later than the 5th, rather than the 14th, business day after the date the complaint was filed. The bill establishes specific timelines for resolving complaints, a deadline for a respondent to respond to a Category One or Category Two violation, and procedures for the response. The bill also provides that it is a separate violation for a failure to timely respond to the notice.

The bill sets forth procedures for a preliminary review and hearing if the complaint is not resolved, and it removes the informal hearing stage from the complaint process. The bill allows the executive director to refer complaints alleging certain Penal Code violations to a prosecuting attorney and allows the commission or executive director to disclose confidential information under certain circumstances. The bill provides that in a formal hearing the commission is required to determine whether a violation occurred based on a preponderance of the evidence, rather than the stricter standard of clear and convincing evidence.

The bill allows the commission to subpoena documents and witnesses during the preliminary review process if the commission reasonably believes the information is necessary to the investigation and cannot be obtained otherwise. Commission staff is authorized to disclose confidential information as necessary to third parties as long as the executive director approves. The penalty for an employee who breaches confidentiality is lowered from a Class A to a Class C misdemeanor, and the commission is required to terminate the employee.

The bill provides that a corrected or amended statement, registration, or report filed with the Texas Ethics Commission is not, for purposes of a civil penalty, considered late if the person promptly files the corrected or amended statement, registration, or report on learning that, as originally filed, it was inaccurate or incomplete. The bill permits the commission to waive or reduce a civil penalty imposed for late filing of a statement, registration, or report and specifies factors the commission may consider in deciding whether to waive or reduce the penalty.

The bill provides that a person is ineligible, with certain exceptions, for appointment as a campaign treasurer if the person is the campaign treasurer of a political committee that does not file a report. The bill sets forth procedures for the termination by the commission of the campaign treasurer appointment of an inactive candidate or committee. The ban on political contributions to statewide officeholders, members of the legislature, specific-purpose committees,

and legislative caucuses is extended until the 20th day after final adjournment of the regular legislative session. The bill requires candidates and officeholders to keep campaign and officeholder contributions in accounts separate from all other accounts and provides that a violation is a Class B misdemeanor.

The bill requires statewide executive and legislative candidates and officeholders and their political committees to use best efforts to collect and report the name and address, principal occupation, and name of employer of contributors whose contributions equal or exceed \$500 in a reporting period. The bill combines two existing exemptions from electronic reporting by allowing a candidate, officeholder, or committee to file a written report, rather than filing electronically, with the commission if the candidate, officeholder, or committee does not use computer equipment to keep records of political contributions and expenditures and if, in a calendar year, the candidate, officeholder, or committee does not accept political contributions or make political expenditures in excess of \$20,000. Certain candidates are required to report, within one business day, donations of more than \$1,000 received during the period beginning the ninth day before the election and ending at noon on the day before election day. The bill requires out-of-state political committees that raise or spend money in Texas to file certain financial disclosure reports with the Texas Ethics Commission and candidates for county chairs in counties with a population of more than 350,000 to file campaign finance reports.

The bill changes the civil penalty assessed for certain late-filed reports from a maximum of \$100 for each late day to a penalty of \$500, and it increases the civil penalty assessed for late-filed eight-day reports and the first semiannual report following an election from a maximum of \$100 for each late day to a penalty of \$500 for the first day it is late and \$100 each day thereafter. The bill allows a resident of the territory served by an office to bring an action for injunctive relief against certain candidates, officeholders, or political committees that fail to file their campaign finance report on time.

The bill requires political advertising containing “express advocacy” to include a disclosure of the full name of the person or political committee that paid for or authorized the advertising, with certain exceptions. The bill assesses a maximum \$4,000 civil penalty for violating the disclosure provisions and expands the definition of “political advertising” to include information posted on an Internet website.

The bill establishes additional requirements for the speaker’s race:

- candidates are to declare their candidacy in writing with the commission and may not collect or spend contributions until the declaration is filed;
- candidates are to file campaign finance reports electronically;
- contributions to a speaker candidate from non-speaker campaign or officeholder contributions or interest earned on or assets purchased with such contributions are prohibited; and
- the disposal of unexpended campaign funds is restricted for former speaker candidates, and former speaker candidates are required to continue filing campaign finance reports until all unexpended funds are spent.

The bill increases the daily amount a lobbyist may spend on an executive or legislative officer or employee without having to meet additional reporting requirements from a maximum of \$50 a day to a maximum of 60 percent of the amount of the legislative per diem in a day. The bill requires electronic filing of all lobby registrations and activity reports. The bill requires the commission to develop an electronic filing system for lobbyists not later than December 1, 2004, and to develop rules that allow for paper filing. The bill clarifies the

circumstances under which lobbyists are prohibited from representing a client due to a conflict of interest, establishes a maximum civil penalty of \$2,000 for violating the conflict of interest provisions, and eliminates the criminal penalty for violating those provisions. The bill makes employees of certain quasi-governmental agencies subject to lobbyist registration requirements. The bill changes the civil penalty assessed for a late-filed lobbyist registration or report from a maximum of \$100 for each late day to a penalty of \$500.

The bill requires legislators and other state officers to disclose in their annual financial statement additional information about their personal finances and potential conflicts of interest, such as the address of any real property owned, any mutual funds held, all legislative continuances received, and all referrals for legal services made and the amount of any fee accepted for the referral if the state officer is a lawyer.

The bill requires gubernatorial appointees to file personal financial disclosure statements within 14 days, rather than 30 days, of their appointment or before their confirmation hearing, whichever date is earlier. The bill updates provisions regarding references to business organizations by including limited partnerships, limited liability partnerships, professional corporations, professional associations, joint ventures, or other business associations. The bill defines “blind trust” and requires reporting of income from a blind trust. The bill changes the civil penalty assessed for a late-filed personal financial disclosure statement from a maximum of \$100 for each late day to a penalty of \$500.

The bill requires the following local officials to file personal financial disclosure statements:

- municipal officers in cities with a population of 100,000 or more;
- trustees of independent school districts with an enrollment of at least 5,000 students;
- directors of sports and community venue districts in counties with a population of 2.4 million or more; and
- members of the governing bodies of port authorities and navigation districts.

The bill establishes procedures for enforcing the filing requirements and provides penalties for failure to file.

The bill provides that the following are the only exceptions to the prohibition on members of the legislature representing another person for compensation before an executive branch state agency: (1) the representation is pursuant to an attorney-client relationship in a criminal law matter or (2) the representation involves the filing of documents that involve only ministerial acts on the part of the commission, agency, board, department, or officer. The bill requires legislators to file a notice before introducing, sponsoring, or voting on a measure for which a close relative is lobbying, and it requires the lobbyist to also disclose the relationship.

The bill requires a legislator who, as an attorney for a party, obtains a legislative continuance to file a copy of the application for continuance with the ethics commission within three days of filing the application with the court.

House Bill 2455
Effective: 9-1-03

House Author: Chisum et al.
Senate Sponsor: Nelson

House Bill 2455 amends various laws relating to the application of the sunset review process to certain state entities and political subdivisions. It continues the State Board for Educator Certification, and the Texas Lottery Commission and its lottery division, until 2005. Those entities previously were recently reviewed and scheduled for abolishment in 2003, and the bill mandates the Sunset Advisory Commission (SAC) to limit itself to reviewing the appropriateness of its recommendations from the earlier reviews. The bill requires the comptroller to assist the SAC in its review of the state’s regional education service centers,

under a 2005 sunset date established for those centers by Senate Bill 929. It requires the SAC, as part of its scheduled sunset review for 2005 of the Texas Education Agency, to conduct a special purpose review of the Windham School District within the criminal justice system, and it requires the agency to assist in the district review by conducting an initial limited scope review of its structure, management, and operations.

The bill eliminates the sunset dates of the Edwards Aquifer Authority Board of Directors, the Dental Hygiene Advisory Committee, the Texas Environmental Education Partnership Fund, and the Texas Food for Health Advisory Council. It postpones the sunset dates of the Texas Department of Insurance, the Office of Public Insurance Counsel, the Texas Veterans Commission, and the Veterans' Land Board from 2005 to 2007, and moves the sunset date of the Prescribed Burning Board forward from 2009 to 2007. The bill postpones the sunset dates of the Texas Racing Commission, the Equine Research Account Advisory Committee, the Texas Board of Physical Therapy Examiners, the Texas Board of Occupational Therapy Examiners, the Executive Council of Physical Therapy and Occupational Therapy Examiners, the State Board of Examiners for Speech-Language Pathology and Audiology, the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, and the TexasOnline Division and the Electronic Government Program Management Office of the Department of Information Resources from 2005 to 2009. It postpones the sunset dates of the Correctional Managed Health Care Committee and the On-Site Wastewater Treatment Research Council from 2005 to 2011 and 2013, respectively. Other provisions exempt from the open records law all working papers of the SAC staff prepared or maintained as part of its sunset, evaluation, and report preparation duties. Confidential records held by another entity and received by the SAC in the performance of its functions are likewise exempt and remain confidential.

House Bill 2847

Effective: 9-1-03

House Author: Farabee

Senate Sponsor: Jackson

House Bill 2847 transfers the powers, duties, and functions of the Texas Railroad Commission under the Texas Aggregate Quarry Pit Safety Act and all employees implementing that act to the Texas Department of Transportation.

House Bill 2947

Effective: 9-1-03

House Author: Casteel

Senate Sponsor: Armbrister

House Bill 2947 amends the Local Government Code chapter on regional planning commissions (RPCs) to require a state agency, if it determines that a service it provides should be decentralized to a multicounty region, to use a state planning region or regions for the decentralization. The bill requires the agency, if it decentralizes a service provided to more than one public entity or nonprofit organization in a planning region, to consult with the appropriate RPC in planning the decentralization; the RPC, in turn, must consult with each such entity or organization. The agency must consider using the RPC for the decentralized service to achieve specified efficiency, coordination, accountability, and financial oversight goals. The requirement for agency consultation with RPCs on decentralization does not apply to a service that continues to be operated by a state agency through a regional administrative office or to a service for which the agency determines that the geographic area of a single county or adjacent counties is more appropriate. An amendment to the Government Code requires that state agency decentralization rules, orders, or guides include a statement on compliance with the new Local Government Code provisions as described above.

House Bill 3024

Effective: 6-20-03

House Author: Casteel

Senate Sponsor: Armbrister

House Bill 3024 amends the Government Code to mandate a state agency that requires reports of local governments other than school districts and special-purpose districts to conduct a biennial zero-based review of reporting requirements imposed on those governments; to simplify reporting requirements; and to determine and eliminate requirements that are unnecessary, duplicative, or overly burdensome. An agency may not mandate affected local governments to report on items that are not required by law, rule, or performance measures. Based on its reviews, the agency is to recommend to the legislature statutory changes that minimize cost, duplication, and paperwork and maximize optimal use of public funds. The bill requires an agency, when it contracts with or makes a grant to a local government, to specify any special or unique auditing requirements that must be performed by the local government's independent auditors, and in some cases to provide for agency payment of costs incurred in complying with those requirements that fall outside of generally accepted governmental auditing and accounting standards. An agency must accept, and may not duplicate with state resources, an independent audit of a local government that is performed by a certified public accountant in accordance with those governmental auditing and accounting standards.

House Bill 3042

Effective: 6-18-03

House Author: R. Cook

Senate Sponsor: R. Ellis

House Bill 3042 amends the Government and Education codes to make miscellaneous changes relating to the jurisdiction and functions of the Texas Building and Procurement Commission (TBPC), including state agency contracting and procurement, administrative matters, and other topics. The bill prohibits an agency from spending more than the amount authorized for the cost of a construction project, or from changing project plans once the cost reaches that amount, unless the governor and the Legislative Budget Board approve. It provides that the attorney general, under certain circumstances, may require a competitive procurement process for state agencies that seek outside legal counsel. The bill reduces the standard per-employee space allocation, applicable to certain agencies and agency sites, from 153 to 135 square feet. It clarifies the role of the TBPC in providing centralized facilities management services, which extends to agency facilities in Travis and adjacent counties with various listed exceptions, and it transfers to the commission various related agency powers, duties, obligations, records, and property. The bill also transfers to the commission various functions relating to statewide contract management that previously were assigned either to the attorney general or to the state auditor. The bill adds new TBPC powers and duties relating to the lease of space in state-owned garages and parking lots. It designates a unit at Texas A&M University at Corpus Christi as the Carlos F. Truan Natural Resources Center in honor of the former state senator.

Senate Bill 287

Effective: 6-20-03

Senate Author: R. Ellis

House Sponsor: Chisum

A 1999 constitutional amendment required that statutory boards having members who serve staggered six-year terms be composed of an odd number of three or more members. Senate Bill 287 amends various codes and other laws to change 48 individually listed state boards to comply with this requirement. In the case of the Texas Workers' Compensation Commission, it retains the current six members and reduces their staggered terms from six to two years. The bill also modifies the compositional alternatives for commodity producer boards created by producers under the Agriculture Code, and for those conservation and

reclamation districts whose enabling laws fail to meet the constitutional specification. It provides that if, without constitutional authorization, a law calls for an even number of voting board members, the appointed members of whom serve staggered six-year terms, the unconstitutional law is superseded and the terms of the board's appointees are reduced from six to two years. For boards with statewide jurisdiction, the bill requires appointing authorities to ensure, to the extent possible, that the membership reflects Texas' racial, ethnic, and geographic diversity. In the event of a conflict between the bill and another law passed by the 78th Legislature, the other law prevails unless Senate Bill 287 is constitutional with respect to a board's composition and the other law is not.

Senate Bill 394
Effective: 9-1-03

Senate Author: Shapleigh
House Sponsor: Hochberg

Senate Bill 394 amends the Government Code to add three auxiliary voting members to the Records Management Interagency Coordinating Council and to distinguish those members from the existing state agency officers or designees on the council, who are referred to as permanent members. The council's presiding officer appoints each auxiliary member with the approval of a majority of the permanent members. The auxiliary members consist of one faculty member of a public senior college or university who has demonstrated knowledge of records and information management and two individuals who serve as information resources managers for state agencies in the executive branch. An auxiliary member serves a two-year term on the council but may not continue to serve if the member ceases to hold the qualifications for the category under which he or she was appointed.

Senate Bill 775
Effective: 5-16-03

Senate Author: Averitt
House Sponsor: J. Keffer

Senate Bill 775 amends the Information Resources Management Act to require a state agency that uses TexasOnline to provide agency services to assist the TexasOnline Authority with marketing efforts to promote the use of TexasOnline. The bill also requires each state agency using TexasOnline and having a generally accessible Internet site to link to TexasOnline from the main page of that site. It clarifies that motor vehicle registration renewal is a state service within the meaning of the act.

Senate Bill 1000
Effective: 6-20-03

Senate Author: R. West
House Sponsor: Goodman

The General Appropriations Act in 2001 contained a provision, repeated in the 2003 act, that requires a state agency to determine whether the Texas Legislative Council can assist with a legislatively mandated study that includes statistical or demographic data analysis before the agency spends appropriations to contract elsewhere for the performance of such analysis. Senate Bill 1000 amends the Government Code to authorize the council to determine whether and the extent to which its resources are available to perform or to help the agency perform the statistical or demographic analysis. The bill identifies specific types of information acquired or produced by the council in the course of a statistical and demographic analysis that are confidential and protected from disclosure under the state's open records law. Those provisions do not apply to statistical or demographic analysis that is related to the redistricting process. The same provisions state that information that an individual or entity submits for the purpose of a statistical or demographic analysis performed by the council may not be used against the individual or entity in a state agency enforcement proceeding.

Senate Bill 1059

Effective: 9-1-03

Senate Author: R. Ellis et al.

House Sponsor: Marchant

Senate Bill 1059 adds a Government Code chapter to require a state governmental entity to adopt standards of conduct applicable to non-employee financial advisors or service providers who provide financial services or advise the entity or a member of its governing body in the management or investment of state funds. The bill provides that a contract with the advisor or service provider is voidable by the entity if the standards of conduct are violated. It establishes disclosure requirements for outside financial advisors and service providers, and it requires the filing of a related annual statement with the applicable entity and the state auditor. Other bill provisions create a corporate integrity unit in the attorney general's office to assist in the enforcement of laws relating to corporate fraud or other similar illegal activities. Its jurisdiction includes fraud committed by a corporation, a limited liability company, or a registered limited liability partnership or an officer, director, or partner acting in a representative capacity for the same. The attorney general's office, however, is not required to implement the provisions, because no implementation appropriation was made.

Senate Bill 1152

Effective: 6-20-03

Senate Author: Shapleigh

House Sponsor: Solomons

Senate Bill 1152 amends the Information Resources Management Act and the Education Code to modify and expand the operations of the TexasOnline project and the electronic system for occupational licensing transactions. The bill changes the composition of the TexasOnline Authority by adding two public members and replacing the representative appointed by the Department of Information Resources (DIR) with a governor-appointed DIR board member, shifts certain functions between the TexasOnline Authority and the Department of Information Resources, and repeals a sunset provision relating to the TexasOnline division of the DIR. The bill requires state agencies with Internet websites to link to TexasOnline from their respective main pages, revises provisions relating to use of the occupational licensing electronic system, adds to the entities that must use that system and gives them representation on the associated steering committee, and addresses various other matters including TexasOnline fees and intellectual property rights.

A new Education Code subchapter requires the Texas Education Agency, with assistance from the DIR and participation by the Texas Higher Education Coordinating Board, interested school districts, and the private sector, to establish and maintain an education Internet portal. The portal, to be hosted and organized by the DIR through TexasOnline, is for use by school districts, teachers, parents, and students and is mandated to serve as a single point of access to educational resources. Authorized uses include access to on-line courses, access to tutorials and on-line textbooks, access to administrative software and electronic tools, secure access to student assessment data, and links to appropriate Internet educational resources and experts. The new code provisions elaborate on those uses and the funding of the portal.

Senate Bill 1154

Effective: Vetoed

Senate Author: Shapleigh

House Sponsor: Hilderbran et al.

Senate Bill 1154 amends the Government Code to require a state agency to make its printed publications accessible from its website in an electronic format or to furnish the Texas State Library and Archives Commission with the electronic source file for the publications in the manner prescribed by commission rules. The bill also requires a state agency to include identifying and descriptive information for any state publication in electronic format as specified

by commission and Department of Information Resources rules and to furnish copies of its electronic publications to the Texas State Library if the publications are not printed or available from the state agency's website.

Senate Bill 1154 provides that an election to adopt a sales and use tax to create a library district in certain municipalities is to be treated also as an election to reduce the tax rate of an industrial development district if the proposed library district is within the boundaries of a certain type of industrial development corporation and the adoption of the sales and use tax would result in a combined tax rate of more than two percent in any location in the proposed district. It also provides that if the boundaries of the proposed district include any territory that is part of a municipality with an accredited municipal library, the governing body of that municipality must consent by resolution to allow the inclusion of that territory in the proposed district.

Reason Given for Veto: "The amendment to Senate Bill No. 1154 concerning library districts would have an adverse effect on the Village of Bee Cave and its citizens by negating a voter-approved sales tax for economic development projects. The bill requires a reduction in the sales tax rate of a 4B development corporation if a library district and corresponding sales tax is subsequently created within the boundaries of the corporation. This would retroactively override the statutory petition and election process provided in current law.

"The Mayor and City Council of the Village of Bee Cave have committed to providing the Lake Travis area with a fully-accredited library to be open within three years. The library will be available to the public without regard to residency and funded from sales tax revenues from the 4B development corporation.

"I support the intent of Senate Bill No. 1154 as filed. Therefore, by executive order, I am directing state agencies to make their printed publications accessible from their websites in an electronic format and furnish to the State Library a list of publications as they become available."

Senate Bill 1418
Effective: 6-22-03

Senate Author: Ratliff
House Sponsor: Marchant

Senate Bill 1418 amends the enabling statutes of 11 state government bodies to replace, in each case, a specified senate committee chair with a senator appointed by the lieutenant governor as a member of the body. The changes affect the Legislative Budget Board, Texas Legislative Council, Legislative Audit Committee, Legislative Library Board, Electric Utility Restructuring Legislative Oversight Committee, Texas Judicial Council, Task Force on Indigent Defense, Agriculture Policy Board, Texas Strategic Military Planning Commission, Texas Emissions Reduction Plan Advisory Board, and Oil-Field Cleanup Fund Advisory Committee. The bill requires that one of the two senators on the Texas Judicial Council be designated to serve on the Task Force on Indigent Defense. It provides for the lieutenant governor to designate which of three senators on the Electric Utility Restructuring Legislative Oversight Committee is to serve as joint chair, and provides that the senator appointed to the Texas Strategic Military Planning Commission serves at the lieutenant governor's pleasure.

Senate Bill 1700
Effective: 9-1-03

Senate Author: Wentworth
House Sponsor: Swinford

Senate Bill 1700 amends the Agriculture Code to move administration of the state's weather modification and control grant program from the Texas Department of Agriculture to the Texas Department of Licensing and Regulation.

Senate Bill 1701

Effective: 9-1-03

Senate Author: Wentworth

House Sponsor: Pitts

Senate Bill 1701, affecting electronic information systems operations among state agencies, amends the Government Code to provide for a quality assurance team (QAT) created by the state auditor's office, the Legislative Budget Board (LBB), and the Department of Information Resources (DIR). The bill revises various statutes relating to strategic planning, evaluation, reporting, project approval, funding, and other functions and sets out associated responsibilities of the four entities above. A major information resources project requires LBB and QAT approval, and if the QAT determines that the project is poorly managed or has excessive cost overruns, it may establish a corrective action plan, or it may discontinue the project, subject to LBB approval. The bill establishes the role of an electronic data center at Angelo State University relating to disaster recovery and certain other operations and services, and requires agencies to use the center for these operations and services or obtain waivers from the LBB. Other provisions require the Texas State Library and Archives Commission, in cooperation with the DIR, to establish an electronically searchable central database relating to state agency grant opportunities. The bill provides for related advisory committees appointed by the governor and the commission. The DIR must link to the database from TexasOnline.

Fiscal Management and Auditing

House Bill 651

Effective: 9-1-03

House Author: Pitts et al.

Senate Sponsor: Williams

House Bill 651 amends the Government Code to require a state agency, if it spends less undedicated general revenue from nonfederal sources than has been appropriated to it for a particular fiscal year, to notify the comptroller of the savings before October 30 following the end of that fiscal year. On verification of the savings by the comptroller, the agency retains one-fourth of the savings amount, up to a maximum of one percent of the undedicated general revenue from nonfederal sources that it was appropriated for the fiscal year. Retained savings may only be appropriated by the legislature to the agency, and the agency may only spend the savings on an activity or expense that does not create new or expanded services or require ongoing funding at a later date. The bill further stipulates that, in order to receive savings derived from lowered utility costs, an agency must demonstrate that it has minimized utility expenses by implementing all energy and water conservation programs in compliance with rules of the comptroller's state energy and conservation office.

House Bill 1934

Effective: 6-18-03

House Author: Capelo

Senate Sponsor: Madla

House Bill 1934 amends the Government Code to allow the issuer of a public security to use the proceeds of a security issued to finance the acquisition, construction, or improvement of a project or facility to pay the interest on that security or any costs for its issuance, to finance other funds relating to the security, or to operate and maintain the financed project or facility. The bill removes a provision that requires such funds to be secured by revenue derived from the project or facility, and allows the funds to be used for improvements to the project or facility rather than only its acquisition or construction, as provided by prior law. The bill also allows the issuer to use any premium received as part of the purchase price of a public security sold at a public or private sale to pay for debt service on that security; to contribute to an escrow account established for payment of debt service on obligations being refunded through

the sale of the security; to pay the cost of issuing the security; or to pay other costs relating to the purpose for which the security was issued. The bill specifies that the change does not authorize an issuer to spend funds in an amount that exceeds the limitations provided by law or by the public security authorization. The bill authorizes a county commissioners court or the governing body of a municipality to allow an anticipation note to be secured by a combination of revenue and taxes, rather than by either revenue or taxes as provided under prior law.

House Bill 2485**Effective:** 6-18-03**House Author:** Hochberg**Senate Sponsor:** Ratliff

House Bill 2485 amends the Texas Internal Auditing Act to make internal auditing requirements applicable only to executive branch state agencies that have more than 100 full-time equivalent employees as authorized by the General Appropriations Act, have an annual operating budget exceeding \$10 million, or receive and process more than \$10 million in cash per fiscal year. Other executive branch agencies that receive appropriations are not subject to internal auditing requirements but are required instead to conduct annual formal risk assessments consisting of an executive management review to evaluate the probability of certain risks, assess their likely effects, and rank those risks accordingly. An agency covered by that requirement must provide the state auditor a written risk assessment. Subject to the legislative audit committee's approval for inclusion of the work in the annual audit plan, the state auditor must evaluate each report, identify those agencies with significant risks, and recommend to the governor that the identified agencies obtain audits to address the significant risks. The governor may then order an identified agency to undergo an audit and audit response processes and may provide funds to pay the costs of the audits.

House Bill 3074**Effective:** 6-20-03**House Author:** Flynn**Senate Sponsor:** Staples

House Bill 3074 amends the Local Government Code to modify the allocation formula for financial assistance the state provides annually, through the governor's office, to Texas' 24 regional planning commissions or councils of government (COGs). The new formula deletes the \$10,000 base grant, retains the \$1,000 per dues-paying member county, and retains the 10 cents per capita for the population of dues-paying member counties and municipalities but adds a guarantee of a minimum \$50,000 for each COG as long as total available assistance equals or exceeds the \$2.5 million allocated in state fiscal year 2003. If available assistance is below the state fiscal year 2003 amount, proportional reductions will occur, whereas if appropriations exceed the amount generated by the allocation formula, proportional increases will occur. The bill eliminates detailed provisions relating to a comprehensive development planning process. In lieu of those, new provisions authorize a COG, within available funds and in accordance with rules of the governor's office, to use the state financial assistance to promote intergovernmental cooperation, function as a regional review agency, leverage resources to maximize federal and private funding, and assist local governments and state agencies toward specified statutory objectives.

House Bill 3175**Effective:** Vetoed**House Author:** Pitts**Senate Sponsor:** Bivins

House Bill 3175 amends the Government Code to authorize the comptroller to manage general revenue fund cash flow by transferring available cash, except constitutionally dedicated revenue, between funds that are managed by or in the custody of the comptroller. Previous law only allowed transfers between funds in the state treasury. The transferred available cash may

not be appropriated by the legislature, except to return it to its original fund. The bill prohibits the comptroller from making an available cash transfer out of the Texas Tomorrow Fund to the general revenue fund. For FY2004 and FY2005, the bill appropriates general revenue funds to the comptroller in the amount needed to return transferred available cash to, and maintain the equity of, a nontreasury fund.

Reason Given for Veto: "I hereby veto House Bill No. 3175, which makes cash management appropriations for state fiscal years 2004 and 2005. I have also used my line item veto authority to veto a similar provision in Section 122 of House Bill No. 2425. These appropriations exceed the amount necessary at this time to reimburse anticipated borrowing."

House Bill 3318

Effective: See below

House Author: Luna

Senate Sponsor: Bivins

House Bill 3318 updates the "funds sweep" accounting mechanism in the Government Code to provide that dedicated revenues on August 31, 2005, that are estimated to exceed the amount appropriated by the General Appropriations Act and other enactments of the 78th Legislature are available temporarily for spending for general governmental purposes and for appropriations certification by the comptroller. This provision takes effect September 1, 2003.

House Bill 3318 provides that a fund or account created or re-created in the state treasury by an act of the 78th Legislature, or a dedication or rededication of revenue by an act of the 78th Legislature, is abolished on the later of September 1, 2003, or the effective date of such act. It amends the Utilities Code and the Labor Code to re-create the system benefit fund and the subsequent injury fund, respectively, as accounts in the general revenue fund, and it exempts the funds from abolishment. The statutory dedications, funds, accounts, fee increases, or other dedicated revenues that were enacted before the 78th Legislature, Regular Session, 2003, convened, or that remain exempt under a former provision of the Government Code, are also exempt from abolishment.

The following funds and accounts that are created or re-created, or revenue dedicated or rededicated, by an act of the 78th Legislature, Regular Session, 2003, are also exempt from abolishment: the tertiary care account; license plate fees; federal funds; trust funds; bond funds; accounts in the economic stabilization fund; the capitol trust fund; the capitol account; the capital renewal account; the museum account; the Texas emissions reduction plan fund; the rural water assistance fund; any economic development fund or account; the Texas enterprise fund; the Other Events trust fund; the prosecutor supplement fund; the municipality airline fares account; the dry cleaning facility release fund; the highway tax and revenue anticipation note fund; the operating permit fees account; the election improvement fund; the motor vehicle insurance and proof of financial responsibility fund; the fund for emergency medical services, trauma facilities, and trauma care systems; state parks account; perpetual care account; Texas B-On-Time student loan account; and the fair defense account. The bill also exempts from such abolishment the funds or accounts created or re-created, or revenue dedicated or rededicated, by proposed constitutional amendments on the September 13, 2003, ballot, and by numerous specified enactments of the 78th Legislature, Regular Session, 2003. These provisions take effect June 21, 2003.

Senate Bill 19

Effective: 9-1-03

Senate Author: Ratliff

House Sponsor: Farabee

Senate Bill 19 amends numerous laws relating to audits and activities of the state auditor's office (SAO) and other aspects of state government administration. Provisions relating to the annual state audit plan establish risk assessment performance as an initial stage of auditing and

treat SAO risk assessment records as working papers exempt from open records law disclosure. The bill eliminates various SAO functions and makes others contingent either on a preliminary risk assessment and approval by the Legislative Audit Committee for inclusion in the state audit plan or on committee approval alone without the assessment. State agency contracts, under the bill, must include terms stipulating that the SAO may conduct an audit or investigation of contractors or subcontractors who receive funds from the state and that accepting state funds serves as consent to such audits or investigations. The bill requires the state classification officer at the SAO biennially to conduct a study and analyze and report findings relating to law enforcement officer compensation among large local law enforcement departments. Provisions relating to SAO oversight of exit interviews by state employees allow an employee to direct his or her interview questionnaire to the governor's office or the head of the employing state agency and forbid access by the agency to the questionnaire unless the employee has directed it there. Other provisions abolish the unfunded mandates interagency work group, the Human Resource Task Force, and the Task Force to Evaluate Employee Compensation Systems and eliminate certain requirements relating to state agency tabulation of open records requests.

Senate Bill 147**Effective:** Vetoes**Senate Author:** Barrientos**House Sponsor:** Elkins

Senate Bill 147 adds a Government Code chapter to require each state agency in the executive branch, including a public college or university, to adopt a risk assessment plan as part of the five-year strategic plan it prepares biennially. A copy of the risk management plan must be forwarded to the State Office of Risk Management (SORM) by a specified deadline. The bill specifies required contents of a plan, including a risk assessment, risk control strategies, a business continuity strategy, and a report on the agency's level of achievement in implementing risk management and risk control strategies. In implementing the plan, the agency must provide progress reports to the agency's governing body at least twice annually and must alert the governing body of any identified significant risk. The bill establishes related administrative requirements for the SORM, the Legislative Budget Board, and the Governor's Office of Budget and Planning.

Reason Given for Veto: "Senate Bill No. 147 would require each state agency to adopt a risk management plan that includes risk assessment and risk control strategies as part of the agency's strategic plan. Current law already permits the State Office of Risk Management to assist state agencies in risk assessments and risk control strategies. This legislation would impose a burdensome mandate on all agencies, thereby creating additional paperwork and diverting scarce agency resources from our agencies' main purposes."

Senate Bill 791**Effective:** 9-1-03**Senate Author:** R. West**House Sponsor:** Alonzo

Senate Bill 791 requires the comptroller of public accounts to develop and submit a proposal for a monitoring program of the collection, remittance, and reporting of court costs and fees required to be collected from a party to a civil case or a defendant in a criminal case and remitted to the comptroller by the clerks of the district, county, statutory county, municipal, and justice courts. The bill requires the comptroller to submit the proposal and a cost estimate to the governor, lieutenant governor, and speaker of the house of representatives not later than September 1, 2004.

Senate Bill 996

Effective: 9-1-03

Senate Author: Williams

House Sponsor: King

Senate Bill 996 amends the Government Code to allow letters of credit issued by an agency or instrumentality of the United States government to be pledged as collateral by a state depository to secure state deposits. A letter of credit for a stated amount becomes, under the bill, another form of eligible collateral in addition to a security with a fixed, stated rate.

Senate Bill 1694

Effective: 9-1-03

Senate Author: Shapiro

House Sponsor: Swinford

Senate Bill 1694 amends the Texas Internal Auditing Act to require the governing board of a state agency, or the administrator if there is no governing board, to periodically review the resources devoted to its internal audit program and to determine whether those resources are sufficient to adequately address, in a reasonable time frame, those risks identified in the annual risk assessment. The bill clarifies and adds to the Act's definitions and updates a reference to a code of ethics document on which internal auditing standards are to be based.

Military Forces and Veterans

House Bill 174

Effective: 6-18-03

House Author: Howard et al.

Senate Sponsor: Estes

House Bill 174 amends the Government Code to entitle a member of the state military forces who is ordered to active state duty to the same benefits and protections provided to individuals in the uniformed or military services under specified federal laws. The benefits and protections, which address personal affairs and obligations of various types that can be disrupted by such duty, relate to employment, civil liability, court proceedings, property issues, unpaid taxes, and other matters.

House Bill 573

Effective: 6-20-03

House Author: Hunter

Senate Sponsor: Van de Putte

House Bill 573 amends the Government Code to specify the Texas residency or nativity requirement for receipt of the Texas Legislative Medal of Honor for military valor. Residency is satisfied by living in the state at the time of death, at the time of the award of the medal, or at the time of entry into military service. Eligibility, open previously only to those who served with state military forces, is expanded to include those who served with federal military forces, and receipt of other medals or awards for military service is not a disqualification factor. The bill provides for a nominating committee consisting of the chairs of the standing committees with jurisdiction over military and veterans affairs in each legislative chamber, the adjutant general, the lieutenant governor, and the speaker of the house or the designee of any of the last three officials. Nomination must occur during a legislative regular session. The legislature by concurrent resolution may then direct the governor to award the medal to an individual nominated by the nominating committee.

House Bill 1522

Effective: 5-15-03

House Author: Corte

Senate Sponsor: Van de Putte

House Bill 1522 amends the Government Code to remove a requirement that expenditures relating to the state's military forces receive approval of the governor or the governor's designee as a condition of disbursement by the comptroller. The only approval required under the bill is that of the adjutant general or the adjutant general's designee.

House Bill 2251**Effective:** 6-18-03**House Author:** Flores**Senate Sponsor:** Van de Putte

House Bill 2251 amends the Government Code to direct the comptroller to establish a special account in the general revenue fund, consisting of gifts, grants, and legislative transfers or appropriations, from which to provide supplemental pay to Texas National Guard personnel who suffer economic hardship as a result of being called to active military duty by federal or state authorities. The bill establishes a limitation on the amount that may be paid, and it gives the adjutant general the power to determine whether an individual is eligible and the amount if any that the individual may receive. It also authorizes the adjutant general to adopt related rules.

House Bill 2396**Effective:** 9-1-03**House Author:** Corte**Senate Sponsor:** Van de Putte

House Bill 2396 amends the Natural Resources Code to allow the Veterans' Land Board to reduce from five acres to one acre the minimum tract size that is purchasable by a veteran under the veterans' land program. The bill increases from \$40,000 to \$60,000 the maximum amount the board may pay for a property for resale under that program. A new provision allows the purchaser to lease land for microwave, radio, or other communication towers for a term of not more than 50 years. Other provisions of the bill address land appraisal, insurance matters, assignor liability, forfeitures and reinstatement of contracts, late payments and default interest rates, veterans' land fund exposure limitations, and other technical and procedural issues related to the program.

House Bill 3211**Effective:** 6-20-03**House Author:** Heflin et al.**Senate Sponsor:** Van de Putte

House Bill 3211 amends the Natural Resources Code to reduce the statutory Texas residency requirement for veterans, for purposes of the veterans' land program and veterans' housing assistance program, from five years to one year immediately preceding an application for program benefits. The bill establishes a uniform statutory definition of veterans for those two programs and the veterans' financial assistance program. It amends provisions of existing law that give the Veterans' Land Board (VLB) discretion to change the definition applicable to those three programs, to allow the VLB to include as a veteran a person who served in the South Vietnamese armed forces between February 28, 1961, and May 7, 1975.

Senate Bill 6**Effective:** 6-20-03**Senate Author:** Van de Putte**House Sponsor:** Flores

Senate Bill 6 amends the Government Code to authorize an eligible person serving on active military duty in any branch of the United States armed forces during a declared war or national emergency to claim a lottery prize not later than the 90th day after the date on which the person is discharged from active military duty, returns to Texas for more than 10 consecutive days, or returns to nonactive military duty in the reserve or national guard, or the war or national emergency ends, whichever is earliest. The bill also clarifies the time limits for other ticket holders to claim prizes for on-line and instant games.

Senate Bill 583

Effective: 9-1-03

Senate Author: Shapleigh

House Sponsor: Corte

The Government Code requires and specifies the content of an annual report to be filed by the adjutant general with the governor and legislature. Senate Bill 583 adds to the required content a list and description of Texas National Guard missions currently in progress and a statement of departmental plans for future missions, including proposed missions consistent with war-fighting and antiterrorism strategies of the U.S. Department of Defense. The report may omit information relating to current, proposed, or planned missions that the adjutant general or governor considers to be classified or of a sensitive nature.

Senate Bill 655

Effective: 5-16-03

Senate Author: Shapleigh

House Sponsor: Hunter

Senate Bill 655, relating to the military and veterans, directs the secretary of state to study the feasibility and cost of allowing members of the armed forces on overseas duty, or their spouses or dependents who are outside the United States during early voting and election day, to vote electronically. The study is due to the legislature by December 1, 2005. The bill amends the Natural Resources Code to require the Veterans' Land Board, on request, to provide to a lending institution information regarding state land and housing benefits programs for Texas veterans. An amendment to the Government Code requires the Texas Workforce Commission to include on forms relating to state agency employment a statement of the statutory requirement for a veterans employment preference. A new Government Code subchapter directs the Department of Information Resources to establish and maintain on TexasOnline a veterans website. The bill encourages website-participant state agencies to allow veterans to electronically file for veterans benefits and authorizes the website to provide a means for veterans to file electronically for selected federal veterans benefits. It requires the Texas Veterans Commission to create biennially an electronic version of a state veterans benefit booklet and to distribute both that version and printed copies to veterans county service officers (VCSOs) and to the personnel offices of federal and state military installations throughout Texas. Other provisions of the bill relate to electronic delivery of a veterans newsletter, electronic initiation of benefits claims by VCSOs, and provision of refurbished computers at no cost to VCSOs by the Texas Veterans Commission working in concert with the Windham School District.

Senate Bill 1457

Effective: 6-20-03

Senate Author: Lindsay

House Sponsor: Corte et al.

Senate Bill 1457 amends the Government Code to change the qualifications for appointment as the state's adjutant general. The bill adds the marines to the military branches in which the required previous active duty may have been served. Previous law required at least 10 years of service as a federally recognized commissioned officer with an active unit of the Texas National Guard. The bill changes the requirement to at least 10 years of reserve or active-duty service as such an officer with the United States armed forces, the National Guard, or the Texas National Guard. At least five years must have been served with the Texas National Guard.

Senate Bill 1594

Effective: 9-1-03

Senate Author: Van de Putte

House Sponsor: Corte

Senate Bill 1594 amends the Government Code to redefine the role of the Texas State Guard to be the provision of mission-ready volunteer military forces for use by the state in homeland security and community service activities as a supplement to the Texas National Guard. The bill clarifies the citizenship eligibility requirement for Texas State Guard members to mandate that they be citizens of the United States and state residents for at least 180 days.

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

- HB 28 (3rd C.S.) - Appropriations
- HB 35 (3rd C.S.) - Utilities
- HB 948 - Occupational Regulation
- HB 1166 - Occupational Regulation
- HB 1192 - Oil and Gas
- HB 1538 - Occupational Regulation
- HB 1575 - Oil and Gas
- HB 2128 - Local Government
- HB 2343 - Local Government
- HB 2425 - Miscellaneous Taxes and Tax Administration
- HB 3324 - Labor and Employment
- SB 599 - Health
- SB 616 - Health
- SB 735 - Public Officials and Employees
- SB 982 - Local Government

Transportation

This chapter covers legislation relating to the creation of a statewide network of transportation facilities, the financing and construction of highways, border inspection stations, and the operation of motor vehicles, including commercial motor vehicles, emergency vehicles, and recreational vehicles. The chapter also includes legislation relating to tollways, turnpikes, transportation districts, and traffic control devices; airports, bridges, waterways and ferries; and disabled parking placards, specialty license plates, and driver's licenses. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 2 (3rd C.S.)
Effective: 1-11-04

House Author: Krusee
Senate Sponsor: Ogden

House Bill 2 reenacts and amends provisions of the Transportation Code amended by House Bills 2971, 3184, and 3588 and provisions of the Code of Criminal Procedure amended by Senate Bills 631 and 1904 during the 78th Legislature, Regular Session, 2003, and makes additional statutory changes. The bill allows the principal, interest, and redemption premiums due on turnpike project revenue bonds to be payable and secured by bond proceeds and by amounts deposited in a debt service reserve fund. It makes the transferability of a turnpike project to a regional mobility authority apply to an authority organized under Chapter 370 or Section 361.003, Transportation Code, as that section existed before June 22, 2003, and authorizes a county with a population of 3.3 million or more to file a declaration of taking for a turnpike project, causeway, bridge, or tunnel.

House Bill 3588 imposed an additional \$30 court cost for each misdemeanor traffic violation, established a system of surcharges under a driver responsibility program, and allocated the revenues from the additional court costs and from the surcharges between the general revenue fund and a designated trauma facility and emergency services account until the total allocation to the general revenue fund from both sources reached \$250 million, after which point all of the revenue from the court costs would go to the Texas mobility fund, while 49.5 percent of the revenue from the surcharges would go to the Texas mobility fund and 49.5 percent would go to the trauma facility and emergency services account. House Bill 2 allocates all of the excess revenue from the surcharges to the Texas mobility fund, and it recharacterizes the \$30 additional court cost as a state traffic fine that must be paid regardless of whether a sentence is imposed on the person, final disposition of the case is deferred, or the person is placed on community supervision, including deferred adjudication community service. For state fiscal years 2004 and 2005, the comptroller is required to deposit the driver responsibility surcharges and the state traffic fines to the credit of the Texas mobility fund, instead of to the credit of the general revenue fund, to which they otherwise would be allocated.

House Bill 2 amends the limitation on the assessment of the driver's license points surcharge and the surcharge for a conviction of certain driving while intoxicated offenses so that the assessment applies only to an offense committed on or after September 1, 2003, rather than to a conviction that became final on or after that date. The bill deletes provisions relating to establishing the Texas mobility fund debt service account and the deposit of surcharges and state traffic fines to the account in fiscal year 2004. For state fiscal years 2004 and 2005, the comptroller is required to deposit certain Department of Public Safety fees to the credit of the

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general revenue fund instead of the Texas mobility fund. The bill appropriates one percent of the driver responsibility program surcharges collected during the state fiscal biennium beginning September 1, 2003, to the department to administer the driver responsibility program.

House Bill 2 appropriates an estimated \$231.7 million out of the general revenue fund in state fiscal year 2005 for the state fiscal biennium beginning September 1, 2003, to replace an equal amount of federal fiscal relief funds used to certify the general revenue appropriations made by the General Appropriations Act for the 2004-2005 biennium. The bill requires the use of any federal funds by the comptroller for state fiscal relief to be directed by the governor and the Legislative Budget Board. In addition to being used for other priorities, the funds must be used for the state child health plan to provide certain mental health services and to permit a Medicaid recipient to select a licensed psychologist, marriage and family therapist, professional counselor, or master social worker to perform professional counseling services or other health care services or procedures covered by Medicaid.

House Bill 2 repeals a provision of the Code of Criminal Procedure, added by Senate Bill 1904, that would have required a justice to proceed with an adjudication of guilt but prohibited the imposition of a fine assessed or a reduced fine at the conclusion of a period of deferred adjudication if the defendant presents satisfactory evidence that the defendant has complied with the requirements imposed.

House Bill 2 allows the Texas Department of Transportation to use any available funds to acquire, finance, construct, maintain, and operate rail facilities, including funds from the state infrastructure bank. It amends the \$12.5 million cap on the total amount the department may disburse out of state and federal funds for rail facilities so that the cap applies only to disbursements from the state highway fund, and it exempts federal funds and grants awarded by the governor from the Texas Enterprise Fund from the cap. The bill requires the department not later than December 1 of each year to submit a report to the legislature on the expenditures made in the preceding state fiscal year in connection with the unified transportation program, turnpike projects and toll roads, the Trans-Texas Corridor, rail facilities, and non-highway facilities on the Trans-Texas Corridor; the amount of bonds or other public securities issued for transportation projects; and money received by regional mobility authorities.

House Bill 2 requires a person who applies for a vehicle registration on the sale of a motor vehicle to pay a \$1 fee, which must be deposited in the state highway fund for use by the Department of Public Safety. The additional vehicle registration fees collected under the motor vehicle financial responsibility program must be used by the department, among other uses, to conduct a feasibility study regarding the use of a database interface system to verify whether owners of motor vehicles have established financial responsibility and to make lease payments to the master lease purchase program for the financing of the driver's license reengineering project and the liability insurance feasibility study. The bill provides that there is no fee for each additional set of specialty license plates for veterans with disabilities. It repeals provisions governing the Texas Turnpike Authority relating to feasibility studies, revolving fund, and performance and payment security required for an entity to participate in a comprehensive development agreement, and it repeals a provision that would have required the first \$90,500,254 of driver's license, personal identification certificate, and disability certificate fees collected during the state fiscal biennium ending August 31, 2005, to be deposited in the general revenue fund; instead, the fees are to be deposited to the credit of the Texas mobility fund.

House Bill 816
Effective: 6-20-03

House Author: Woolley
Senate Sponsor: Lindsay

House Bill 816 adds a provision to the Government Code to designate as Transportation Week the week that includes the third Friday in May.

House Bill 2971
Effective: 9-1-03

House Author: Harper-Brown
Senate Sponsor: Deuell

House Bill 2971 amends provisions of the Transportation Code relating to the registration of certain vehicles and the issuance of specialty license plates. The bill provides that vehicle registration requirements do not apply to golf carts if operation occurs in the daytime and for a distance of not more than two miles, manufactured housing, power sweepers, and motorized mobility devices. It stipulates that the operation of a motor vehicle across a highway by a person whose real property is separated by the highway is not a use of the motor vehicle on the public highway, and establishes provisions for the operation of a motor vehicle to transport persons or property for compensation by a nonresident. House Bill 2971 authorizes the Texas Department of Transportation to adopt rules for the registration of neighborhood electric vehicles. The bill requires registration for parade vehicles owned by nonprofit service organizations and allows the owner of a vehicle used to transport the owner's soil conservation equipment to register the vehicle for a reduced fee.

House Bill 2971 repeals the subchapter on specialty license plates and reorganizes and adds new provisions in a new chapter. Among other provisions, the bill creates new specialty license plates, allows the Texas Department of Transportation to create a new specialty license plate on its own initiative or on receipt of an application from a potential sponsor, and authorizes the department to contract for the marketing of specialty license plates. The bill also includes provisions establishing the Texas Music Foundation account, the be a blood donor account, and the be a blood donor advisory committee. House Bill 2971 also requires a person whose general distinguishing number is canceled to surrender to the Texas Department of Transportation each license a person has been issued and includes changes relating to dealer license plates.

House Bill 3588
Effective: See below

House Author: Krusee et al.
Senate Sponsor: Ogden

Article 1, Trans-Texas Corridor, amends the Transportation Code to create the Trans-Texas Corridor, a statewide network of transportation facilities that includes toll and nontoll state highways, turnpikes, freight or passenger railroads, public utility facilities, and any structure that facilitates a mode of transportation. It allows the Texas Department of Transportation (department) to finance the corridor using money from the state highway fund, tolls, fees, bond proceeds, the state infrastructure bank, and the federal government and allows the department to enter into an agreement with another governmental agency or private entity to construct or operate part of the corridor. Article 1 takes effect June 22, 2003.

Article 2, Regional Mobility Authorities, authorizes the Texas Transportation Commission (commission), at the request of a county commissioners court, to create a regional mobility authority to provide for transportation projects in a region of the state. It allows an authority to issue revenue bonds, if approved by the attorney general, and generate revenue by imposing tolls, fees, and fares and by leasing or selling part of a transportation project. Article 2 takes effect June 22, 2003.

Article 3 provides for advance acquisition of property.

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Article 4, Rail Facilities, authorizes the department to provide for passenger or freight rail facilities, including commuter rail and intercity rail, or to contract with a private entity to perform these acts. It authorizes the department to create a freight rail line for trains operating at not less than 80 miles per hour in or adjacent to the State Highway 130 corridor, if sufficient funds from bonds sold to construct the Central Texas turnpike project or from the Texas mobility fund are available. It allows the department to finance rail facilities and systems using appropriations from the state highway fund not constitutionally dedicated, bond proceeds, donations, fees, rents, loans from the state infrastructure bank, and federal grants and loans. Article 4 takes effect June 22, 2003.

Article 5, Issuance of Bonds and Other Public Securities, authorizes the commission to issue bonds and other public securities secured by the state highway fund, not to exceed \$3 billion, to fund highway improvement projects, finance other funds, and service bond debt and the cost of the issuing bonds. Proceeds of the bonds may not be used for the construction of a state highway or other facility on the Trans-Texas Corridor. This article takes effect on the date the constitutional amendment proposed by House Joint Resolution 28 takes effect.

Article 6, Pass-Through Tolls, authorizes the department to pay pass-through tolls to a public or private entity as reimbursement for constructing or operating a toll or nontoll facility on the state highway system and to an authority or county as compensation for the costs of maintaining a state highway converted to a toll facility of the authority or county. Article 6 takes effect June 22, 2003.

Article 7, Conversion of Nontoll State Highway, authorizes the commission, if approved by the participating county commissioners courts, to convey a nontoll state highway to each county within which the highway is located if the commission determines that the conveyance will improve mobility in the region or is the most feasible method to accomplish necessary improvements to the highway.

Article 8, Commercial Driver's Licenses, amends and adds new provisions relating to the disqualification from driving a commercial motor vehicle of a person who holds a commercial driver's license and who violates regulations for the operation of a commercial motor vehicle or a noncommercial motor vehicle, including disqualification for life. Article 8 takes effect June 1, 2005.

Article 9, Motor Vehicle Sales Tax, amends the Tax Code to require the county tax assessor-collector to calculate and retain an additional five percent of the motor vehicle sales, rental, and use tax, vehicle registration fees, and penalties collected by the county in the preceding calendar year and credit specified percentages to the county's general fund and road and bridge fund. Article 9 takes effect September 1, 2005.

Article 10, Driver Responsibility, requires the Texas Department of Public Safety to assign two or three points, depending on the circumstances, to a person's license for each conviction of a moving violation and to assess a surcharge on the license of a person who has accumulated six or more points during the preceding 36-month period. It also provides for surcharges for certain intoxicated driver offenses and for driving with an invalid license, without financial responsibility, or without a valid license. Money from the surcharges is to be used for general revenue and for trauma facility and emergency medical services. The driver responsibility program expires on September 1, 2007.

Article 11, Disposition of Department of Public Safety Fees, requires that certain fees and penalties collected by the Department of Public Safety relating to driver's licenses be deposited in the Texas mobility fund. It requires the first \$90,500,254 of fees collected during the biennium ending August 1, 2005, to be deposited in the general revenue fund.

Article 12, Additional Court Costs, assesses an additional \$30 court cost against a person convicted of violating a rule for operating a motor vehicle on a roadway. The additional court costs collected under the driver responsibility program are to be used for general revenue and trauma facility and emergency medical services; any amount collected that is in excess of \$250 million is to be deposited in the Texas mobility fund. Article 12 expires September 1, 2007.

Article 13, Statewide Coordination of Public Transportation, requires the department to identify inefficiencies in the public transportation services, including services that could be provided more effectively by privately funded transportation resources and to eliminate inefficiencies. It requires each health and human services agency to contract with the department for transportation services for agency clients.

Article 14 establishes a conditional grant program.

Article 15, Texas Turnpike Authority, transfers the general powers and duties of the Texas Turnpike Authority to the commission and the department and provides for comprehensive development agreements. Article 15 takes effect June 22, 2003.

Article 16, Commercial Motor Vehicle Safety Standards, creates procedures for the notification of a claim and the assessment of an administrative penalty against a person who violates a rule for commercial motor vehicle safety standards.

Article 17, Nonrepairable and Salvage Motor Vehicles; Salvage Vehicle Dealers, amends and adds new provisions relating to the sale, transfer, release, and titling of nonrepairable motor vehicles, salvage motor vehicles, rebuilt salvage motor vehicles, and export-only motor vehicles and the dismantling, scrapping, or destroying of such vehicles.

Article 18, Funding of Port Security, Projects, and Studies, renames the Texas Port Transportation and Economic Development Advisory Committee as the Port Authority Advisory Committee, changes the membership and certain duties, and repeals a separate chapter designating members of a Port Authority Advisory Committee. Article 18 takes effect June 22, 2003.

Article 19 contains provisions relating to the statewide transportation plan, lost, stolen, or destroyed inspection certificates, neighborhood electric vehicles, malfunctioning traffic-control signals, and penalties for passing a school bus. It also limits to not more than \$800 million the amount of money the department may spend each fiscal year to provide for a toll facility.

Article 19B, Financial Responsibility Requirements, requires the department and the Texas Department of Insurance by July 1, 2004, to complete a study on the feasibility of using a database interface system to verify whether owners of motor vehicles have financial responsibility. If a system is recommended, the department may implement the system before January 1, 2005.

Except as otherwise noted, provisions of the bill take effect September 1, 2003.

Senate Bill 165
Effective: 6-20-03

Senate Author: Carona et al.
House Sponsor: J. Jones et al.

Senate Bill 165 amends the Transportation Code to authorize certain additional transportation authorities and law enforcement agencies, rather than just the Texas Department of Transportation, to remove personal property from a roadway or right-of-way if the authority or agency determines that the property blocks the roadway or endangers public safety. The bill allows removal without the consent of the owner or carrier of the property and requires the owner or carrier to reimburse the authority or agency for any reasonable cost of removal and disposition of the property. The bill specifies that an authority or law enforcement agency is

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not liable for any damage to property removed, unless the removal is carried out recklessly or in a grossly negligent manner, nor for any damage resulting from the failure to remove property.

Senate Bill 895

Effective: 9-1-03

Senate Author: Bivins

House Sponsor: Swinford

Senate Bill 895 amends the Transportation Code to require the Texas Department of Public Safety to establish a rule that requires a family member who conducts a driver education course, rather than only being a licensed driver, to possess a valid license for the preceding three years that has not been suspended, revoked, or forfeited within that time for traffic related violations. The department is also required to establish a method by which approval for delivering driver education course materials by an alternative method, including electronic means, is obtained.

Finance, Planning, and Administration

House Bill 471

Effective: See below

House Author: Pickett et al.

Senate Sponsor: Lucio

House Bill 471 amends the Transportation Code to allow the Texas Transportation Commission to borrow money from any source and in any form to carry out functions of the Texas Department of Transportation. The amount borrowed may not exceed the average monthly revenue deposited to the state highway fund for the 12 months preceding the month of the loan, and the term of the loan may not exceed two years. House Bill 471 takes effect contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 28.

House Bill 471 also allows the commission, with approval of the cash management committee, composed of the governor, lieutenant governor, speaker of the house of representatives, and comptroller, to issue highway tax and revenue anticipation notes when a temporary cash flow shortfall in the state highway fund is forecast by the commission; the amount of the notes may not exceed the maximum temporary cash flow shortfall that is forecast. The bill creates a fund to receive proceeds of the notes and allows the note proceeds to be transferred to the state highway fund to pay authorized expenditures. If money in the new fund is insufficient to pay principal, any premium, interest, issuance costs, and any required rebate to the federal government, the legislature may appropriate an amount from the state highway fund sufficient to make those payments. The provisions relating to highway tax and revenue anticipation notes take effect on September 1, 2003.

House Bill 1883

Effective: 6-18-03

House Author: Baxter et al.

Senate Sponsor: Ogden

House Bill 1883 amends the Transportation Code to authorize a policy board of a federally designated metropolitan planning organization to provide for appointment of voting proxies.

House Bill 2377

Effective: 6-20-03

House Author: Hill

Senate Sponsor: Ogden

House Bill 2377 amends provisions of the Transportation Code relating to the transfer of property under the jurisdiction of the Texas Department of Transportation. The bill requires the Texas Transportation Commission to designate as part of the state highway system a highway that it determines is necessary for the proper development and operation of a comprehensive system of state highways and public roads, and authorizes the commission to

remove a segment of the state highway system that it determines is not needed for the system. It requires that the sale or transfer of any interest in real property that the Texas Transportation Commission has determined is no longer needed for a state highway purpose be first offered for sale or transfer to a governmental entity with the authority to condemn the property, and then be offered to the general public. It allows the commission to waive payment for real property transferred to governmental entities under certain circumstances and removes approval procedures for actions involving property valued at less than \$10,000. House Bill 2377 allows the department to transfer ownership of a historic bridge that is scheduled for replacement to a governmental entity or a private entity; the entity that accepts ownership of the historic bridge must maintain and preserve the bridge and its historic features.

House Bill 2902**Effective:** 6-20-03**House Author:** Phillips**Senate Sponsor:** Estes

House Bill 2902 amends the Transportation Code to clarify that all or part of the costs of an improvement of a road in a defined part of a subdivision may be assessed against each owner of real property that is affected by the road improvement, if approved by a majority vote of real property owners affected by the road improvement.

House Bill 2905**Effective:** 6-20-03**House Author:** Phillips**Senate Sponsor:** Deuell

House Bill 2905 amends the Transportation Code to allow the Texas Department of Transportation, on the new authority transferred from the Texas Transportation Commission, to award contracts for erecting and maintaining specific information logo signs, major shopping area guide signs, and major agricultural interest signs at locations along highways. In entering into a contract, which may be determined by competitive bidding, competitive sealed proposals, or open market contracts, the department must make a written award of a contract to the offeror whose proposal offers the best value for the state.

House Bill 3184**Effective:** 6-18-03**House Author:** Hill**Senate Sponsor:** Barrientos

House Bill 3184 amends provisions of the Transportation Code to revise the authority of the Texas Transportation Commission and the Texas Department of Transportation over the financing, construction, improvement, maintenance, and operation of turnpike projects and to specify that the Texas Turnpike Authority is responsible for promoting and coordinating the development of turnpike projects. The bill requires the department to coordinate with appropriate entities to develop an integrated international trade corridor plan and to report on the progress of this requirement to the presiding officer of each house of the legislature no later than December 1, 2004. The bill changes the method for allocating money to eligible public transportation providers and requires the commission to establish a new formula that considers certain factors, such as a public transportation provider's performance and the number of its riders.

House Bill 3420**Effective:** 6-18-03**House Author:** Garza et al.**Senate Sponsor:** Madla

House Bill 3420 amends the Government Code to require the Texas Public Finance Authority to set aside 10 percent of the proceeds from each sale of general obligation bonds and notes issued for the financing of certain colonia projects and to use the amount set aside to provide financial assistance for colonia access roadway projects proposed by rural border counties. The bill requires the authority, as directed by the Texas Department of Transportation, to

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provide a grant from the set-aside on a priority basis to a rural border county that proposes to pave for the first time a road serving a border colonia located in that county. The bill authorizes the grant to be used to purchase any materials or lease any equipment as reasonably necessary to accomplish the goal of the project. It requires the materials to be used solely in connection with the project and the equipment to be used substantially in connection with the project throughout the lease period.

House Joint Resolution 28
For Election: 9-13-03

House Author: Pickett et al.
Senate Sponsor: Lucio

House Joint Resolution 28 proposes a state constitutional amendment to provide a mechanism for authorizing a state transportation agency to issue notes or borrow money on a short-term basis for transportation-related projects and to issue bonds and other public securities for highway improvement projects. The principal, interest, and other costs related to bonds, public securities, or bond enhancement agreements are payable from revenue in the state highway fund.

Senate Bill 409
Effective: 9-1-03

Senate Author: Lucio et al.
House Sponsor: Chavez

Senate Bill 409 amends the Transportation Code to provide that the Texas Transportation Commission consists of five, rather than three, members appointed by the governor and to require members to be appointed to reflect the diverse geographic regions and population groups of the state. The bill requires the governor to periodically designate the chair of the commission and expands the duties of the chair to include presiding over commission meetings, creating subcommittees, and preparing meeting agendas. The bill requires the commission to consider ways to improve the department's operations and requires the chair to report to the governor and legislature on related legislative recommendations adopted by the commission.

Senate Bill 487
Effective: 6-20-03

Senate Author: Ogden
House Sponsor: Krusee

Senate Bill 487 amends the Transportation Code to set forth procedures for a timely agreement between the Texas Department of Transportation and a utility that negotiates the relocation of a facility of the utility to accommodate an improvement to the state highway system.

Senate Bill 716
Effective: 6-20-03

Senate Author: Lindsay
House Sponsor: Eiland

Senate Bill 716 amends the Transportation Code to authorize a county that borders the United Mexican States to participate in a causeway, bridge, tunnel, turnpike, or highway project located in the county or in one or more counties adjacent to the county. The bill requires that two-tenths of one percent of toll revenue be shared equally between the permanent school fund and the General Land Office. It requires the General Land Office to use its share to acquire real property in a natural state in the county of the project, and to maintain the real property in a natural state.

Senate Bill 724
Effective: 5-15-03

Senate Author: Williams
House Sponsor: Harper-Brown

Senate Bill 724 amends the Transportation Code to authorize the Texas Department of Transportation to settle certain claims for less than \$10,000 under the Texas Tort Claims Act without requiring the governor's approval.

Senate Bill 1082**Effective:** See below**Senate Author:** Ogden**House Sponsor:** Phillips

Senate Bill 1082 amends the Education and Transportation codes to allow the State Board of Education to make loans from the permanent school fund to the Texas Department of Transportation, under terms and conditions agreed on by the board and the department, for the purpose of acquiring rights-of-way for the state highway system. The bill allows the board to make such loans on a determination that the terms of the agreement provide for payment of interest at a rate at least equal to the greater of the minimum rate prescribed by the Texas Constitution or the average interest earnings yield on all fixed-income investments of the fund at the time of the loan, and it requires the agreement to be secured by a pledge of the first money coming into the state highway fund. The bill also prohibits the department from using proceeds from the loan for construction of a state highway or other facility of the Trans Texas Corridor.

Since the effect of the bill was contingent on the passage of Senate Joint Resolution No. 43, 78th Legislature, Regular Session, 2003, which did not pass, Senate Bill 1082 has no effect.

Senate Bill 1580**Effective:** 5-12-03**Senate Author:** Wentworth**House Sponsor:** Krusee

Senate Bill 1580 amends the Transportation Code to provide the Texas Department of Transportation with an alternative to the requirements of Government Code provisions governing public work performance and payment bonds. It allows the department to require that a performance bond from a private contractor hired for a routine highway maintenance activity be equal to the annual amount to be paid to the contractor and remain in effect for one year from the day work is resumed after any default by the contractor, or to require that it be equal to the amount paid to the contractor during the term of the bond and remain in effect for two years, renewable annually in two-year increments.

Highways and Bridges**House Bill 1117****Effective:** 9-1-03**House Author:** J. Keffer et al.**Senate Sponsor:** Deuell

House Bill 1117 amends the Transportation Code to allow a county commissioners court to clarify the existence of a public interest in a road by adopting a proposed county road map that includes each road in which the county claims the existence of a public interest. The bill provides that a county has a valid claim of the existence of a public interest in a road if the county provides written records or other information documenting its continuous maintenance of the road beginning before September 1, 1981. House Bill 1117 sets forth public meeting requirements and procedures for a person who asserts a private right, title, or interest in a road to protest the inclusion of the road in the county road map, and notice requirements of the intention of the county commissioners court to adopt a county road map. It requires the county commissioners court to appoint a jury of view, which consists of five property owners who have no interest in the outcome of the protest, to determine the validity of a county's claim of the existence of a public interest in the road. The bill provides that the adoption of a county road map is conclusive evidence of the public's right of access over a road included on the map and the county's authority to spend public money to maintain a road included on the map. The provisions of House Bill 1117 expire September 1, 2009.

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House Bill 1653

Effective: 6-20-03

House Author: Chavez et al.

Senate Sponsor: Lucio

House Bill 1653 amends the Transportation Code to remove the requirement that a political subdivision or private entity authorized to construct or finance construction of a bridge over the Rio Grande first obtain approval from the Texas Transportation Commission before requesting approval from the United States. The bill requires the Texas Department of Transportation to allow a bridge applicant to concurrently seek approval from the commission and the United States, and it requires the applicant, if the commission does not approve construction of the bridge, to withdraw the request for approval from the United States.

House Bill 1831

Effective: 9-1-03

House Author: Harper-Brown

Senate Sponsor: Deuell

House Bill 1831 amends the Transportation Code to permit an establishment that provides food to display more than one logo on a highway logo sign panel, rather than limiting each panel to a single logo. The bill changes requirements for an establishment to be eligible to display information on a highway logo sign panel by reducing from 12 to 10 the number of hours such an establishment must continuously operate and by requiring the establishment to serve two meals per day, rather than three meals per day. House Bill 1831 provides that an establishment is eligible to display two names on the same logo sign panel if the establishment houses two food outlets or gas and food outlets in a shared space under common ownership.

House Bill 3330

Effective: 9-1-03

House Author: Crownover

Senate Sponsor: Estes

House Bill 3330 amends provisions of the Transportation Code relating to information logo signs, major shopping area guide signs, and major agricultural interest signs. It adds controlled-access highways inside urbanized areas with a population of 50,000 or more to the definition of highways eligible for the information logo signs. The bill authorizes the Texas Transportation Commission to contract with an individual, firm, group, or association to erect and maintain major shopping area guide signs. It also requires that a contract entered into by the commission and another entity to erect and maintain information logo signs, major shopping area guide signs, and major agricultural interest signs provide for the assessment of fees to be paid to the contractor by the commercial establishment, shopping area, or agricultural interest and for the remittance of at least 10 percent of the fees collected to the Texas Department of Transportation.

House Bill 3554

Effective: Vetoed

House Author: Raymond et al.

Senate Sponsor: Zaffirini

Current law requires the Texas Department of Transportation, on approval from the federal agencies involved in regulating border crossings, to choose a location for a border inspection station along a major highway at or near a border crossing from Mexico in the cities of Brownsville, Laredo, and El Paso so that all federal, state, and municipal agencies that regulate border crossings can be located in one place in each city. House Bill 3554 amends the Transportation Code to delete these requirements and instead require the department to erect and maintain border inspection facilities in the department's Pharr, Laredo, and El Paso transportation districts. The bill allows a municipality with an international bridge that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002, to set the location of a planned inspection facility that will serve the bridge to be within

the municipality or its extraterritorial jurisdiction. House Bill 3554 requires the department to use intelligent transportation system technologies in any new or existing commercial motor vehicle inspection facility to expedite the flow of commerce across the border.

Reason Given for Veto: “House Bill No. 3554 would allow the City of Laredo to bypass federal regulations and state safety objectives in selecting the location of a border safety inspection facility. Congress implemented these facilities to inspect commercial vehicles crossing the border and intended the facilities to be located at border crossings. Similarly, the Texas Department of Public Safety has selected a site near Laredo’s border with Mexico to improve roadway safety.

“The City of Laredo has already objected to the site selection for the border inspection facility through its lawsuit against the state and federal government. The city’s desire to locate the facility some 30 miles away from the border crossing not only violates federal regulations but also would undermine highway safety.

“I have consistently supported roadway safety and measures to ensure that commercial vehicles crossing our border with Mexico meet the same standards that other commercial vehicles must meet.”

Senate Bill 903

Effective: 9-1-03

Senate Author: Lindsay et al.

House Sponsor: Hamric

Senate Bill 903 amends the Transportation Code to allow a military vehicle of this state, another state, or the United States to use toll projects without payment of a toll or fare. The bill repeals a provision that limits the free use of a toll project to military vehicles of this state and requires the Texas Transportation Commission and the governing body of each local governmental entity or private entity that operates a toll project to adopt rules that allow an individual military vehicle or a convoy of military vehicles the use of a toll project without payment of a toll or fare.

Senate Bill 1463

Effective: 6-20-03

Senate Author: Lindsay

House Sponsor: Hamric

Senate Bill 1463 amends the Transportation Code to authorize the Texas Transportation Commission, under certain conditions and after a public hearing, to convey a nontoll state highway or a segment of a nontoll state highway to a county or a toll road authority in the county in which the state highway or segment is located, or to a county or toll road authority in a county adjacent to the county in which the highway or segment is located if the county or toll road authority in the county in which the segment or highway is located approves the conveyance. Senate Bill 1463 makes these provisions applicable only to a nontoll state highway or a segment that is conveyed to create an outer loop or to connect to an outer loop located primarily in a county having a population of more than three million or an adjacent county.

Senate Bill 1464

Effective: 9-1-03

Senate Author: Lindsay

House Sponsor: Hamric

Senate Bill 1464 amends the Transportation Code to provide for the collection of an unpaid toll and the imposition of an administrative cost, not to exceed \$100, to recover the expense of collecting the unpaid toll in certain counties. The bill requires the county to send written notice of nonpayment to the owner of a nonpaying vehicle and establishes that each failure to pay a toll or administrative cost is a misdemeanor offense punishable by a fine not to exceed \$250. Senate Bill 1464 provides for certain circumstances under which a vehicle was driven through a toll without payment, such as theft of the vehicle, as a defense to prosecution and for the seizure and return of stolen transponders or insufficiently funded transponders.

Licenses, Permits, and Records

House Bill 148

Effective: 9-1-03

House Author: Solomons

Senate Sponsor: R. West

House Bill 148 amends the Transportation Code to prohibit the manufacture, sale, possession, or use of a counterfeit disabled parking placard. A person who manufactures, sells, or possesses a placard that is deceptively similar to a disabled parking placard commits a Class A misdemeanor offense. A person who knowingly parks a vehicle displaying a counterfeit placard in a parking space or area that is designated for persons with disabilities commits a Class C misdemeanor offense.

House Bill 510

Effective: 9-1-03

House Author: Woolley

Senate Sponsor: Ogden

House Bill 510 amends the Transportation Code to require the Texas Department of Transportation to issue specially designed license plates for a passenger car or light truck owned by a federal administrative law judge.

House Bill 874

Effective: 6-20-03

House Author: Menendez et al.

Senate Sponsor: Wentworth

House Bill 874 amends the Transportation Code to require a county assessor-collector to record on a disabled parking placard the first four digits of an applicant's driver's license number or personal identification card number followed by the initials of the applicant, rather than the entire driver's license or personal identification card number.

House Bill 1032

Effective: 9-1-03

House Author: Driver

Senate Sponsor: Deuell

House Bill 1032 amends the Transportation Code to change the expiration date of a driving instruction permit from the first to the second birthday of the license holder occurring after the date of the application for the license.

House Bill 1330

Effective: 1-1-04

House Author: McReynolds et al.

Senate Sponsor: Staples

House Bill 1330 amends the Transportation Code to allow a driver's license applicant to voluntarily list on the license application any health condition that may impede communication with a peace officer, as evidenced by a written statement from a licensed physician. The bill requires the Department of Public Safety, if space allows, to print any such medical information on the reverse side of the driver's license and indicate its presence by a uniform symbol or code on the face of the license in the space where the department indicates a restriction or endorsement.

Senate Bill 439

Effective: 9-1-03

Senate Author: Lindsay

House Sponsor: Hamric

Senate Bill 439 amends the Transportation Code to broaden the prohibition relating to an offense involving a motor vehicle with an altered or obscured license plate to include the attachment or display of reflective matter, an illuminated device, emblem, or other alteration that obscures the letters or numbers on the plate, the color of the plate, the name of the state in which the vehicle is registered, or any other original design feature of the plate.

Senate Bill 613**Effective:** 9-1-03**Senate Author:** Nelson**House Sponsor:** Hupp

Senate Bill 613 amends the Transportation Code to replace a reference to the applicable Health and Safety Code chapter addressing abusable volatile chemicals as a basis for the automatic suspension, upon conviction, of the driver's license of a person younger than 21 at the time of the offense.

Senate Bill 1445**Effective:** 9-1-03**Senate Author:** Averitt**House Sponsor:** Solomons

Senate Bill 1445 amends the Transportation Code to specify that a person commits a Class A misdemeanor if the person accesses or uses electronically readable information derived from a driver's license, commercial driver's license, or personal identification certificate or compiles or maintains a database of such information. The bill provides an exception for certain law enforcement personnel when using the information for law enforcement or government purposes and removes the requirement that the Texas Department of Transportation take necessary steps to ensure that the information is used only for these purposes. A financial institution may access and use the information only to identify an individual and must have the written consent of the individual before it may include such information in a compilation or database. The bill further prohibits a person from using electronically readable information derived from a driver's license for telephone solicitation purposes.

Senate Bill 1904**Effective:** See below**Senate Author:** Barrientos**House Sponsor:** Keel

Senate Bill 1904 amends provisions of the law relating to the Motor Vehicle Records Disclosure Act and certain driving safety programs. The bill amends the Transportation Code to expand the information the Texas Department of Public Safety (DPS) may release through the interactive system to the individual or to persons eligible under the Motor Vehicle Records Disclosure Act to include a certified abstract of a driving record of a license holder for a \$20 fee and a five year driving record for a fee of \$5.50.

The bill disqualifies a person who holds a commercial driver's license from operating a commercial motor vehicle if convicted of certain traffic offenses committed while operating any motor vehicle, rather than only a commercial motor vehicle, and specifies the length of time for disqualification by the convicting offense. The bill amends a motor carrier's application requirements for registration to comply with federal law. It requires the motor carrier to provide positive drug test information that was performed on an employee who holds a commercial driver's license to DPS and permits DPS to release the information to any person eligible to receive the information under the Motor Vehicle Records Disclosure Act.

Senate Bill 1904 amends provisions of the Code of Criminal Procedure relating to the suspension of sentence and the deferral of adjudication in cases involving certain misdemeanor traffic offenses. The bill specifies that an order of deferral of adjudication terminates any liability under a bail bond or an appearance bond and provides that the authorization for a judge to suspend a sentence or defer disposition does not apply to certain traffic offenses or to a traffic offense committed by a person who holds a commercial driver's license. In addition, the bill sets forth procedures for a person to elect to take a driving safety or motorcycle operator training course.

Senate Bill 1904 takes effect September 1, 2003, except for provisions relating to disqualifying a commercial driver's license, which take effect June 1, 2005.

Motor Vehicles

House Bill 623

Effective: 9-1-03

House Author: Goolsby

Senate Sponsor: Carona

Under previous law, a motor vehicle title service operating in a county with a population of more than 2.8 million was subject to regulation by the county tax assessor-collector. House Bill 623 amends the Transportation Code to make the regulation apply to counties with a population of more than 500,000 or in which the commissioners court has ordered such regulation.

House Bill 849

Effective: 9-1-03

House Author: Talton

Senate Sponsor: Jackson

House Bill 849 amends the Occupations Code to allow the operator of a vehicle storage facility to send by electronic certified mail notice to the owner or lien holder of a vehicle that has been towed to the facility for storage, and increases the impoundment fee from \$10 to \$20.

House Bill 849 amends the Transportation Code to prohibit a political subdivision from issuing a regulation for the use of lighting equipment on a tow truck that is more restrictive than state law. It requires a commercial motor carrier to pay a \$25 fee, in addition to the \$100 application fee, for each tow truck that requires registration that the motor carrier proposes to operate. It requires the owner of a tow truck to have on-hook cargo insurance of at least \$50,000 per truck to perform nonconsent tows. House Bill 849 authorizes the regulation of fees for nonconsent tows by a political subdivision, establishes maximum fees for tows in an area in which no political subdivision regulates nonconsent tow fees, and requires all nonconsent tows to be towed to a licensed vehicle storage facility.

House Bill 849 requires a towing company and a political subdivision that regulates nonconsent tow fees to file information on nonconsent tow fees with the Texas Department of Transportation, and requires the department to post the schedule for towing fees on the department's Internet website. The bill makes it a misdemeanor offense for a person to violate provisions relating to charging or collecting fees for nonconsent towing and establishes the rights of the owner or operator of the vehicle relating to a court hearing on the issue of towing charges imposed or collected.

House Bill 850

Effective: 9-1-03

House Author: Talton

Senate Sponsor: Brimer

House Bill 850 amends the Occupations Code to include tow trucks in the list of motor vehicles whose sale at a new motor vehicle show or exhibition is not prohibited.

House Bill 1773

Effective: 9-1-03

House Author: W. Smith

Senate Sponsor: Brimer

House Bill 1773 amends the Transportation Code to allow a municipality to provide for a more inclusive definition of a junked vehicle than is provided by current state law. The bill also specifies that a junked vehicle that is visible at any time of the year from a public place or public right-of-way is a public nuisance.

Senate Bill 345
Effective: 9-1-03

Senate Author: Ogden
House Sponsor: Hegar

Current law requires that a motor vehicle's windshield, window, or wing vent with a sunscreening device have a light transmission of 33 percent or more and a luminous reflectance of 35 percent or less. It also prohibits a suncreening device whose color is tinted red or amber. Senate Bill 345 changes the required light transmission to 25 percent or more and the luminous reflectance to 25 percent or less, each determined in combination with a windshield, window, or wing vent, and adds blue to the list of color tinting that is prohibited. In addition, the bill deletes the exemption from light transmission and luminous reflectance requirements for a motor vehicle manufactured before 1988, and adds an exemption for a window that complies with federal standards for window materials, including a factory-tinted or a pretinted window installed by the vehicle manufacturer, or a replacement window meeting the specifications required by the vehicle manufacturer.

Senate Bill 1184
Effective: 9-1-03

Senate Author: Deuell
House Sponsor: J. Keffer

Senate Bill 1184 amends provisions of the Transportation Code relating to commercial motor vehicle standards. The bill expands the definition of a "commercial motor vehicle" subject to compulsory inspection to include a vehicle used, rather than merely designed, to transport more than 15 passengers, including the driver. The bill specifies that commercial motor vehicle safety standards apply to a commercial motor vehicle as defined by Texas law, if operated intrastate, or by federal regulation, if operated interstate. The bill clarifies that certain peace officers and Department of Public Safety employees may stop and enter, as well as detain, a commercial motor vehicle and specifies that a noncommissioned department employee may take enforcement action if the employee is under the supervision of a department officer. The bill requires the department to designate one or more employees to investigate violations and conduct audits of persons subject to these safety standards and to impose an administrative penalty for any violation. The bill provides for notification, informal hearing, and administrative hearing processes for persons violating commercial motor vehicle safety standards and provides for the disposition of impounded commercial vehicles with delinquent penalties. The bill makes further revisions to clarify and update certain provisions of the Transportation Code relating to commercial motor vehicle standards.

Senate Bill 1507
Effective: 9-1-03

Senate Author: Harris
House Sponsor: Marchant

Senate Bill 1507 amends the Transportation Code to permit a vehicle owner, in certain situations, to use a written limited power of attorney to authorize an agent to complete and sign the documents necessary for the transfer of a vehicle's title when the owner is transferring title voluntarily.

Road Segment Names

House Bill 630
Effective: 6-20-03

House Author: Hilderbran et al.
Senate Sponsor: Madla

House Bill 630 amends the Transportation Code to designate State Highway 173 between its intersection with State Highway 16 near Kerrville and its intersection with State Highway 16 near Jourdanton as the 173d Airborne Brigade Memorial Highway.

Transportation

House Bill 1049

Effective: 9-1-03

House Author: J. Davis et al.

Senate Sponsor: Jackson

House Bill 1049 amends the Transportation Code to designate the part of NASA Road 1 from State Highway 146 to Interstate Highway 45 and the part of Farm-to-Market Road 528 from Interstate Highway 45 to State Highway 35 as the NASA Parkway.

House Bill 1654

Effective: 6-20-03

House Author: Wohlgemuth

Senate Sponsor: Averitt

House Bill 1654 designates State Highway 121 between Farm-to-Market Road 1187 in Tarrant County and U.S. Highway 67 in Johnson County as the Chisholm Trail Parkway.

Senate Bill 139

Effective: 6-20-03

Senate Author: Lucio

House Sponsor: Oliveira

Senate Bill 139 amends the Transportation Code to designate the structure connecting State Highway 100 and Park Road 100 between the eastern municipal boundary of Port Isabel and the western boundary of Padre Island as the Queen Isabella Memorial Bridge.

Senate Bill 233

Effective: 9-1-03

Senate Author: Fraser et al.

House Sponsor: Hupp

Senate Bill 233 amends the Transportation Code to designate State Highway 195 from Interstate Highway 35 to the terminus of State Highway 195 in Killeen as the Phantom Warriors Highway.

Senate Bill 1714

Effective: 6-20-03

Senate Author: Wentworth

House Sponsor: Mercer

Senate Bill 1714 amends the Transportation Code to designate Farm-to-Market Road 1535 between Fort Sam Houston and Camp Bullis as the Second Indian Head Division Memorial Highway.

Sea and Air

House Bill 1231

Effective: 9-1-03

House Author: Geren et al.

Senate Sponsor: Lucio

House Bill 1231 amends the Transportation Code to prohibit the Texas Transportation Commission from condemning private property along certain reaches of the Laguna Madre section of the Gulf Coast Intracoastal Waterway (GCIW) for use as a disposal site for dredged material, unless the commission determines that no other state or federal land is available for that purpose and failure to acquire the property will close a segment of the GCIW. In condemning land, the Texas Department of Transportation must follow a specified draft dredged material management plan and must obtain legislative approval for any substantive changes to the final management plan. The bill authorizes the commission to contract with a landowner for the use of land as a dredged material disposal site.

House Bill 2859

Effective: 6-20-03

House Author: Wohlgemuth

Senate Sponsor: Ogden

House Bill 2859 amends the Transportation Code to repeal the Obstruction to Air Navigation Control Act.

House Bill 3366**Effective:** 6-20-03**House Author:** Ritter et al.**Senate Sponsor:** Williams

House Bill 3366 amends the Transportation Code to create the Jefferson and Orange County Pilots Licensing and Regulatory Act to provide for the licensing and regulation of branch pilots and deputy branch pilots for the ports of Jefferson County and Orange County.

Senate Bill 249**Effective:** 9-1-03**Senate Author:** Janek**House Sponsor:** Eiland

Senate Bill 249 amends the Transportation Code to authorize the Texas Department of Transportation to adopt rules to establish a system for issuing a motor vehicle sticker that entitles the motor vehicle to have priority status in boarding the Galveston-Port Bolivar ferry or the Port Aransas ferry until the ferry reaches 50 percent of its vehicle capacity.

Senate Bill 441**Effective:** 9-1-03**Senate Author:** Harris**House Sponsor:** T. Smith

Senate Bill 441 amends the Transportation Code to make it an offense for a person to solicit or engage in ground transportation business within the boundaries of an airport operated or controlled by a home-rule municipality or a joint board whose constituent agencies are populous home-rule municipalities without the permission of the municipality or joint board, if required. An offense is a Class B misdemeanor.

Senate Bill 756**Effective:** 5-14-03**Senate Author:** Nelson**House Sponsor:** Harper-Brown

Senate Bill 756 amends the Government Code to provide that the chief administrative officer of a joint airport board whose constituent agencies are home-rule municipalities with populations greater than 400,000 has the exclusive authority to declare that a local state of disaster exists within the boundaries of an airport operated or controlled by the joint board, regardless of whether the airport is located inside or outside the boundaries of a political subdivision. The bill also allows the joint board to directly request assistance from the county emergency management program when its own resources are exceeded.

Traffic Laws and Controls**House Bill 900****Effective:** 9-1-03**House Author:** King**Senate Sponsor:** Estes

House Bill 900 amends the Transportation Code to permit a peace officer to operate an all-terrain vehicle on a public street, road, or highway that is not an interstate or limited-access highway in the performance of the officer's official duty if certain conditions are met.

House Bill 946**Effective:** 9-1-03**House Author:** F. Brown**Senate Sponsor:** Wentworth

House Bill 946 amends the Transportation Code to provide that recreational motor vehicles, including travel trailers, camping trailers, truck campers, and motor homes, operated on a public highway may exceed the established width limitation if the excess width is attributable to an appurtenance that extends six inches or less beyond a fender on one or both sides of the vehicle.

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House Bill 1208

Effective: 6-20-03

House Author: Lewis

Senate Sponsor: Shapiro

House Bill 1208 amends provisions of the Transportation Code relating to the mitigation of traffic congestion on highways. The bill transfers certain authority from the Texas Transportation Commission to the Texas Department of Transportation. It provides that the department may finance and may enter into agreements with certain transportation authorities for the design, construction, operation, or maintenance of a high occupancy vehicle lane. It provides that the commission may designate and the department may finance, design, construct, operate, or maintain one or more lanes of a state highway facility as exclusive lanes. And it provides that if the commission authorizes the department to charge a toll, the department may enter into an agreement with certain transportation authorities to design, construct, operate, or maintain the toll lane. If restricted lanes are to be located within a municipality, the commission is required to consult with the municipality before adopting an order regarding the restrictions. House Bill 1208 requires the department, either directly or through a contract, to erect and maintain traffic control devices to implement the lane restrictions, and requires the installation of the traffic control devices before restricting a lane. The bill also refers to the fee imposed for nonpayment of the proper toll as a collection fee, rather than an administrative fee.

House Bill 1326

Effective: 9-1-03

House Author: Martinez Fischer et al.

Senate Sponsor: Whitmire

House Bill 1326 amends the Transportation Code to provide progressive penalties for a person convicted of racing a motor vehicle on a public highway or street. The bill also provides for the automatic suspension of the person's driver's license, and requires the person to perform at least 10 hours of community service.

House Bill 1439

Effective: 9-1-03

House Author: Eissler

Senate Sponsor: Williams

House Bill 1439 amends the Transportation Code to increase from 100,000 to 500,000 the population of an unincorporated area of a county in which a commissioners court may extend traffic rules that apply to county roads to the roads of a private subdivision under certain circumstances.

House Bill 1733

Effective: 6-18-03

House Author: Hamric

Senate Sponsor: Shapiro

House Bill 1733 amends the Transportation Code to provide that a requirement that written weight records be kept for certain cargo transported by commercial motor vehicles does not apply to a vehicle weighed by a weight enforcement officer, weighed on scales owned by the state or a political subdivision of the state, or weighed on scales owned by an enterprise that is primarily engaged in the retail sale of motor fuels to the general public.

House Bill 1784

Effective: 9-1-03

House Author: McReynolds

Senate Sponsor: R. West

House Bill 1784 amends the Transportation Code to make it an offense for a person to park a vehicle so that it blocks an access aisle designed to aid persons with disabilities.

House Bill 1997**Effective:** 9-1-03**House Author:** Gutierrez et al.**Senate Sponsor:** Armbrister

House Bill 1997 amends the Transportation Code to regulate electric personal assistive mobility devices. It defines “electric personal assistive mobility device” to mean a two nontandem wheeled device that is self-balancing, propelled by an electric propulsion system having an average power of 750 watts or one horsepower, and designed to transport one person. The bill allows a person to operate an electric personal assistive mobility device on sidewalks and bicycle paths and only allows its operation on residential streets, roadways, or public highways with a speed limit of 30 miles per hour or less while the person is crossing a crosswalk, where no sidewalk is available, or when directed by a traffic control device or by a law enforcement officer. House Bill 1997 provides that an electric personal assistive mobility device is not a motor vehicle, makes provisions for the operation of bicycles applicable to the operation of an electric personal assistive mobility device, and specifies that registration is not required for the device.

House Bill 2096**Effective:** 9-1-03**House Author:** Pickett**Senate Sponsor:** Lucio

House Bill 2096 amends the Transportation Code to prohibit a person from operating a truck, road tractor, or truck tractor when another person occupies a trailer or semitrailer that is being drawn by that vehicle. The bill provides that it is a defense to prosecution if the vehicle is operated in a parade, hayride, or emergency, or to transport farmworkers from field to field on certain roads; if the vehicle operator was unaware that another person occupied the trailer or semitrailer; or if the person was in a part of the trailer or semitrailer designed for human habitation. House Bill 2096 amends the Penal Code to make it a felony offense for a person to knowingly traffic another person with the intent that the trafficked person engage in forced labor or services.

House Bill 2384**Effective:** 6-20-03**House Author:** Hegar**Senate Sponsor:** Janek

House Bill 2384 amends the Transportation Code to expand the applicability of certain provisions relating to the unauthorized use of toll roads to a county adjacent to a county with a population of more than 3.3 million.

Senate Bill 193**Effective:** 9-1-03**Senate Author:** Barrientos et al.**House Sponsor:** Bonnen

Senate Bill 193 amends the Transportation Code to establish procedures for a motor vehicle operator driving on a highway to pass a stationary emergency vehicle that has its visual signals engaged. The bill requires the operator to safely vacate the lane closest to the emergency vehicle when driving on a highway with two or more same direction lanes, or to reduce speed if vacating a lane would be impossible or unsafe. Penalties are prescribed for conduct that violates these procedures.

Senate Bill 209**Effective:** 9-1-03**Senate Author:** Carona**House Sponsor:** Y. Davis

Senate Bill 209 amends the Transportation Code to add digital video disc players and videocassette players to the devices that can be used in a motor vehicle only if the equipment is located so that the video screen is not visible from the operator’s seat. The list of exceptions to

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this provision is expanded to include equipment that is used exclusively for monitoring the performance of equipment installed on a vehicle used for safety purposes in connection with the operations of a natural gas, water, or electric utility.

Senate Bill 361

Effective: 6-20-03

Senate Author: Shapiro et al.

House Sponsor: Hill

Senate Bill 361 amends the Transportation Code to provide that a highway access management order of the Texas Transportation Commission does not supersede a conflicting municipal rule or ordinance unless the United States Department of Transportation Federal Highway Administration notifies the Texas Department of Transportation that enforcement of the municipal rule would impair the ability of the state to receive federal funds for highway construction or maintenance or unless the department owns the access rights to the highway.

Senate Bill 461

Effective: 5-16-03

Senate Author: Staples

House Sponsor: Woolley

Senate Bill 461 amends the Transportation Code to provide that the conduct that is statutorily permissible by the operator of an emergency vehicle, such as parking the vehicle or proceeding past a stop sign or red light signal, also applies when the operator is directing or diverting traffic for public safety purposes or conducting a police escort. "Police escort" is defined as facilitating the movement of a funeral, an oversized or hazardous load, or other traffic disruption for public safety purposes by a peace officer.

Senate Bill 514

Effective: 6-20-03

Senate Author: Lindsay

House Sponsor: Mowery

Senate Bill 514 amends the Transportation Code to allow a county commissioners court by order to restrict through traffic, by class of vehicle, to two or more lanes of certain highways. The court's order could apply only to a highway that is designated a controlled access facility, is part of the state highway system, has a minimum of three travel lanes in each direction, and is located in the part of the county that is outside the jurisdiction of a municipality. A restricted vehicle must be allowed to use any lane to pass another vehicle and to enter and exit the highway. The order is not enforceable unless approved by the executive director of the Texas Department of Transportation. The department is required to maintain traffic-control devices needed to implement and enforce the lane restriction and may suspend or rescind approval of the order for certain reasons.

Senate Bill 540

Effective: 6-20-03

Senate Author: Williams

House Sponsor: Eissler

Senate Bill 540 amends the Transportation Code to allow the county commissioners court to reduce the speed limit to not less than 20 miles per hour on a road within a residence district, unless the roadway has been designated as a major thoroughfare by a city planning commission.

Senate Bill 582

Effective: 9-1-03

Senate Author: Williams

House Sponsor: Driver

Senate Bill 582 amends the Transportation Code to combine certain offenses relating to the driving of a motor vehicle while a driver's license to operate a motor vehicle is invalid. The bill eliminates any suspensions formerly exempt from prosecution under these charges, clarifying that it is an offense for a person to operate a motor vehicle when that person's driver's license or privilege is canceled, suspended, revoked, expired, denied renewal, or prohibited pursuant to state law.

Senate Bill 631
Effective: 9-1-03

Senate Author: Harris
House Sponsor: Talton

Senate Bill 631 amends provisions of the Code of Criminal Procedure relating to the suspension of sentence and the deferral of adjudication in cases involving certain misdemeanor traffic offenses. The bill specifies that an order of deferral of adjudication terminates any liability under a bail bond or an appearance bond. The bill increases the requirements a judge may subject a defendant to during the deferral period.

The bill sets forth the procedures for a person to elect to take a driving safety or motorcycle operator training course. The bill requires the court to enter judgment on the defendant's plea of no contest or guilty, defer imposition of the judgment, and allow the defendant 90 days to complete the course. In addition to court costs and fees, the bill authorizes the court to require a defendant requesting a driver safety course to pay an additional fee set by the court. Upon completion of the course, the court is required to remove the judgment and dismiss the charge. If the defendant does not complete the course, the bill requires the court to enter an adjudication of guilt and impose sentence.

The authorization for a judge to suspend a sentence or defer disposition and the defendant's right to complete a driving safety course or a motorcycle operator training and safety program to dismiss a traffic offense do not apply to a traffic offense committed in a construction or maintenance work zone when workers are present or to an offense committed by a person who holds a commercial driver's license.

Senate Bill 1635
Effective: 9-1-03

Senate Author: Staples
House Sponsor: J. Keffer

Senate Bill 1635 amends the Transportation Code to allow a person who operates an all-terrain vehicle on public property to carry a passenger if the all-terrain vehicle is designed by the manufacturer to transport a passenger.

Senate Bill 1782
Effective: Vetoed

Senate Author: Lindsay
House Sponsor: Hamric

Senate Bill 1782 amends the Transportation Code to prohibit the Texas Transportation Commission from adopting or enforcing an order that affects access to a highway in certain counties and municipalities and is inconsistent with a rule or ordinance adopted by the county or municipality, unless the federal highway administration notifies the Texas Department of Transportation that the rule or order would impair the ability of the state or the department to receive federal funds for highway construction or maintenance. The bill also provides that a highway access management order of the commission does not supersede a conflicting rule or ordinance adopted by a municipality, including a home-rule municipality, or a county, unless the federal highway administration notifies the department that the rule would impair the ability of the state or the department to receive federal funds for highway construction or maintenance.

Reason Given for Veto: "Senate Bill No. 1782 would allow Harris County, a county adjacent to Harris County, or a municipality located in one of these counties to override a Texas Transportation Commission order concerning control of access to the state highway system. All freeways are built as controlled access highways. A drafting error gives a local government the ability to override a Transportation Commission order designating a road as a controlled access highway, which would prohibit the Department of Transportation from building a freeway in these counties. Providing municipalities the ability to decide where access to the state highway system will occur is covered in Senate Bill No. 361, which I have signed."

Transportation Districts

House Bill 156

Effective: Vetoed

House Author: Krusee et al.

Senate Sponsor: Ogden

House Bill 156 amends the Transportation Code to grant the governing body of a regional mobility authority the same powers and duties relating to condemning and purchasing real property granted to the Texas Transportation Commission and the Texas Department of Transportation and provides for certain exceptions.

Reason Given for Veto: "House Bill No. 156, which would give Regional Mobility Authorities the ability to condemn real property, conflicts with other legislation. House Bill No. 3588, which I have signed, covers eminent domain authority for Regional Mobility Authorities in a more comprehensive manner. I am vetoing this bill at the author's request."

House Bill 157

Effective: Vetoed

House Author: Krusee et al.

Senate Sponsor: Ogden

House Bill 157 amends the Transportation Code to grant the governing body of a regional mobility authority the same powers and duties granted to the Texas Transportation Commission and the Texas Department of Transportation relating to financing a turnpike project, including the power to issue revenue bonds, impose a toll for the use of the turnpike project, or obtain revenue from other sources to pay all or part of the principal of and interest on the turnpike revenue bonds. The bill prohibits a regional mobility authority from constructing, maintaining, or operating a transportation project or from receiving revenues derived by another governmental entity from a transportation project that another governmental entity has identified as a transit project unless the governmental entity and the authority enter into a written agreement.

Reason Given for Veto: "House Bill No. 157, which would give Regional Mobility Authorities the ability to issue turnpike revenue bonds and charge tolls, conflicts with other legislation. House Bill No. 3588, which I have signed, covers bonding and toll authority for Regional Mobility Authorities in a more comprehensive manner. I am vetoing this bill at the author's request."

House Bill 1730

Effective: 6-20-03

House Author: Hamric

Senate Sponsor: Armbrister

House Bill 1730 amends Water Code provisions relating to the leasing and contracting powers of a port authority or navigation district. The bill authorizes the Navigation and Canal Commission to lease the surface of land for not more than 30 years, rather than not more than 10 years, without public notice. It allows individual districts to enter into contracts with the United States to consummate projects of common interest. It specifies that the public notice for a purchase of materials, supplies, machinery, equipment, or other items that exceeds \$25,000 must indicate whether a small business development program adopted by the port commission of the port authority or district applies to the purchase. House Bill 1730 authorizes certain employees to make routine purchases or contracts that do not exceed \$25,000, or make emergency purchases or contracts that exceed \$25,000 for certain purposes, including responding to federal or state security directives. The bill provides that competitive bidding requirements do not apply to an emergency purchase or contract for any item necessary to secure a district or port authority during a period of heightened security. House Bill 1730 requires a person who contracts with a district or port authority to provide notice to the district or port authority of any safety and environmental violations or penalties the person received from a federal or state agency.

House Bill 2091
Effective: 9-1-03

House Author: Harper-Brown
Senate Sponsor: Deuell

House Bill 2091 amends the Transportation Code to authorize a regional transportation authority to adopt procurement rules, guidelines, and procedures covering the electronic transmission of bids and proposals and use of the reverse auction procedure. The rules must provide for the identification, security, and confidentiality of an electronic bid or proposal and provide that a bid or proposal is not required to be sealed.

House Bill 2500
Effective: 9-1-03

House Author: Harper-Brown
Senate Sponsor: Harris

House Bill 2500 amends the Transportation Code to authorize the governing bodies of regional transportation authorities and metropolitan rapid transit authorities to prohibit the use of the public transportation system by a person who does not possess evidence showing that the appropriate fare or charge was paid. It provides that a person who does not pay the appropriate fare on or before the 30th day after the date the authority notifies the person that the person is required to pay the amount of the fare or charge and the penalty commits an offense that is a Class C misdemeanor, punishable by a fine not to exceed \$100.

House Bill 3017
Effective: 9-1-03

House Author: Solomons
Senate Sponsor: Nelson

House Bill 3017 amends the Transportation Code relating to the organization, administration, and validation of the creation of a coordinated county transportation authority. The bill provides that a reference to the executive committee means the authority's board of directors, and it allows that body to impose for an authority a sales and use tax at the additional rates of three-eighths of one percent, five-eighths of one percent, and seven-eighths of one percent. The bill prohibits a board member from serving more than three consecutive terms, authorizes the board to create by rule a procedure by which certain municipalities may become participating members of an authority, and authorizes the board to adopt rules relating to board vacancies, staggered terms, and board alternates.

House Bill 3017 authorizes the authority to accept gifts, grants, donations, receipts, or funds from any source to carry out its powers and duties. The bill allows a bond issued by the authority to have a maturity of up to 30 years from the date of issuance, rather than 20-year even principal and interest payback; allows the pledge of government grants, contractual revenue, or lease revenue to secure the payment of an authority's bonds; and increases the limit on outstanding bonds that an authority may have at any one time from \$1 million to \$10 million. House Bill 3017 also validates the creation of the Denton County Transportation Authority as of November 5, 2002, when Denton County voters approved confirmation of the district.

House Bill 3028
Effective: 6-18-03

House Author: J. Moreno
Senate Sponsor: Hinojosa

House Bill 3028 amends the general-law navigation district chapter of the Water Code to authorize a navigation district or port authority, for contracts valued at \$25,000 or more per 12-month period, to select a best-value procurement method from among specified alternatives for certain purposes. The provisions of the bill expire September 1, 2013.

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House Bill 3555

Effective: 6-21-03

House Author: Thompson

Senate Sponsor: Whitmire

House Bill 3555 creates the Harris County Road Improvement District No. 2 to promote economic development, expand and improve transportation and pedestrian facilities and systems, and provide for the health, safety, and general welfare of persons in the district. If approved at an election, the district may impose a maintenance tax or issue bonds for any district purpose.

House Bill 3563

Effective: 6-20-03

House Author: Hegar

Senate Sponsor: Armbrister

House Bill 3563 provides for the creation, administration, powers, duties, operation, and financing of the Waller County Road Improvement District No. 1. The district is authorized to impose an ad valorem tax, assessment, or impact fee, if approved by voters in the district.

Senate Bill 20

Effective: 9-1-03

Senate Author: Armbrister

House Sponsor: Morrison

Senate Bill 20 amends the Transportation Code to provide an optional procedure for the Victoria County Navigation District to issue permits that allow the movement of oversize or overweight vehicles carrying cargo to and from the Victoria Barge Canal using Farm-to-Market Road 1432 and up to but not past the intersection with State Highway 185. It allows the Texas Transportation Commission to authorize the district to issue the permits and collect fees not to exceed \$80 per trip. The bill sets forth permit requirements and requires the district to make payments from the permit fees collected to the Texas Department of Transportation to maintain state highways located in Victoria County.

Senate Bill 404

Effective: 6-18-03

Senate Author: Madla

House Sponsor: Mercer et al.

Senate Bill 404 amends Transportation Code provisions relating to advanced transportation districts. The bill expands the definition of “advanced transportation” and defines “mobility enhancement.”

For a rapid transit authority in which the sales and use tax rate is one-half of one percent and in which the principal municipality has a population of more than 700,000, the bill changes the rate of the sales and use tax that may be imposed for advanced transportation and mobility enhancement purposes. Instead of the current set rate of one-fourth of one percent, the governing body of the district has the option to set the rate at one-eighth of one percent, one-fourth of one percent, three-eighths of one percent, or one-half of one percent.

Senate Bill 404 requires the governing body of the advanced transportation district to use one-half of the sales and use tax proceeds for advanced transportation purposes; remit one-fourth of the proceeds to each participating unit in proportion to the amount of the proceeds collected by that unit; and place one-fourth of the proceeds into an account to provide to the Texas Department of Transportation the local share of a state or federal grant for advanced transportation or mobility enhancement purposes in the territory of the district. For such local share projects, the governing board is required to obtain recommendations from the appropriate metropolitan planning organization, prioritize projects, and consider the geographic location of other state or federally funded transportation projects so as to foster geographic equity in planning and developing projects.

Senate Bill 485**Effective:** 6-20-03**Senate Author:** Barrientos et al.**House Sponsor:** Krusee

Senate Bill 485 authorizes an intermunicipal commuter rail district board to enter into an exclusive development agreement with a private entity and provides that the competitive bidding process that is required for a contract by an intermunicipal commuter rail district that spends \$15,000 or more for certain services does not apply to an exclusive development agreement between a district and a private entity for the design, construction, financing, acquisition, maintenance, and operation of a commuter rail facility or system.

Senate Bill 527**Effective:** 9-1-03**Senate Author:** Madla**House Sponsor:** Corte

Senate Bill 527 amends the Transportation Code to allow a metropolitan rapid transit authority created before 1980 in which the principal municipality has a population of less than 1.2 million to establish a security force, employ security personnel, and commission security personnel as peace officers. The bill grants a peace officer who holds a commission from such a transit authority all the powers, privileges, and immunities of peace officers in the counties in which the transit authority is located, provides services, or is supported by a sales and use tax while the officer is on transit authority property or performing duties for the transit authority or its users.

Senate Bill 553**Effective:** 9-1-03**Senate Author:** Janek**House Sponsor:** Hamric

Senate Bill 553 validates any act, governmental proceeding, official, bond, or obligation of a navigation district or port authority that was created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, or other public port authority, except those that are subject to pending litigation, violate a restriction or condition of a patent or other conveyance from the state, or violate certain navigation district provisions of the Water Code. The bill stipulates that any governmental act or proceeding that was a misdemeanor or felony is not validated.

Senate Bill 767**Effective:** 6-20-03**Senate Author:** Jackson**House Sponsor:** J. Davis

Senate Bill 767 creates the Harris County Road Improvement District No. 1 to promote economic development, expand and improve transportation and pedestrian facilities and systems, and provide for the health, safety, and general welfare of persons in the district. If approved at an election, the district may impose a maintenance tax or issue bonds for any district purpose.

Senate Bill 972**Effective:** 6-20-03**Senate Author:** Shapiro**House Sponsor:** McCall

Senate Bill 972 amends the Transportation Code, the Local Government Code, and the Development Corporation Act to allow a regional transportation authority to admit into its territorial limits a municipality that has a special sales and use tax rate that, when combined with the sales and use tax rate of the authority, would cause the tax in the area to exceed the local sales and use tax cap of two percent. The admission is subject to voter approval that would reduce the sales and use tax so that the combined level does not exceed the cap. The special sales and use tax may be used to fund municipal development corporations and crime control and prevention districts.

Transportation

Senate Bill 1748

Effective: 6-20-03

Senate Author: Lucio

House Sponsor: Oliveira

Senate Bill 1748 amends the Transportation Code to continue until June 1, 2007, the law that authorizes certain port authorities to issue permits for oversize or overweight vehicles.

Senate Bill 1934

Effective: 6-20-03

Senate Author: Hinojosa et al.

House Sponsor: Seaman et al.

Senate Bill 1934 requires the Commissioners Court of San Patricio County to hold on a uniform election date in 2003 an election on the annexation of San Patricio County to the Port of Corpus Christi Authority of Nueces County, Texas. The bill also requires port commissioners to file annual financial statements with the Texas Ethics Commission.

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

HB 292 - Law Enforcement

HB 1699 - Civil Remedies and Procedures

SB 868 - Economic Development

SB 1261 - Utilities

SB 1883 - Water Districts

SB 1884 - Water Districts

Utilities

This chapter covers legislation on electric utilities, telephones and telecommunications, and utilities generally. Bills dealing specifically with natural gas utilities are in the **Oil and Gas** chapter. Those involving water supply entities are in the **Natural Resources** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 35 (3rd C.S.)

Effective: 10-13-03

House Author: King

Senate Sponsor: Ogden

House Bill 35 reenacts and amends provisions of the Utilities Code to clarify the membership of the Electric Utility Restructuring Legislative Oversight Committee, reconciling differences between House Bill 1948 and Senate Bill 1418 from the 78th Legislature, Regular Session. The membership includes three senators appointed by the lieutenant governor, the chair of the House Committee on Regulated Industries, and two other house members appointed by the speaker. The bill provides that one of the three senators, designated by the lieutenant governor, and the House Committee on Regulated Industries chair serve as joint chairs of the oversight committee.

House Bill 1369

Effective: 9-1-03

House Author: Baxter et al.

Senate Sponsor: Brimer

Under the Utilities Code, a municipality may require a retail electric provider to register with the municipality as a condition of serving its residents. House Bill 1369 amends the code to require the Public Utility Commission of Texas to adopt rules governing local registrations. The rules must be consistent with and no less effective than federal law and may not require the disclosure of highly sensitive competitive or trade secret information.

House Bill 1531

Effective: 6-20-03

House Author: R. Cook

Senate Sponsor: Armbrister

House Bill 1531 amends the Utilities Code chapter that sets forth miscellaneous powers and duties of utilities, including gas and electric corporations, gas utilities, electric utilities, telegraph companies, telephone and telegraph corporations, and community antenna and cable television utilities. Previous law defined corporations, for purposes of that chapter, to include partnerships, limited liability companies, and combinations involving one or more corporations. The bill expands the definition of “corporation” in the chapter to include limited partnerships, master limited partnerships, and gas and electric utilities regardless of the form of business organization. The definition does not encompass municipally owned electric or gas utilities.

House Bill 1948

Effective: 6-20-03

House Author: Baxter et al.

Senate Sponsor: Fraser

House Bill 1948, which amends the Utilities Code, revises the membership of the Electric Utility Restructuring Legislative Oversight Committee to include the chair of the House Committee on Regulated Industries, two members of the house appointed by the speaker, and three senators appointed by the lieutenant governor. The bill provides that the chair of the House Committee on Regulated Industries and one of the senators designated by the lieutenant governor serve as joint chairs of the oversight committee.

House Bill 2006

Effective: 9-1-03

House Author: E. Jones et al.

Senate Sponsor: Fraser

House Bill 2006 adds a new subchapter to the Utilities Code relating to construction and maintenance of certain facilities along, over, under, or across railroad right-of-way. The bill authorizes a utility, common carrier, cable operator, or energy transporter to acquire an easement by eminent domain to use a railroad right-of-way if the entity provides notice to the railroad and does not unreasonably interfere with railroad operations. The railroad is authorized to require the entity to relocate a facility in the right-of-way under certain conditions. If the railroad requires the entity to obtain a right to use the right-of-way, the railroad, if requested in writing, is required to produce documentation indicating the extent of the railroad's right, title, or interest in the property, and the entity is required to reimburse the railroad for the cost, not to exceed \$500, of producing the documentation. If the entity obtains the right to continuously use a railroad right-of-way through the exercise of eminent domain, the award of damages due the railroad is the market value of the property plus any damages to the railroad's remaining property. The bill authorizes the railroad to recover certain other costs and establishes restrictions on payment of costs awarded against a railroad in condemnation. The bill specifies a time period during which the railroad is prohibited from requiring the entity to remove an existing facility if certain conditions are met. It authorizes the entity to pay a one-time fee to obtain an original license or renew a license for the right to use a railroad right-of-way.

House Bill 2548

Effective: 6-18-03

House Author: King et al.

Senate Sponsor: Fraser

House Bill 2548 amends the Utilities Code to authorize the Public Utility Commission of Texas (PUC) to require a utility to construct or enlarge facilities to reduce transmission constraints within the territory of the Electric Reliability Council of Texas (ERCOT), where such constraints are not being resolved by other specified means. The bill provides that if the PUC determines that conditions warrant, it may authorize the inclusion of construction work in progress in the rate base for transmission investment it requires to reduce ERCOT constraints or to otherwise ensure safe and reliable service for Texas electric markets. Another provision authorizes the PUC, in granting a certificate of convenience and necessity, to consider to the extent applicable the effect that granting the certificate has on the state's goal for expansion of renewable energy generating capacity.

Senate Bill 1280

Effective: 9-1-03

Senate Author: Fraser

House Sponsor: King

Previous law exempted electric cooperatives from competition unless a cooperative's governing body opted to provide customer choice. The definition of an electric cooperative included certain successor utilities formed as a result of cooperative conversion, and for those successors, the law established special statutory provisions on retail rates, including rate review by the courts. Senate Bill 1280 amends the Public Utility Regulatory Act to remove such successors from the definition of an electric cooperative and to repeal the special rate provisions applicable to them. In addition, for utilities that, before September 1, 2003, were not subject to the chapter restructuring the electric utility industry, the bill adds provisions to establish regulatory oversight by the Public Utility Commission of Texas (PUC). The bill empowers the PUC to establish related schedules and procedures, taking into account specified service factors.

Senate Bill 1517
Effective: 6-20-03

Senate Author: Armbrister
House Sponsor: Miller

Senate Bill 1517 amends the Occupations Code to provide that security personnel at a commercial nuclear power plant licensed by the U.S. Nuclear Regulatory Commission (NRC) are not subject to the Private Security Act. It amends the Code of Criminal Procedure to provide that they are not peace officers but that they have specified Penal Code powers of arrest, search, and seizure while performing their duties on the premises of the power plant site or, under an agreement with local law enforcement authorities, in surrounding areas. The bill amends the Civil Practice and Remedies Code to make it an affirmative defense to a civil action for damages for personal injury or death brought against a person performing such duties that at the time the cause of action arose the person was justified in using force under Penal Code provisions. The same affirmative defense applies to a like civil action against the person's employer or the owner of the power plant. The bill amends the Government Code to entitle a commercial nuclear power plant licensee and its contractors, for security reasons consistent with NRC requirements, to obtain from the Department of Public Safety (DPS) criminal history record information on individuals who have or are seeking employment at or access to the plant. The bill requires the DPS to place a high priority on such requests.

Telecommunications

House Bill 147
Effective: 6-20-03

House Author: Solomons et al.
Senate Sponsor: Shapleigh

House Bill 147 amends the Business & Commerce Code to include a call to a mobile telephone number serviced by a provider of commercial mobile service as defined in federal law within the definition of a telephone call for purposes of the Texas Telemarketing Disclosure and Privacy Act. The bill requires the Public Utility Commission of Texas to adopt rules requiring commercial mobile service providers to inform customers about the Texas no-call list via a billing notice or free mobile messaging service. The commission or the appropriate private vendor is required to begin including mobile telephone numbers in the no-call list that is updated and published on January 1, 2004.

House Bill 149
Effective: 6-20-03

House Author: Solomons et al.
Senate Sponsor: Shapleigh

House Bill 149 amends provisions of the Business & Commerce Code relating to the no-call list database and the no-call list of consumers who object to receiving unsolicited telemarketing calls. The bill requires the database to include zip codes instead of addresses and the list to include only names and telephone numbers. A vendor chosen by the Public Utility Commission of Texas to maintain the Texas no-call list must have maintained for more than two years a national no-call list database containing only the names and telephone numbers of Texas consumers on the list. The bill requires the Public Utility Commission of Texas to delete consumer addresses from the current Texas no-call list by October 1, 2003, and it also amends the Government Code to exempt the no-call list from the requirement that public information be available to the public during normal business hours at a minimum.

House Bill 854

Effective: 9-1-03

House Author: G. West et al.

Senate Sponsor: Duncan

House Bill 854 amends the Library Systems Act and the Education Code to require a public library or public school, in order to be eligible for a loan or grant from the telecommunications infrastructure fund, to adopt and implement an Internet safety policy that addresses four issues: unauthorized access and unlawful on-line activities by minors; the restriction of access by minors to obscene material; safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications; and unauthorized disclosure, use, and dissemination of personal identification information relating to minors.

House Bill 1576

Effective: 6-20-03

House Author: Gallego

Senate Sponsor: Shapleigh

House Bill 1576 amends the Information Resources Management Act to increase the Telecommunications Planning and Oversight Council from 12 to 13 members by adding a representative of the Health and Human Services Commission appointed by that agency's commissioner. The bill establishes a November 1 deadline for the council's annual report to the Department of Information Resources. It gives council members liability protection in civil actions for acts performed in good faith as part of their functions. A provision relating to certain rate and contract negotiations is repealed.

Senate Bill 732

Effective: 9-1-03

Senate Author: Brimer et al.

House Sponsor: Puente

Under previous law, telecommunications providers were prohibited from offering discounts or other forms of pricing flexibility that were preferential, prejudicial, or discriminatory. Senate Bill 732 amends the Public Utility Regulatory Act to prohibit only those discounts or forms that are unreasonably preferential, prejudicial, or discriminatory. The bill allows offers based on a reasonable business purpose, including win-back offers (to customers who have switched providers) or retention offers (to customers who have yet to make a switch but have accepted a competitor's offer), provided that the offer is made in compliance with the Texas Telemarketing Disclosure and Privacy Act and provided that the price of the offer meets certain specified requirements of the Public Utility Regulatory Act.

Senate Bill 1151

Effective: 9-1-03

Senate Author: Shapleigh

House Sponsor: Solomons

Senate Bill 1151 applies to a private for-profit publisher of a residential telephone directory that is distributed to the public at minimal or no cost. It amends the Utilities Code to require the publisher to include in the directory the Internet address of TexasOnline and a statement that state agency websites may be accessed through TexasOnline.

Senate Bill 1261

Effective: 6-20-03

Senate Author: Armbrister

House Sponsor: Campbell

Senate Bill 1261, the Jennings-Payne Act, amends the Business & Commerce Code and the Transportation Code to establish requirements for the proposed construction and marking of a wireless communication facility used for the reception or transmittal of a radio frequency, microwave, or other signal for a commercial communications purpose. A person proposing to construct a facility that is taller than 100 feet must mail a letter containing a description of the site, contact information, and an emergency phone number to the Texas Agricultural Aviation

Association and to any airport located within three miles of the proposed location at least 30 days before construction begins. The bill specifies certain structures, facilities, and antennas that are excepted from the notice requirement. The bill also requires a facility that is at least 100 feet but not more than 200 feet tall to be marked on each of its highest guy wires with two warning spheres.

Senate Bill 1829

Effective: 9-1-03

Senate Author: Averitt

House Sponsor: Nixon

Senate Bill 1829 amends the Public Utility Regulatory Act to add provisions relating to a telecommunications provider of last resort and transitioning to a new provider when a telecommunications utility goes out of business in an area. The bill expands the list of entities that must be notified when certain providers cease operations or discontinue an optional service. It establishes procedures for designating a provider of last resort when a telecommunications utility installs facilities to serve an area previously unserved by the certificated utility; when a utility intends to exit the market and no other utility has facilities sufficient to provide basic local service; and when a facilities-based provider ceases or abandons operations. It also authorizes the Public Utility Commission of Texas to participate in bankruptcy proceedings of a certificated telecommunications utility. Senate Bill 1829 also enables an eligible utility that replaces another utility as the provider of last resort to tap the state's universal service fund to recover costs incurred in accepting and establishing service to the affected service area.

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

HB 2388 - Water

HB 2846 - Oil and Gas

HB 3034 - Water

HB 3325 - Economic Development

HB 3338 - Water

SB 1271 - Oil and Gas

Water

This chapter covers legislation on issues relating to water, including water development, water management, water conservation, water supply, seawater desalination, and sewer services. Bills relating to water quality are in the **Environment** chapter, and those relating to water districts are in the **Water Districts** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 803

Effective: 9-1-03

House Author: Geren

Senate Sponsor: Duncan

House Bill 803 amends the Property Code to require a political subdivision, if it seeks through the courts to exercise its power of eminent domain to acquire groundwater or surface water rights, to include in the condemnation petition a statement of the facts to be proven in the proceedings. The political subdivision must prove to the court that it has prepared a drought contingency plan, has developed and implemented a water conservation plan that will result in the highest practicable levels of achievable water conservation and efficiency, has made a genuine effort to obtain practicable alternative water supplies, has made a genuine effort to acquire the water rights sought in the petition by voluntary purchase or lease, and has demonstrated that it needs the rights to provide for its domestic water needs over the next decade. The bill also contains provisions describing how, if a condemnation of property sought by a political subdivision is judicially approved, damages are to be assessed in a situation in which the political subdivision may use the property to develop or use groundwater rights. It requires the court, or the disinterested commissioners appointed by the court, to assess damages based on the separate market values of the real property alone and of the groundwater rights apart from the real property. The bill sets forth a number of factors to be considered in assessing damages based on the separate market value of the groundwater rights. It clarifies that such a separate appraisal of groundwater rights does not carry over to a property tax appraisal.

House Bill 1138

Effective: 5-15-03

House Author: Van Arsdale

Senate Sponsor: Lindsay

The Water Code authorizes nonprofit water supply and sewer service corporations in counties of less than 3.3 million population to possess or acquire water supply sources, build and operate pipelines to transport water or wastewater, build and operate plants to distribute water or treat and dispose of wastewater, and sell water or provide wastewater services to a political subdivision, private corporation, or individual. House Bill 1138 amends the code to extend those powers to all nonprofit water supply and sewer service corporations.

House Bill 1150

Effective: 6-2-03

House Author: Puente

Senate Sponsor: Wentworth

House Bill 1150 amends Local Government Code provisions relating to sports and community venue projects by counties and municipalities to authorize as a venue a conservation easement, a watershed protection and preservation project, an open-space preservation program intended to protect water, or a recharge, recharge area, or recharge feature protection project. Water obtained from acquiring a property for such a venue project may be used only for the maintenance of that property. The county or municipality may impose sales and use taxes to finance such a project, even if the venue project is not located in the municipality or county,

but it may not impose a hotel occupancy tax for that purpose. While previous law prohibited use of revenue from ad valorem taxes to construct, operate, maintain, or renovate a venue, House Bill 1150 permits use of such revenue for the type of venue newly authorized in the bill or for a municipal parks and recreation system, or improvements, additions, areas, or facilities of a municipal parks and recreation system.

House Bill 1152

Effective: 6-20-03

House Author: Puente

Senate Sponsor: Estes

House Bill 1152 amends the Water Code to authorize a nonprofit water supply or sewer service corporation in a county with a population of less than 3.3 million to establish and enforce reasonable water conservation practices and prohibit excessive or wasteful uses of water. Such conservation practices may be enforced by assessing reasonable penalties as provided in the corporation's tariff. A penalty is appealable to the Texas Commission on Environmental Quality (TCEQ) in the same manner as provided for the appeal of new customer service costs. The bill establishes the necessary grounds for TCEQ approval of an appealed penalty.

House Bill 1309

Effective: 6-20-03

House Author: Pitts

Senate Sponsor: Duncan

House Bill 1309 amends the Texas Non-Profit Corporation Act to remove a provision that makes that act inapplicable to certain nonprofit corporations that engage in water supply or sewer service.

House Bill 1370

Effective: 5-15-03

House Author: Luna

Senate Sponsor: Lucio

House Bill 1370 amends the Water Code to direct the Texas Water Development Board to undertake or participate in research, studies, investigations, and surveys toward developing seawater desalination as a source of Texas water supplies. The bill requires a report from the board to the governor and legislative presiding officers, not later than December 1 of each even-numbered year, which shall include study results for the preceding biennium, the impediments to implementation of desalination projects, evaluation of the potential state government role in desalination projects, and the anticipated general revenue appropriations necessary to continue desalination investigations during the succeeding biennium. The bill directs the board to actively pursue federal funding for Texas desalination projects.

House Bill 1378

Effective: 6-20-03

House Author: Geren

Senate Sponsor: Duncan

House Bill 1378 amends the Water Code to increase the Texas Water Advisory Council from 13 to 15 members by adding a public member representing the coastal region and a third senator. As revised by the bill, the council's mission is to serve the governor, lieutenant governor, speaker of the house, and legislature as a select body with expertise on state water issues. The bill eliminates previously itemized focus activities relating to specific water policy issues and instead authorizes the governor and the legislature's presiding officers to assign charges to the council. If they do not, the council may create and present to them a list of study issues from which to select. The bill provides for a revised expiration date of December 31, 2005, unless the council is extended by the 79th Legislature. Among other council changes, regular reporting moves from a biennial to an annual schedule, although the governor and the legislature's presiding officers may request additional reports on specific charges at any time.

Provisions relating to the Texas Water Development Board move certain powers from the development fund manager to the executive administrator and revise or eliminate certain informational survey and information gathering activities. The bill removes an open records exemption relating to surveys of nongovernmental entities but provides that certain site-specific information collected through field investigations on a landowner's property after September 1, 2003, are exempt from that law and generally not subject to disclosure if the landowner requests confidentiality.

House Bill 1875
Effective: 6-20-03

House Author: Wise
Senate Sponsor: Lucio

House Bill 1875 amends the Water Code to reclassify the colonia self-help account, which under former law was an account in the general revenue fund, as an account in the water assistance fund. It reclassifies the water infrastructure fund and the rural water assistance fund, which under former law also were general revenue fund accounts, as special funds in the state treasury. The bill expands the purposes for which the rural water assistance fund may be used to encompass water quality enhancement projects, including on-site or wetland wastewater treatment facilities. It eliminates a \$250,000 cap on loans under the pilot program for water and wastewater loans for rural communities. The bill also removes general-law water district restrictions on district notes, bonds, and refunding bonds if they are issued to and approved by the North American Development Bank.

House Bill 2250
Effective: 9-1-03

House Author: Flores
Senate Sponsor: Lucio

House Bill 2250 adds Water Code provisions setting forth powers and duties of the Rio Grande watermaster in the part of the river downstream from the Fort Quitman dam. The provisions duplicate in part those applicable to watermasters generally, but they also direct the Texas Commission on Environmental Quality (TCEQ) by rule to define situations that pose an imminent threat to public safety and to address the Rio Grande watermaster's duties in response to terrorism. The bill requires the watermaster to maintain a publicly available central repository of legal instruments that the TCEQ requires to be filed in connection with Rio Grande water rights and makes the effectiveness of certain liens contingent on the filing of a certified copy with the watermaster. It contains detailed provisions governing reservoir storage of groundwater in transit that is being conveyed under a TCEQ permit down the banks and bed of the Rio Grande.

House Bill 2388
Effective: 9-1-03

House Author: R. Cook
Senate Sponsor: Armbrister

House Bill 2388 amends the Water Code to require rules developed by the Texas Commission on Environmental Quality for submetered or allocated water bills to allow an apartment owner or manager to charge a tenant a fee for late payment of a submetered water bill if the amount of the fee does not exceed five percent of the bill paid late. The bill authorizes the commission to allow a building owner to use certain submetering equipment in a building plumbing system and requires the commission to encourage submetering of individual units by building owners as well as by master meter operators.

House Bill 2660

Effective: 6-20-03

House Author: Puente

Senate Sponsor: Lucio

House Bill 2660 amends the Water Code to require the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ) jointly to identify quantified target goals for water conservation that water suppliers and other entities may use as guidelines in preparing water conservation plans. The goals are not enforceable requirements. The bill also requires the two agencies jointly to develop model water conservation programs for different types of water suppliers that suggest best management practices for achieving the highest practicable levels of water conservation and efficiency. The actions required of the TWDB and the TCEQ must be taken not later than September 1, 2004. Beginning May 1, 2005, all water conservation plans required of applicants for new or amended water rights, applicants under the water loan assistance program, political subdivision applicants for assistance for water supply projects, applicants for financial assistance for water quality enhancement, and applicants under the TWDB revenue bond program must include specific, quantified 5-year and 10-year targets for water savings. The entity that prepares the water conservation plan must establish the targets, which must include goals for water loss programs and goals for municipal use in gallons per capita per day.

House Bill 2663

Effective: 6-20-03

House Author: Puente

Senate Sponsor: Lucio

House Bill 2663 amends the Water Code to require that, by May 1, 2005, a drought contingency plan of a wholesale and retail public water supplier or an irrigation district must include specific, quantified targets for water use reductions to be achieved during periods of water shortages and drought. The entity preparing the plan has the responsibility to establish such targets, but the bill requires the Texas Commission on Environmental Quality (TCEQ) and the Texas Water Development Board (TWDB) to identify quantified target goals for use as guidelines. It also requires the TCEQ and the TWDB to develop model drought contingency programs for different types of water suppliers. The programs must suggest best management practices for accomplishing the highest practicable reductions achievable during water shortages and drought.

House Bill 3034

Effective: 6-18-03

House Author: D. Ellis

Senate Sponsor: Armbrister

Major water legislation enacted in 2001 (Senate Bill 2) included provisions amending a Water Code chapter on water rates and services. Transitional language clarified which proceedings before the Texas Commission on Environmental Quality (TCEQ) were governed by former law and which proceedings were governed by the 2001 amendments. House Bill 3034 amends that transitional language to further clarify how those amendments apply or do not apply to various TCEQ proceedings.

House Bill 3338

Effective: 9-1-03

House Author: Puente

Senate Sponsor: Armbrister

House Bill 3338 amends the Water Code to require a retail public utility providing potable water to perform and file with the Texas Water Development Board (TWDB) every five years a water audit computing its most recent annual system water loss. The bill requires the TWDB to develop appropriate methodologies and submission dates for categories of retail public utilities that are differentiated by the size of their service populations. The methodologies

must account for various components of system loss, including loss from distribution lines, inaccuracies in meters or accounting practices, and theft. The TWDB must consider differences in population density, mean income, the source of water supply, and other factors, and must ensure that each methodology is financially feasible for that category of retail public utility. The bill requires the TWDB to compile the audit information by category and by regional planning area for use by regional planning groups in identifying water management strategies. The bill makes various forms of water-related financial assistance to a political subdivision contingent on the completion and filing of the audit.

Senate Bill 1094

Effective: 5-20-03

Senate Author: Duncan

House Sponsor: Puente

Senate Bill 1094 requires the Texas Water Development Board to select members of a Water Conservation Implementation Task Force to represent specified entities and interest groups. The task force has the duty to review, evaluate, and recommend optimum levels of water use efficiency and conservation for the state. The bill directs the task force to examine best management practices associated with major types of water uses, evaluate the implementation of conservation strategies in regional and state water plans, consider the need for a statewide public awareness program, study the proper role, if any, for state funding of incentive programs, evaluate the appropriate state oversight and support of legislative conservation initiatives, and advise the Texas Water Development Board and Texas Commission on Environmental Quality on data management methodologies and per capita water use targets and goals. The task force must develop a best management practices guide for use by political subdivisions and regional water planning groups and must report to the legislature not later than November 1, 2004. The task force is abolished on January 1, 2005.

Senate Bill 1362

Effective: 6-20-03

Senate Author: Staples

House Sponsor: B. Cook et al.

Senate Bill 1362 expresses a legislative determination that the reservoir project on Mud Creek in Cherokee and Smith counties should be named Lake Columbia as a memorial to crew members lost in the Space Shuttle Columbia disaster in February 2003. The bill designates the project site as one of unique value for construction of a dam and reservoir. It authorizes the Texas Water Development Board to execute an agreement with the Angelina and Neches River Authority to acquire an interest in the site and other land needed for the project and establishes contractual requirements for state participation. The bill grants the authority certain water quality regulatory powers for the site, as well as the power to impose impact fees. It delays, until project completion, any payment of water quality fees by the board or authority to the Texas Commission on Environmental Quality.

Senate Bill 1481

Effective: 9-1-03

Senate Author: Ratliff

House Sponsor: Hughes

Senate Bill 1481 repeals the Caddo Lake Compact, codified previously in the Water Code. The compact with Louisiana was never approved by the United States Congress, and Louisiana has repealed it. Provisions on Caddo Lake are included in the Red River Compact, which is operative and involves Texas, Louisiana, Arkansas, and Oklahoma.

Senate Bill 1639
Effective: 6-20-03

Senate Author: Staples
House Sponsor: Hope

Senate Bill 1639 amends surface water portions of the Water Code to adopt a water policy relating to instream flows, freshwater inflows to bays and estuaries, the biological soundness of state waters, pressures and demands placed on state waters, and the granting of water rights. The bill amends certain water rights permitting requirements relating to instream water uses, water quality, and fish and wildlife habitats. A temporary provision, expiring September 1, 2005, prohibits the Texas Commission on Environmental Quality (TCEQ) from issuing new permits for instream flows dedicated to environmental needs or bay and estuary flows. The TCEQ, however, may issue amendments to existing permits or certificates of adjudication to change or add water uses for those purposes. Another temporary provision with the same expiration date creates a study commission on water for environmental flows, charged with the conduct of public hearings and a study of public policy implications on balancing water resource demands and the requirements of riverine, bay, and estuary systems. The bill mandates the commission to appoint an advisory scientific committee and to submit a report on its activities and its findings and recommendations to the governor, lieutenant governor, and speaker not later than December 1, 2004.

The bill also amends provisions relating to groundwater conservation districts, authorizing a district to adopt different rules for different aquifers, aquifer subdivisions, geologic strata, or overlying geographic areas for purposes of better groundwater management or if it determines that relevant conditions vary substantially. The bill requires a district, in regulating groundwater production, to select an appropriate method based on hydrogeological conditions and allows the district to limit the amount of groundwater produced based on contiguous surface acreage.

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

- SB 1828 - Agriculture
- SB 1902 - Water Districts

Water Districts

This chapter covers legislation on groundwater conservation districts, river authorities, regional water authorities, municipal utility districts, and other types of water districts. Bills relating to navigation districts and port authorities are in the **Transportation** chapter. The chapter includes bills amending Chapter 49 and other general-law chapters of the Water Code, as well as bills adopting or affecting miscellaneous special laws.

General

House Bill 839

Effective: 9-1-03

House Author: Howard

Senate Sponsor: Armbrister

House Bill 839 amends the Water Code to prohibit directors of certain water districts from contracting with the district or being employed by a district contractor for a period of one year after ceasing to serve as a director. The prohibition applies to directors of districts that are subject to Chapter 49 of the code, except for districts that perform agricultural irrigation functions under code chapters governing irrigation districts, water improvement districts, and water control and improvement districts if their directors are required to own land as a qualification for office. Chapter 49 excludes navigation districts and port authorities and normally excludes groundwater conservation districts.

House Bill 919

Effective: 6-20-03

House Author: Eiland

Senate Sponsor: Armbrister

House Bill 919 revises general-law Water Code provisions relating to review of drainage plans submitted by property developers in a water district that adopts a master drainage plan. Under the bill, the district may require a developer who proposes to subdivide land, and who is otherwise required to obtain approval of the subdivision plat from a municipality or county, to submit an associated drainage report for district approval. The drainage report must include a map showing existing drainage features, any additional drainage facilities or connections to existing facilities proposed, and other parts of the subdivision plan that may affect drainage. The bill elaborates on the district's review of the proposal, criteria for approval of a drainage report, and requirements for notice of approval or disapproval. Such notice must go to each municipal or county authority with plat approval responsibility, as well as to the property developer. New procedures require that the district, in the case of disapproval, recommend changes, if possible, that would make a revised version of the drainage report acceptable.

House Bill 1541

Effective: 6-18-03

House Author: Callegari

Senate Sponsor: Lindsay

House Bill 1541 amends the Water Code and other codes to make revisions relating to the powers and authority of water districts. Much of the bill is devoted to general-law statutes for water districts, municipal and utility districts (MUDs), and levee improvement districts. Among the general-law water district changes are truth-in-taxation provisions relating to the adoption of ad valorem tax rates. Other changes relating to water districts generally, or to specific types of districts, include annexations and exclusions, purchasing and contracting, bonds and notes,

acquisition of road utility district powers, and other matters. A general-law MUD provision specifies that a MUD may, but is not required to, adopt a plumbing code. That code must be consistent with other laws or rules of the state and, if a municipal regulation conflicts with a MUD regulation on the subject, the municipal regulation prevails.

House Bill 2887

Effective: 6-20-03

House Author: Van Arsdale

Senate Sponsor: Lindsay

House Bill 2887 amends the Water Code to provide that requirements for construction, equipment, materials, and machinery contracts made by a general law water district are not applicable if the district is contracting for services relating to compliance with a state or federal construction storm water requirement.

House Bill 3214

Effective: 6-20-03

House Author: R. Cook

Senate Sponsor: Armbrister

House Bill 3214 amends general-law water district provisions of the Water Code relating to the fees of office paid to a district's board of directors for performing director duties. It repeals provisions that allowed the individual option of a per diem covering both compensation and expense reimbursement. The bill defines more precisely the extent of activity necessary to qualify for the fees of office of not more than \$150 a day for each day spent performing the duties of director. It increases from \$6,000 to \$7,200 the statutory cap on the amount of such fees that a director may receive annually, authorizes the district's board to set the annual maximum up to that cap, and continues a related exception to the cap for a special water authority engaged in the distribution and sale of electric energy to the public.

Senate Bill 392

Effective: 9-1-03

Senate Author: Williams

House Sponsor: Gattis

Senate Bill 392 amends the Water Code to require the boards of certain water conservation and reclamation districts, prior to adopting an ad valorem tax rate, to give notice of each meeting at which the adoption of a tax rate will be considered. The bill also establishes requirements for content, format, and distribution of the notice and provides for a rollback election under certain circumstances.

Senate Bill 542

Effective: 6-20-03

Senate Author: Lindsay

House Sponsor: Howard

Senate Bill 542 amends general-law water district provisions of the Water Code to require a district's board of directors to call a hearing on a petition seeking the exclusion of land from the district if it is filed by a landowner whose land has been part of and taxable by the district for more than 20 years and includes a claim that the district has not met the landowner's proposals and requests for development facilities and services. The petition may only be heard if no district bonds payable from district taxes are outstanding. The bill requires the district to exclude the land unless it presents evidence that conclusively demonstrates that the necessary criteria for such exclusion have not been met. The bill provides for a similar exclusion hearing in a district of more than 5,000 acres where bonds payable from district taxes are still outstanding if the land involved has been included in and taxed by the district for more than 28 years and the claim is made that the land has not been provided with utility services. Tax liability continues for the excluded land until the land's pro rata share of outstanding district debt has been paid.

Senate Bill 624**Effective:** See below**Senate Author:** Lindsay**House Sponsor:** Callegari

Senate Bill 624 amends the Water Code to allow conservation and reclamation districts in nine counties to issue bonds supported by ad valorem taxes to finance parks and recreational facilities other than swimming pools or golf courses if the bonds are approved by voters in a bond election. The bill prohibits the outstanding principal of any debt from exceeding one percent of the value of the taxable property in the district or the estimated cost of the facilities, whichever is smaller, and prohibits a tax used to operate and maintain recreational facilities in a county with a population of more than 3.3 million or in a county adjacent to such a county from exceeding 10 cents per \$100 valuation. The bill requires a district to file a park plan for public review and provide notice of a bond election before an election is held. The bill specifies that bonds supported solely by revenue do not require an election. The Texas Commission on Environmental Quality is required to adopt rules for conservation and reclamation districts that emphasize and encourage the secondary goal of financing recreational facilities. The bill repeals provisions related to a municipal utility district's exclusive authority to develop and maintain recreational facilities.

Senate Bill 624 takes effect contingent on voter approval of a constitutional amendment proposed by Senate Joint Resolution 30.

Senate Bill 1084**Effective:** 5-16-03**Senate Author:** Madla et al.**House Sponsor:** Quintanilla

Senate Bill 1084 amends the Water Code to require that water supply and sewer service loans from the Texas Water Development Board to water districts in economically distressed areas be provided interest-free.

Senate Joint Resolution 19**For Election:** 9-13-03**Senate Author:** Williams**House Sponsor:** Eissler

Senate Joint Resolution 19 proposes an amendment to the state constitution to add an exception to the prohibition on dual officeholding. The amendment would allow a faculty member of a public institution of higher education, either active or retired, to receive compensation for serving as a member of the governing body of a water district.

Senate Joint Resolution 30**For Election:** 9-13-03**Senate Author:** Lindsay**House Sponsor:** Callegari

Senate Joint Resolution 30 proposes a state constitutional amendment to authorize the legislature to allow conservation and reclamation districts in 11 counties to issue bonds and levy taxes to finance certain parks and recreational facilities. The proposed amendment prohibits the legislature from authorizing the indebtedness unless a proposition is first adopted by qualified voters in the district.

Groundwater Conservation Districts

House Bill 535

Effective: 9-1-03

House Author: R. Cook

Senate Sponsor: Armbrister

House Bill 535 changes the name of the Colorado Valley Groundwater Conservation District to the Fayette County Groundwater Conservation District. It changes the biennial election date for district directors from the first Saturday in May to the November general election date of even-numbered years. The bill modifies language relating to the staggered four-year terms of directors and specifies that those terms begin January 1 of the odd-numbered year following the general election.

House Bill 1065

Effective: 5-19-03

House Author: R. Cook

Senate Sponsor: Averitt

A Water Code general-law provision relating to groundwater conservation districts prohibits an individual from serving both as district director and as an appointed or elected member of the governing body of another political subdivision. The provision excepts districts with a population of less than 50,000 from the prohibition, but attorney general opinions have held that the common law doctrine of incompatibility separately establishes such a prohibition. House Bill 1065 amends the Water Code to provide that, in a district under the 50,000 population threshold, the doctrine does not prohibit dual service as a district director and as a member of the governing body or an officer of another political subdivision other than a county or municipality.

House Bill 1534

Effective: 9-1-03

House Author: R. Cook

Senate Sponsor: Armbrister

House Bill 1534 amends general-law Water Code provisions relating to groundwater conservation districts to limit a district's exercise of the power of eminent domain to the area inside district boundaries and to property interests that are necessary for conservation purposes, including recharge and reuse. The power of eminent domain may not be used for the production, sale, or distribution of groundwater or surface water. The bill also removes certain statutory authority relating to the purchase, sale, transportation, and distribution of water, and instead specifies authority to provide water conservation facilities.

House Bill 2300

Effective: 9-1-03

House Author: Gallego

Senate Sponsor: Madla

House Bill 2300 allows the Jeff Davis County Underground Water Conservation District to regulate wells located in a county with a population of 14,000 or less, the water from which is to be used solely to supply certain municipalities. The Water Code generally exempts such wells from regulation by groundwater conservation districts.

House Bill 2348

Effective: 6-20-03

House Author: Casteel

Senate Sponsor: Wentworth

House Bill 2348 dissolves the Southeast Trinity Groundwater Conservation District, the creation of which failed confirmation by local voters.

House Bill 3229**Effective:** 6-20-03**House Author:** Rose**Senate Sponsor:** Fraser

House Bill 3229 authorizes the board of directors of the Blanco-Pedernales Groundwater Conservation District, after a public hearing on the method for electing district directors, to adopt a resolution to use either a precinct method specified in the Water Code, with certain modifications, or a county commissioners precinct method specified in the bill.

House Bill 3374**Effective:** 9-1-03**House Author:** Rangel et al.**Senate Sponsor:** Lucio

House Bill 3374 creates the Kenedy County Groundwater Conservation District, subject to voter approval at a confirmation election. The district is coextensive with Kenedy County but also includes parts of Brooks, Jim Wells, Kleberg, and Nueces counties. The bill sets a maximum tax rate of 20 cents per \$100 of assessed property valuation.

House Bill 3556**Effective:** 6-20-03**House Author:** Campbell**Senate Sponsor:** Duncan

House Bill 3556 amends the enabling statute of the Sterling County Underground Water Conservation District to provide for the possible annexation or consolidation of additional territory and to allow the board of directors to rename the district and revise the board's composition in the event of such annexation or consolidation. The bill changes the date of director elections from the third Saturday in May to the uniform election date in May (currently the first Saturday). Other provisions change certain duties to powers and validate certain actions and proceedings of the board.

House Bill 3567**Effective:** 9-1-03**House Author:** R. Cook**Senate Sponsor:** Armbrister

House Bill 3567 amends the enabling statute of the Coastal Bend Groundwater Conservation District to require the district, if it annexes territory, to adopt by resolution of its board a method for electing directors that supersedes the statute's election provisions. The method must also provide for drawing voting district boundaries, if required, and for maintaining staggered terms.

House Bill 3569**Effective:** 9-1-03**House Author:** Hopson**Senate Sponsor:** Ratliff

House Bill 3569 creates the Rusk County Groundwater Conservation District, coextensive with the boundaries of that county, subject to voter approval at a confirmation election. The bill caps the district's ad valorem tax rates and authorizes production and export fees.

House Bill 3602**Effective:** 9-1-03**House Author:** Bonnen**Senate Sponsor:** Jackson

In 2001, the legislature created the Brazoria County Groundwater Conservation District, coextensive with the boundaries of that county and subject to voter approval at a confirmation election, but no confirmation election was held. House Bill 3602 repeals the 2001 statute and enacts a new statute to create the district with the same boundaries, again subject to voter approval, but with provisions relating to district powers and other matters modified.

Water Districts

House Bill 3635

Effective: 9-1-03

House Author: Hughes

Senate Sponsor: Ratliff

House Bill 3635 creates the Upshur County Groundwater Conservation District, coextensive with the boundaries of that county, subject to voter approval at a confirmation election. The bill sets a cap on the district's ad valorem tax rate and authorizes production and export fees.

Senate Bill 25

Effective: 9-1-03

Senate Author: Lucio

House Sponsor: Escobar

Senate Bill 25 creates the Kenedy County Groundwater Conservation District, coextensive with the boundaries of that county, subject to voter approval at a confirmation election.

Senate Bill 347

Effective: 9-1-03

Senate Author: Barrientos et al.

House Sponsor: Rose

Senate Bill 347 converts the five-member board of the Barton Springs-Edwards Aquifer Conservation District to election on the basis of single-member districts. The board may revise the districts as necessary or appropriate but must revise them as soon as practicable after the decennial census to reflect population change. A postcensus revision must place two of the districts entirely within the City of Austin, as its boundaries exist at that time, except with discretion in some circumstances to include within those two districts certain unincorporated areas and other municipalities that are surrounded wholly or partly by the City of Austin. Between postcensus revisions, changes in City of Austin boundaries have no effect on the boundaries of the single-member districts.

Senate Bill 822

Effective: 6-20-03

Senate Author: Fraser

House Sponsor: Miller

Senate Bill 822 validates creation of the Middle Trinity Groundwater Conservation District and redefines its boundaries to include Erath and Comanche counties and to delete Bosque, Callahan, Coryell, Eastland, Hamilton, and Somervell counties. The bill repeals provisions relating to temporary directors and revises or repeals various provisions relating to initial and permanent directors. It provides for an initial board of two directors from each county and thereafter for a permanent board of three directors from each county.

Senate Bill 899

Effective: 6-20-03

Senate Author: Averitt

House Sponsor: R. Cook

Previous general law for groundwater conservation districts stated that certain provisions relating to fees of office and expense reimbursement for district directors prevail over any conflicting special law governing a specific district. Those general law provisions entitle directors to fees of office within certain maximums, entitle directors to receive reimbursement of reasonable and necessary actual expenses incurred while engaging in activities on behalf of the district, and require a director to file a statement of the number of days spent in the service of the district and a description of the duties performed each day in order to receive that reimbursement. Senate Bill 899 amends the Water Code to provide that, for fees of office, the general law provision continues to prevail unless the special law prohibits the directors from receiving such fees altogether. With respect to expense reimbursement, the bill reverses matters so that conflicting special law governing a specific district prevails.

Senate Bill 1570
Effective: 9-1-03

Senate Author: Madla
House Sponsor: Puente

Senate Bill 1570 amends provisions of the enabling statute creating the Trinity Glen Rose Groundwater Conservation District relating to public water supply wells. It provides that the district may not prohibit the sale, purchase, lease, or trade of groundwater by a private well owner. The bill clarifies that a public water supply well meets the installation completion requirement to be exempt from regulation by the district if, before September 1, 2002, it has been drilled, cased, and cemented in accordance with the technical requirements of the Texas Commission on Environmental Quality (TCEQ) and installation plans submitted to and approved by the TCEQ before September 1, 2001, even if the well is capped for later placement into service as part of a public water system.

Senate Bill 1888
Effective: 6-18-03

Senate Author: Staples
House Sponsor: Christian

Senate Bill 1888 creates the Southeast Texas Groundwater Conservation District, subject to voter approval in a confirmation election. The boundaries of the district are coextensive with the boundaries of Jasper and Newton counties, but the bill establishes procedures by which an adjacent county may join the district on approval by its voters. The bill prohibits any imposition of a tax, but allows fees for nonexempt wells based on the amount of water withdrawn, not to exceed one cent per thousand gallons. General-law Water Code provisions for groundwater conservation districts apply to the district, except where they conflict with the bill. General-law Water Code provisions for water districts do not apply.

Senate Bill 1899
Effective: 6-20-03

Senate Author: Staples
House Sponsor: Christian

Senate Bill 1899 narrows the scope of the permitting exemption for groundwater exports from the Pineywoods Groundwater Conservation District. The exemption, which under previous law applied to retail public utilities that transferred water from wells inside the district to be used to provide retail water service outside the district, now applies only if the retail water service is provided in a service area located in a county adjacent to the district.

Senate Bill 1925
Effective: 6-20-03

Senate Author: Estes
House Sponsor: Hardcastle

Senate Bill 1925 amends the enabling statute of the Rolling Plains Groundwater Conservation District. It authorizes the district to assess production fees under general-law groundwater conservation district provisions of the Water Code. In place of the code's maximum fee amounts for production fees and export fees, the bill sets maximum amounts for each of the two fees assessed by the district at \$1 per acre-foot for agricultural use and 17 cents per thousand gallons for nonagricultural use. The bill authorizes the district's board of directors to limit the compensation and expense reimbursement that a director may receive and prohibits any compensation for a director who holds another civil office of emolument. It removes a regulatory exemption applicable to certain wells in certain counties.

Water Districts

Senate Bill 1930

Effective: 6-20-03

Senate Author: Staples

House Sponsor: Hope et al.

Senate Bill 1930 authorizes the Lone Star Groundwater Conservation District to establish a historic use permit system to protect existing or historic use of groundwater and to place more restrictions on groundwater production by applicants for nonhistoric permits than by applicants for historic permits. The bill also allows the district to adopt well spacing and groundwater production rules that vary among different aquifers, aquifer subdivisions, geographic areas within aquifers or subdivisions, or geologic strata to promote better management of the district's groundwater resources or if the district finds that conditions or groundwater uses vary substantially. The bill provides that a section of the Water Code exempting certain wells from regulation by a district does not apply in this district. It authorizes the district to establish metering requirements for nonexempt wells and to adopt a water use fee structure based on the total amount of groundwater authorized to be produced annually under a permit. Other provisions relate to directors' terms and compensation and to validation of certain district acts and proceedings.

Miscellaneous Districts

House Bill 2074

Effective: 6-20-03

House Author: Hilderbran et al.

Senate Sponsor: Madla

House Bill 2074 changes the date for the election of directors of the Real-Edwards Conservation and Reclamation District from the first Saturday in May to the first Tuesday after the first Monday in November of even-numbered years. The bill validates certain district acts and proceedings.

House Bill 2518

Effective: 9-1-03

House Author: Dawson

Senate Sponsor: Jackson

House Bill 2518 increases from \$2,000 to \$15,000 the threshold amount of contracts for the making and construction of improvements above which the Brazoria County Conservation and Reclamation District Number Three must use competitive bidding.

Senate Bill 1494

Effective: 6-18-03

Senate Author: Madla

House Sponsor: Puente

Senate Bill 1494 amends the enabling statute of the Bexar Metropolitan Water District to clarify its boundaries, revise its water-related powers, and remove certain regulatory jurisdiction with respect to groundwater. The bill authorizes the district, for specified purposes, to enter into planning agreements with the Texas Water Development Board and to cooperate with and support local fire departments and local economic development activities.

Senate Bill 1928

Effective: 9-1-03

Senate Author: Staples

House Sponsor: B. Brown

Senate Bill 1928 revises the boundaries of the Athens Municipal Water Authority and validates actions and proceedings of the authority relating to boundaries and annexations.

Senate Bill 1941**Effective:** 6-21-03**Senate Author:** Averitt**House Sponsor:** D. Jones

Senate Bill 1941 creates the Lake Alan Henry Water District, a conservation and reclamation district, in Kent County and a portion of Garza County, subject to voter approval at a confirmation election. The bill grants the district the general-law authority of a water control and improvement district and a municipal utility district. It amends the Local Government Code to increase the area in the lake vicinity in which the two counties may exercise county zoning authority.

Regional Water Authorities**Senate Bill 721****Effective:** 6-20-03**Senate Author:** Lucio**House Sponsor:** Solis

Senate Bill 721 creates the Cameron-Hidalgo-Willacy Regional Water Authority, including in its territory the service areas of five specified water supply corporations in the Lower Rio Grande Valley, and excluding territory within the original 1981 boundaries of the Southmost Regional Water Authority. No confirmation election is required. The bill prohibits the authority from regulating groundwater and requires that any project it undertakes be consistent with the regional water plan.

Senate Bill 1035**Effective:** 6-20-03**Senate Author:** Lindsay**House Sponsor:** Callegari

Senate Bill 1035 revises the boundaries of the West Harris County Regional Water Authority and makes other changes to its enabling statute relating to annexations, director qualification and appointment, fees and charges, the sharing of capital costs paid to another entity for water purchases, and the issuance of notes by the authority.

Senate Bill 1725**Effective:** 6-18-03**Senate Author:** Lindsay**House Sponsor:** Hamric

Senate Bill 1725 amends the enabling statute of the North Harris County Regional Water Authority to eliminate a provision that prompted the removal of a territory from the authority if it was annexed by a municipality. The bill provides that fees, rates, charges, or special assessments of the authority continue in effect in an annexed territory until the authority no longer provides services there or until indebtedness supported by such revenue is retired, whichever occurs later. It provides that a redrawing of voting districts previously triggered by any boundary change is required only if the boundary change increases the authority's total area by more than 20 percent. It also authorizes the authority and a municipality to enter into a contract of unlimited duration, notwithstanding any inconsistent provision of general law or of a home-rule municipal charter or ordinance, and revises provisions relating to joint funding of projects by the authority and other entities.

Senate Bill 1902**Effective:** 9-1-03**Senate Author:** Lucio et al.**House Sponsor:** Flores et al.

Senate Bill 1902 creates the Rio Grande Regional Water Authority, a conservation and reclamation district coextensive with the boundaries of Cameron, Hidalgo, Starr, Webb, Willacy, and Zapata counties except for the area inside the Laredo city limits, to supplement but not replace the jurisdiction of irrigation districts, water development supply corporations, counties, municipalities, and other political subdivisions. Among other powers, the bill confers the

general-law Water Code authority of municipal utility districts and water control and improvement districts, as well as authority to enter into an international cooperation agreement. The regional water authority is prohibited from imposing an ad valorem tax and may impose a fee on a public or private entity only as part of a contractual relationship with that entity. The bill does not affect any existing water rights or priorities in water rights, and it prohibits the district from condemning water rights. The bill also amends the Water Code to establish watermaster powers specific to the Rio Grande watermaster and applicable to the segment from Fort Quitman downstream. That amendment contains detailed provisions governing reservoir storage of water in transit that is being conveyed down the banks and bed of the Rio Grande under a permit from the Texas Commission on Environmental Quality, and it designates the watermaster as the official recorder of all documents required or authorized by the commission in connection with water rights in the lower, middle, and upper basin of the river that are subject to a permit, certified filing, or certificate of adjudication.

River and Surface Water Authorities

Senate Bill 526
Effective: 9-1-03

Senate Author: Staples et al.
House Sponsor: Eissler

Senate Bill 526 transfers appointment of the San Jacinto River Authority board of directors and associated surety bond review powers from the Texas Water Development Board to the governor. The bill requires four of the six directors to be residents of a county wholly encompassed by the authority.

Senate Bill 1276
Effective: 9-1-03

Senate Author: Armbrister
House Sponsor: Morrison

Senate Bill 1276 makes revisions to the enabling statute of the Lavaca-Navidad River Authority (LNRA). It grants the LNRA the power to discover, develop, and produce groundwater for local use within the Lavaca River basin, and to coordinate and contract with groundwater conservation districts to engage in conjunctive groundwater and surface water management. The bill also authorizes the LNRA to pursue desalination projects and ancillary facilities, including an electric power generation facility. It adds to the types of facilities the LNRA may own, construct, operate, and maintain, and to the purposes for which it is created. The bill increases the compensation of directors and authorizes the LNRA board, without an election, to borrow money on negotiable or nonnegotiable notes.

Senate Bill 1883
Effective: 5-28-03

Senate Author: Janek
House Sponsor: Howard

Senate Bill 1883 amends state law to grant the Fort Bend County Levee Improvement District No. 15 the same authority as a road utility district to construct, repair, and maintain roads within the district and to issue bonds, notes, and other obligations. Any bonds, notes, or other obligations secured by property tax revenue, or a proposed maintenance tax based on property value, must be approved by voters. The district is also granted the powers of a metropolitan rapid transit authority to perform work on roads, lights, and trails.

Senate Bill 1884**Effective:** 6-20-03**Senate Author:** Janek**House Sponsor:** Howard

Senate Bill 1884 grants the Sienna Plantation Levee Improvement District of Fort Bend County, Texas, the authority of a road utility district, including the authority to impose taxes and issue bonds.

Senate Bill 1935**Effective:** 9-1-03**Senate Author:** Fraser**House Sponsor:** R. Cook

Senate Bill 1935 adds a new Water Code title relating to surface water authorities, codifies within that title the enabling laws governing the Lower Colorado River Authority and the Brazos River Authority, and repeals uncodified session laws on the two authorities. The codifications include various technical changes. The main substantive change, for both authorities, is to empower the governor to designate the chair of the board of directors, who serves at the governor's pleasure. Previously, board members selected their chair.

Utility Districts and Authorities

House Bill 1014**Effective:** 6-20-03**House Author:** R. Cook**Senate Sponsor:** Armbrister

Special utility districts (SUDs), which are created by the conversion of nonprofit water supply or sewer service corporations, are empowered statutorily to provide a package of services including water supply, water purity and sanitation, and fire-fighting facilities. House Bill 1014 amends the Water Code to allow creation of a SUD to provide any one or more of these specified services, as opposed to the whole package.

House Bill 1120**Effective:** 6-20-03**House Author:** Phillips**Senate Sponsor:** Estes

House Bill 1120 repeals a special-law requirement that the Greater Texoma Utility Authority solicit competitive bids for construction or other capital works or improvement contracts of more than \$25,000. The authority becomes subject to a Water Code general-law provision requiring competitive bids for contracts of \$15,000 or more.

House Bill 1832**Effective:** 6-20-03**House Author:** Harper-Brown**Senate Sponsor:** Shapiro

House Bill 1832 eliminates the authority of the City of Irving to remove and replace directors of the Dallas County Utility and Reclamation District, and removes a requirement that the city approve the district's annual operation and maintenance budget. Provisions relating to the city's right to abolish and dissolve the district are replaced by language making abolition and dissolution contingent on the mutual consent of three-fourths of the city council and three-fourths of the district's board of directors. The bill provides that if the district is abolished, the City of Irving assumes ownership of the district's assets and performs all of its functions. The bill validates and confirms certain actions and proceedings of the district.

House Bill 3559**Effective:** 9-1-03**House Author:** Gattis**Senate Sponsor:** Ogden

House Bill 3559 creates the Williamson County Municipal Utility District No. 13, subject to voter approval at a confirmation election.

Water Districts

House Bill 3560**Effective:** 9-1-03

House Bill 3560 creates the Williamson County Municipal Utility District No. 12, subject to voter approval at a confirmation election.

House Author: Gattis**Senate Sponsor:** Ogden**House Bill 3565****Effective:** 9-1-03

House Bill 3565 creates the Lazy Nine Municipal Utility District, located in Travis County, subject to approval by voters at a confirmation election. The bill authorizes the district, subject to certain conditions, to divide its territory into two or more new districts.

House Author: Keel**Senate Sponsor:** Barrientos**House Bill 3594****Effective:** 9-1-03

House Bill 3594 creates the Williamson County Municipal Utility District No. 14, subject to voter approval at a confirmation election.

House Author: Gattis**Senate Sponsor:** Ogden**House Bill 3612****Effective:** 6-20-03

House Bill 3612 creates the Garfield Municipal Utility District No. 1, subject to approval by the City of Bastrop and by voters at a confirmation election.

House Author: R. Cook**Senate Sponsor:** Armbrister**House Bill 3622****Effective:** See below

House Bill 3622 creates the Kingsborough Municipal Utility District Nos. 1, 2, 3, 4, and 5, located in Kaufman County, subject in each case to the approval of a district's voters in a confirmation election. It grants each district powers relating to the construction, maintenance, and operation, inside or outside its boundaries, of paved roads and turnpikes and related projects. Powers of eminent domain extend outside district boundaries for certain purposes related to water supply or sanitary sewer lines. The bill takes effect on the date on or after September 1, 2003, on which a settlement agreement between the City of Crandall and the developer of the districts is legally executed regarding a pending petition before the Texas Commission on Environmental Quality for the right to provide retail water service to certain areas within the districts. The bill takes effect on September 1, 2003, if the settlement agreement is executed before that date.

House Author: B. Brown**Senate Sponsor:** Deuell**House Bill 3636****Effective:** 9-1-03

House Bill 3636 creates the Colony Municipal Utility District No. 1 within the extraterritorial jurisdiction of the City of Bastrop, subject to approval by that city and to approval by voters in a confirmation election.

House Author: R. Cook**Senate Sponsor:** Armbrister**Senate Bill 5****Effective:** 6-20-03

Senate Bill 5 creates the Johnson County Special Utility District, subject to voter approval at a confirmation election. If confirmed, the district succeeds the Johnson County Rural Water Supply Corporation.

Senate Author: Averitt**House Sponsor:** Wohlgemuth

Senate Bill 24**Effective:** Vetoed**Senate Author:** Armbrister**House Sponsor:** Rose

Senate Bill 24 creates the Ranch at Clear Fork Creek Municipal Utility District No. 1, located in the extraterritorial jurisdiction (ETJ) of the City of Umland in Caldwell County, subject to approval by that city and by voters at a confirmation election. The bill makes the district subject to applicable ETJ municipal ordinances and gives the city approval authority over any subsequent division into two or more contiguous districts. It authorizes a development agreement between the city and district guaranteeing the district's immunity from annexation and the continuance of its ETJ status for up to 25 years.

Reason Given for Veto: "Senate Bill No. 24 would have created the Ranch at Clear Fork Creek Municipal Utility District No. 1. The boundaries of the utility district extend outside the extra-territorial jurisdiction of the City of Umland. Accordingly, the representation contained in Section 7(b) of the bill is incorrect. I encourage the author and the sponsor of the bill to correct the technical defect in this legislation and to continue to pursue the creation of this local utility district."

Senate Bill 367**Effective:** 6-20-03**Senate Author:** Lindsay**House Sponsor:** Callegari

Senate Bill 367 dissolves the Kuykendahl Road Public Utility District No. 1 in Harris County.

Senate Bill 368**Effective:** 6-20-03**Senate Author:** Lindsay**House Sponsor:** Callegari

Senate Bill 368 dissolves the Kuykendahl Road Public Utility District No. 2 in Harris County.

Senate Bill 369**Effective:** 6-20-03**Senate Author:** Lindsay**House Sponsor:** Callegari

Senate Bill 369 dissolves the Huffsmith Road Public Utility District in Harris County.

Senate Bill 370**Effective:** 6-20-03**Senate Author:** Lindsay**House Sponsor:** Callegari

Senate Bill 370 extends by three years, until September 1, 2006, the deadline for voter confirmation of the Harris County Municipal Utility District No. 386.

Senate Bill 371**Effective:** 6-20-03**Senate Author:** Lindsay**House Sponsor:** Callegari

Senate Bill 371 extends by three years, until September 1, 2006, the deadline for voter confirmation of the Harris County Municipal Utility District No. 387.

Senate Bill 372**Effective:** 6-20-03**Senate Author:** Lindsay**House Sponsor:** Callegari

Senate Bill 372 extends by three years, until September 1, 2006, the deadline for voter confirmation of the Harris County Municipal Utility District No. 388.

Senate Bill 745**Effective:** 9-1-03**Senate Author:** Williams**House Sponsor:** Hope

Senate Bill 745 creates the East Montgomery County Municipal Utility District No. 4, subject to approval at a confirmation election.

Water Districts

Senate Bill 898

Effective: 6-20-03

Senate Author: Averitt

House Sponsor: J. Keffer

Senate Bill 898 amends the Water Code to exempt a municipal utility district from provisions requiring the approval of district bond issues by the Texas Commission on Environmental Quality if, on September 1, 2003, the district includes territory in only two counties, has at least 5,000 active water connections, and has outstanding long-term indebtedness that is rated BBB or better by a nationally recognized rating agency for municipal securities.

Senate Bill 1933

Effective: 6-20-03

Senate Author: Staples

House Sponsor: McReynolds

Senate Bill 1933 authorizes the Waterwood Municipal Utility District No. 1 to exclude certain land from its boundaries. If any district bonds payable from taxes are outstanding, the district must call a hearing on the exclusion on a petition filed by a landowner whose land has been included in and taxable by the district for more than 28 years. The land may be excluded only on finding that such taxes have been imposed and payment of them is current, that the district has never provided utility services to the land, and that the executive director of the Texas Commission on Environmental Quality has reviewed the economic impact of the exclusion proposal and does not object. The land continues to be taxed until the amount collected from it equals its pro rata share of the district's outstanding debt at the time of the exclusion. It also continues to be pledged as security for its pro rata share of that debt until final repayment occurs.

Changes to Statutory State Agencies, Governing Boards, and Interagency and Advisory Panels

78th Legislature, Regular and 1st through 3rd Called Sessions

- C Newly created, mandated, or authorized
- X Abolished
- RC Replaces a previous entity (replacement, reorganization, or name change)
- RX Replaced by a new entity (replacement, reorganization, or name change)
- M Membership or composition change (excluding ethics or nondiscrimination provisions)
- E Expiration date change (sunset or other)
- ME Both membership and expiration date changes

Bill	Change	Entity (Parent Entity) / Bill Location	Sunset Review	Expires
HB4	C C	Judicial Panel on Multidistrict Litigation (Supreme Court) / § 3.02 Texas Medical Disclosure Panel (Texas Department of Health, reorganized as the Department of State Health Services in HB2292) / § 10.01		
HB7 3rd C.S.	C M C M X M C	Task Force on State Agency Rain Harvesting and Water Recycling (Texas Building and Procurement Commission) / § 5.02 Texas Legislative Council / § 6.10 Study Committee on Texas Commission on Environmental Quality Permitting / § 8.01 Board of Pardons and Paroles / § 11.03 Board of Pardons and Paroles Policy Board / § 11.07 Texas Veterans Commission / § 12.01 (See also HB2455.) Texas Beef Council (Texas Department of Agriculture) / § 25.03		
HB9	C	Critical Infrastructure Protection Panel (Governor) / § 1		
HB28 3rd C.S.	X	Research and Oversight Council on Workers' Compensation (Texas Workers' Compensation Commission) / § 1.02		

Changes to State Entities

HB28 (cont.)	RC RX C	Texas Private Security Board (Department of Public Safety) / § 2.03 Texas Commission on Private Security / §§ 2.03 and 2.06 Joint Committee on District Court Judge Salaries / § 12.04		
HB35 3rd C.S.	M	Electric Utility Restructuring Legislative Oversight Committee / § 1		
HB44	RC RX	Small Business Compliance Assistance Advisory Panel (Texas Commission on Environmental Quality) / § 1 Compliance Advisory Panel (Texas Commission on Environmental Quality) / § 1		
HB573	C	Texas Legislative Medal of Honor Nominating Committee / § 1		
HB599	E C	State Bar of Texas / § 1 State Bar of Texas Executive Committee / § 20	2015	
HB649	C	Interagency Work Group on Rural Issues / § 2		
HB730	C C C C	Texas Residential Construction Commission / § 1.01 Task Force on Mold (Texas Residential Construction Commission) / § 1.01 Task Force on Residential Rain Harvesting and Water Recycling (Texas Residential Construction Commission) / § 1.01 Residential Construction Arbitration Task Force (Texas Residential Construction Commission) / § 1.01	2009	2007
HB873	M	Advisory Committee on the Rural Volunteer Fire Insurance Program (Texas Forest Service) / § 2		
HB948	M	Texas Racing Commission / §§ 1 and 3 (See also HB2455 and SB287.)		
HB1218	E	Texas State Board of Public Accountancy / § 1	2015	
HB1365	C	Advisory Committee on Energy-Efficient Building Accreditation (General Land Office) / § 17		
HB1366	C	Advisory Committee on Contaminated Dry Cleaning Sites (Texas Commission on Environmental Quality) / § 1		
HB1378	ME	Texas Water Advisory Council / § 1		2005

Changes to State Entities

HB1483	ME X M M M	Board of Nurse Examiners / §§ 1.003 and 1.006 Board of Vocational Nurse Examiners / § 3.001 Advisory Committee on Assistance to Vocational Nursing Students (Texas Higher Education Coordinating Board) / § 2.002 Interagency Coordinating Council for HIV and Hepatitis / § 2.008 Health Professions Council / § 2.013	2007	
HB1487	C	Electrical Safety and Licensing Advisory Board (Texas Department of Licensing and Regulation) / § 1		
HB1538	E	Texas Funeral Service Commission / § 2	2015	
HB1567	M	Texas Low-Level Radioactive Waste Disposal Compact Commission / § 21		
HB1576	M	Telecommunications Planning and Oversight Council / § 1		
HB1606	E	Texas Ethics Commission / § 1.02	2015	
HB1743	M	Medicaid and Public Assistance Fraud Oversight Task Force (Health and Human Services Commission) / § 12		
HB1858	C	Shrimp Advisory Committee (Texas Department of Agriculture) / § 6 (See also HB2470.)		
HB1877	C	Rural Physician Relief Advisory Committee (Office of Rural Community Affairs) / § 1		
HB1937	C C C	Peace Officers' Star of Texas Award Advisory Committee (Governor) / § 2 Firefighters' Star of Texas Award Advisory Committee (Governor) / § 2 Emergency Medical First Responders' Star of Texas Award Advisory Committee (Governor) / § 2		
HB1948	M	Electric Utility Restructuring Legislative Oversight Committee / § 1 (This change is modified by HB7, 3rd C.S.)		
HB2019	C	Texas Traumatic Brain Injury Advisory Council (Texas Department of Health, reorganized as the Department of State Health Services in HB2292) / § 1		

Changes to State Entities

HB2075	M	Advisory Committee on Youth Camps (Texas Department of Health, reorganized as the Department of State Health Services in HB2292) / § 3		
HB2095	C	Guaranty Association Advisory Committee (Texas Workers' Compensation Commission) / § 1		
HB2292	E	Health and Human Services Commission / § 1.02	2009	
	C	Health and Human Services Council (Health and Human Services Commission) / § 1.08		
	RC	Department of State Health Services / §§ 1.09 and 1.19	2009	
	C	State Health Services Council / § 1.09		
	RC	Department of Assistive and Rehabilitative Services / §§ 1.13 and 1.21	2009	
	C	Assistive and Rehabilitative Services Council / § 1.13		
	RC	Department of Aging and Disability Services / §§ 1.13A and 1.20	2009	
	C	Aging and Disability Services Council / § 1.13A		
	RX	Texas Department of Health / § 1.26		
	RX	Texas Department of Human Services / § 1.26		
	RX	Texas Department of Mental Health and Mental Retardation / § 1.26		
	RX	Texas Rehabilitation Commission / § 1.26		
	RX	Texas Department on Aging / § 1.26		
	RX	Texas Commission on Alcohol and Drug Abuse / § 1.26		
	RX	Texas Commission for the Blind / § 1.26		
	RX	Texas Commission for the Deaf and Hard of Hearing / § 1.26		
	RX	Interagency Council on Early Childhood Intervention / § 1.26		
	RX	Texas Health Care Information Council / § 1.26		
	RC	Department of Family and Protective Services / § 1.11	2009	
	C	Family and Protective Services Council / § 1.12		
RX	Department of Protective and Regulatory Services / § 1.11			
RX	Board of Protective and Regulatory Services / § 1.12			
C	Health and Human Services Transition Legislative Oversight Committee / § 1.22			

Changes to State Entities

HB2292 (cont.)	X	Consumer Education Technical Advisory Committee (Texas Health Care Information Council) / § 2.151		
	X	Quality Methods Technical Advisory Committee (Texas Health Care Information Council) / § 2.151		
	X	Peer Review and Provider Quality Technical Advisory Committee (Texas Health Care Information Council) / § 2.151		
	X	Health Information Systems Technical Advisory Committee (Texas Health Care Information Council) / § 2.151		
	X	State Medicaid Managed Care Advisory Committee (Health and Human Services Commission) / § 2.151		
	X	Information and Referral System Task Force (Health and Human Services Commission) / § 2.151		
	M	Statewide Health Coordinating Council / § 2.192 (See also HB3126.)		
HB2425	M	Tobacco Settlement Permanent Trust Account Investment Advisory Committee (Comptroller) / § 20		
	M	Product Development and Small Business Incubator Board (Governor) / § 21		
	M	Advisory Committee on Product Financing Review (Governor) / § 24		
	M	Texas Interagency Council for the Homeless / § 68		
HB2455	E	State Board for Educator Certification / § 1.01	2005	
	E	Texas Lottery Commission / § 1.03	2005	
	E	Texas Veterans Commission / § 2.01 (See also HB7, 3rd C.S.)	2007	
	E	Texas Department of Insurance / § 2.02	2007	
	E	Office of Public Insurance Counsel / § 2.03	2007	
	E	Prescribed Burning Board (Texas Department of Agriculture) / § 2.04	2007	
	E	Equine Research Account Advisory Committee (Texas Agricultural Experiment Station) / § 3.01	2009	
	E	State Board of Examiners for Speech-Language Pathology and Audiology / § 3.04	2009	
	E	State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments / § 3.05	2009	
	E	Executive Council of Physical Therapy and Occupational Therapy Examiners / § 3.06	2009	
E	Texas Board of Physical Therapy Examiners / § 3.07	2009		

Changes to State Entities

HB2455 (cont.)	E	Texas Board of Occupational Therapy Examiners / § 3.08	2009	
	E	Texas Racing Commission / § 3.09 (See also HB948 and SB287.)	2009	
	E	Correctional Managed Health Care Committee (Texas Department of Criminal Justice) / § 4.01	2011	
	E	On-Site Wastewater Treatment Research Council / § 5.01	2013	
	E	Texas Food for Health Advisory Council (Texas Agricultural Experiment Station) / § 6.01(1)	none	
	E	Dental Hygiene Advisory Committee (State Board of Dental Examiners) / § 6.01(2)	none	
	E	Texas Environmental Education Partnership (TEEP) Fund Board / § 6.01(3)	none	
HB2470	C	Shrimp Advisory Committee (Texas Department of Agriculture) / § 4 (See also HB1858.)		
HB2650	C	Public Safety Radio Communications Council / § 1		
HB2933	RC	Human Rights Commission / § 2		
	RX	Commission on Human Rights / § 4		
HB2971	C	Be a Blood Donor Advisory Committee (Texas Department of Health, reorganized as the Department of State Health Services in HB2292) / § 9		
HB2985	C	Office of Patient Protection Executive Committee (Health Professions Council) / § 1		
HB3015	C	Legislative Oversight Committee on Higher Education / § 3		
HB3042	M	Committee on Review of Uniform Conditions in State Construction Contracts (Texas Building and Procurement Commission) / § 7.45		
HB3122	C	Task Force on Local Health Care Initiatives (Health and Human Services Commission) / § 1		
HB3126	M	Statewide Health Coordinating Council / § 5 (See also HB2292.)		
	C	Nursing Advisory Committee (Statewide Health Coordinating Council) / § 7		
HB3442	M	State Soil and Water Conservation Board / § 13		
HB3459	E	Texas Veterinary Medical Diagnostic Laboratory (Texas A&M University Board of Regents) / § 42	2007	

Changes to State Entities

HB3484	C	Work Group on Health Care Options for Certain Persons with Disabilities (Health and Human Services Commission) / § 1		2005
HB3486	C	Task Force on Rules for Determining the Amount of Reimbursement or Credit for Restocking Drugs (Health and Human Services Commission) / § 3		
HB3588	C M M X	Advisory Committee on Regional Mobility Authority Rules (Texas Department of Transportation) / § 2.01 Public Transportation Advisory Committee (Texas Department of Transportation) / § 13.03 Port Authority Advisory Committee (Texas Department of Transportation) / §§ 18.02, 18.05, and 18.09 Texas Port Transportation and Economic Development Advisory Committee (Texas Department of Transportation) / §§ 18.02 and 18.05		
SB14	C	Property and Casualty Legislative Oversight Committee / § 14.01	2007	
SB19	M M X X	Records Management Interagency Coordinating Council / § 15 State Aircraft Pooling Board / § 40 Unfunded Mandates Interagency Work Group / § 75(1) Task Force to Evaluate Employee Compensation Systems / § 75(1)		
SB76	C	Advisory Committee on Child-Care Coordination (State Center for Early Childhood Development) / § 5		2004
SB127	C	Public Insurance Adjusters Examination Advisory Committee (Texas Department of Insurance) / § 3.02		
SB260	ME	Texas Board of Professional Land Surveying / §§ 1 and 2	2015	
SB261	ME	Texas Council on Purchasing from People with Disabilities / §§ 2 and 6	2015	
SB263	ME C	State Board of Dental Examiners / §§ 1 and 2 (See also SB287.) Advisory Committee on Dental Assistant Dental X-Ray Registration Examinations (State Board of Dental Examiners) / § 25	2015	

SB264	E	Texas Department of Housing and Community Affairs / § 3	2011	
SB266	ME	Board of Law Examiners / §§ 1 and 5	2015	
SB273	E	Court Reporters Certification Board / § 8	2015	
SB275	RC RX RX C C C	Texas Economic Development and Tourism Office (Governor) / §§ 1.04 and 1.65-1.69 Texas Department of Economic Development / §§ 1.65-1.69 and 6.01(3) Texas Aerospace Commission / §§ 1.70 and 6.01 Aerospace and Aviation Advisory Committee (Governor) / § 1.09 Product Development and Small Business Incubator Board (Texas Economic Development and Tourism Office) / § 2.01 Advisory Committee on Biotechnology and Biomedicine (Texas Economic Development and Tourism Office) / § 2.01	2015	
SB276	ME	Board of Tax Professional Examiners / §§ 1 and 2	2015	
SB277	E C	Texas Board of Professional Engineers / § 2 Joint Advisory Committee on the Practice of Engineering and Architecture (Texas Board of Professional Engineers and Texas Board of Architectural Examiners) / § 18 (See also SB283.)	2015	
SB279	ME M M M M C	Texas Department of Licensing and Regulation / §§ 1.001 and 1.003 Air Conditioning and Refrigeration Contractors Advisory Board (Texas Department of Licensing and Regulation) / §§ 2.005 and 26.031 Advisory Committee for the Architectural Barriers Program (Texas Department of Licensing and Regulation) / § 3.005 Auctioneer Education Advisory Board (Texas Department of Licensing and Regulation) / § 4.004 Board of Boiler Rules (Texas Department of Licensing and Regulation) / § 5.002 Medical Advisory Committee on Boxing Event Contestants (Texas Department of Licensing and Regulation) / § 7.006	2015	

Changes to State Entities

SB279 (cont.)	M	Licensed Court Interpreter Advisory Board (Texas Department of Licensing and Regulation) / § 8.002		
	M	Elevator Advisory Board (Texas Department of Licensing and Regulation) / § 9.001		
	M	Vehicle Protection Product Warrantor Advisory Board (Texas Department of Licensing and Regulation) / § 18.004		
	M	Texas Water Well Drillers Advisory Council (Texas Department of Licensing and Regulation) / § 19.004		
SB280	E	Texas Workforce Commission / § 1	2009	
	M	Interagency Task Force on Electronic Benefits Transfers (Health and Human Services Commission) / § 10.03		
SB281	RC	Texas Workforce Investment Council / §§ 1.03, 1.04, and 2.01	2015	
	RX	Council on Workforce and Economic Competitiveness / §1.03		
SB282	E	Texas State Board of Plumbing Examiners / § 2	2015	
SB283	E	Texas Board of Architectural Examiners / § 1.04	2015	
	C	Joint Advisory Committee on the Practices of Engineering, Architecture, and Landscape Architecture (Texas Board of Architectural Examiners and Texas Board of Professional Engineers) / § 1.21 (See also SB277.)		
SB284	E	Texas State Affordable Housing Corporation / § 8	2009	
SB286	ME	Texas Higher Education Coordinating Board / §§ 1 and 2	2015	
	RC	P-16 Council (Texas Higher Education Coordinating Board and State Board of Education) / § 17		
	RX	Joint Advisory Committee (Texas Higher Education Coordinating Board and State Board of Education) / § 17		
SB287	M	Texas Commission on Alcohol and Drug Abuse / § 1.01 (This change is superseded by the abolition of the commission in HB2292.)		
	M	Texas Animal Health Commission / § 2.01		
	M	Texas Commission on the Arts / § 3.01		

SB287 (cont.)	M	Advisory Board of Athletic Trainers (Texas Department of Health, reorganized as the Department of State Health Services in HB2292) / § 4.01		
	M	State Board of Barber Examiners / § 5.01		
	M	Council on Cardiovascular Disease and Stroke (Texas Department of Health, reorganized as the Department of State Health Services in HB2292) / § 6.01		
	M	State Board of Dental Examiners / § 8.01 (See also SB263.)		
	M	Texas Council for Developmental Disabilities / § 9.01		
	M	Texas Diabetes Council / § 10.01		
	M	Texas Distinguished Service Awards Committee / § 11.01		
	M	State Board for Educator Certification / § 12.01		
	M	Texas Emancipation Juneteenth Cultural and Historical Commission / § 13.01		
	M	Texas Commission on Fire Protection / § 14.01		
	M	Texas Guaranteed Student Loan Corporation Board of Directors / § 15.01		
	M	Texas Board of Health / § 16.01 (This change is superseded by the replacement of the Texas Department of Health by the Department of State Health Services in HB2292.)		
	M	Texas Health Benefits Purchasing Cooperative Board of Trustees / § 17.01		
	M	Texas Higher Education Coordinating Board / § 18.01		
	M	Texas Historical Commission / § 19.01		
	M	Commission on Human Rights / § 20.01 (This change is superseded by the abolition of the Commission on Human Rights in HB2933.)		
	M	Texas Board of Human Services / § 21.01		
	M	Department of Information Resources Board / § 22.01		
	M	Texas Board of Professional Land Surveying / § 23.01		
	M	Texas State Library and Archives Commission / § 24.01		
M	Texas Commission on Licensing and Regulation / § 25.01			
M	Texas State Board of Medical Examiners / § 26.01			
M	Texas Council on Offenders with Mental Impairments / § 27.01			

Changes to State Entities

SB287 (cont.)	M	Texas Military Facilities Commission / § 28.01		
	M	Operation Game Thief Committee (Parks and Wildlife Department) / § 29.01		
	M	Texas Board of Orthotics and Prosthetics (Texas Department of Health, reorganized as the Department of State Health Services in HB2292) / § 30.01		
	M	Board of Pardons and Paroles Policy Board / § 31.01 (This change is superseded by the abolition of the policy board in HB7, 3rd C.S.)		
	M	Polygraph Examiners Board / § 32.01		
	M	Private Sector Prison Industries Oversight Authority / § 33.01		
	M	Texas Commission on Private Security / § 34.01 (This change is superseded by the abolition of the commission in HB28, 3rd C.S.)		
	M	Produce Recovery Fund Board (Texas Department of Agriculture) / § 35.01		
	M	Board of Protective and Regulatory Services / § 36.01 (This change is superseded by the replacement of the Department of Protective and Regulatory Services by the Department of Family and Protective Services in HB2292.)		
	M	Texas Racing Commission / §§ 37.01 and 37.03 (See also HB948 and HB2455.)		
	M	Texas Real Estate Broker-Lawyer Committee / § 38.01		
	M	Texas Rehabilitation Commission / § 39.01 (This change is superseded by the abolition of the commission in HB2292.)		
	M	Risk Management Board / § 40.01		
	M	Statewide Rural Health Care System Board of Directors / § 41.01		
	M	Council on Sex Offender Treatment (Texas Department of Health, reorganized as the Department of State Health Services in HB2292) / § 42.01		
	M	Board of Tax Professional Examiners / § 43.01		
	M	Texas-Israel Exchange Fund Board (Texas Department of Agriculture) / § 44.01		
	M	Texas Veterans Commission / § 45.01 (See also HB7, 3rd C.S.)		
M	Multi-State Water Resources Planning Commission (Texas Water Development Board) / § 46.01			

SB287 (cont.)	M	Texas Workers' Compensation Commission / § 47.01		
	M	Council on Workforce and Economic Competitiveness / § 48.01		
	M	Texas Youth Commission / § 49.01		
SB394	M	Records Management Interagency Coordinating Council / § 1		
SB409	M	Texas Transportation Commission / § 2		
SB416	M	Board of Boiler Rules (Texas Department of Licensing and Regulation) / § 1		
SB418	C	Technical Advisory Committee on Claims Processing (Texas Department of Insurance) / § 21		
SB474	C	Joint Interim Committee on Nutrition and Health in Public Schools / § 2		
SB591	RC	Texas Correctional Office on Offenders with Medical or Mental Impairments / § 4		
	RC	Advisory Committee on Offenders with Medical or Mental Impairments (Texas Department of Criminal Justice) / § 3		
	RX	Texas Council on Offenders with Mental Impairments / § 3		
SB616	M	Drug Demand Reduction Advisory Committee / § 1		
SB619	X	Oil Spill Oversight Council / § 16		
SB652	RC	Texas Military Preparedness Commission / § 3 (See also SB1418.)	2007	
	RX	Texas Strategic Military Planning Commission / § 3		
SB800	C	Texas A&M University—San Antonio / § 1		
	C	Texas A&M University—Central Texas / § 2		
SB810	M	Texas State Board of Social Worker Examiners / § 5		
SB871	M	Multidisciplinary Team on the Review of Available Records of Potential Predators / § 18		
SB1090	M	Elevator Advisory Board (Texas Department of Licensing and Regulation) / § 1		
SB1091	M	Advisory Task Force on Municipal Solid Waste Source Reduction and Recycling (Texas Commission on Environmental Quality) / § 1		
	M	Recycling Market Development Board / § 2		

Changes to State Entities

SB1094	C	Water Conservation Implementation Task Force / §§ 2 and 7		2005
SB1136	C	Task Force on State Law Preemption (Attorney General) / § 8		2005
SB1147	E	State Office of Administrative Hearings / § 6	2015	
SB1152	M M	Texas Online Authority / §§ 8 and 11 Steering Committee for Electronic Occupational Licensing Transactions (Department of Information Resources) / §§ 10 and 7		
SB1245	M	Crime Victims' Institute Advisory Council (Sam Houston State University) / § 1		
SB1418	M M M M M M M M M M M	Agricultural Policy Board / § 1 Texas Judicial Council / § 2 Task Force on Indigent Defense (Texas Judicial Council) / § 3 Legislative Audit Committee / § 4 Legislative Budget Board / § 5 Texas Legislative Council / § 6 (This change is modified by HB7, 3rd C.S.) Legislative Library Board / § 7 Texas Strategic Military Planning Commission / §§ 8 and 9 (See also SB652.) Texas Emissions Reduction Plan Advisory Board / § 10 Oil-Field Cleanup Fund Advisory Committee (Railroad Commission of Texas) / § 11 Electric Utility Restructuring Legislative Oversight Committee / § 12 (This change is modified by HB7, 3rd C.S.)		
SB1567	X	Texas Peace Officers' Memorial Advisory Committee (Commission on Law Enforcement Officer Standards and Education) / § 3		
SB1639	C C	Study Commission on Water for Environmental Flows / § 2 Advisory Scientific Committee (Study Commission on Water for Environmental Flows) / § 2		2005 2005
SB1642	C	East Texas Center for Rural Geriatric Studies (The University of Texas Health Science Center at Tyler) / § 1		

Changes to State Entities

SB1652	C	Information Technology Council for Higher Education (Department of Information Resources) / § 3.02		
	C	Interim Committee on Higher Education / § 8.02		2005
SB1701	C	Information Resources Quality Assurance Team / § 13		
	C	Grants Database Advisory Committee (Texas State Library and Archives Commission) / § 28		
SB1771	C	Advisory Board of Economic Development Stakeholders (Texas Department of Economic Development, reorganized as the Texas Economic Development and Tourism Office in SB275) / § 3		
SB1828	M	State Soil and Water Conservation Board / § 1		
SB1942	RC	Texas State University—San Marcos / §§ 1, 2, and 11		
	RX	Southwest Texas State University / §§ 1, 2, and 11		

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