

Summary of Enactments 79th Legislature

Regular Session
1st and 2nd Called Sessions
2005

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Table of Contents

Foreword	vii
Introduction	ix
Enactments of the 79th Legislature	
Agriculture	1
Alcoholic Beverages	5
Appropriations	11
Border Affairs	13
Business and Commerce.....	17
Business Organization and Regulation	17
Business Transactions	18
Consumer Protection.....	22
Civil Remedies and Procedures	29
Corrections.....	35
Courts.....	39
General.....	39
County Courts	43
Courts of Appeals.....	46
District Courts.....	47
Municipal Courts	49
Criminal Justice	51
General.....	51
Offenses and Penalties	53
Procedures.....	58
Economic Development.....	73
Community Development.....	73
Defense Base Development	74
Economic and Industrial Development.....	76
Economic Development Districts	80
Elections.....	87
General.....	87
Candidate Filing Requirements.....	90
Election Officials	90
Ethics, Reporting, and Disclosure.....	92
Local Option Elections	93
Polling Place Requirements and Procedures.....	94
Voter Rights, Voter Registration, and Voting Procedures.....	95
Emergency Response	99
General.....	99
Emergency Services Districts	102
Energy Resources.....	105
Environment.....	109
General.....	109

Air Quality	113
Waste Disposal.....	116
Water Quality	119
Family Law and Juvenile Justice	123
General.....	123
Adoption and Foster Care	126
Child Support and Spousal Maintenance.....	127
Domestic Violence; Child Abuse and Neglect	128
Juvenile Justice	130
Financial Institutions.....	133
Government Purchasing.....	139
Health.....	145
General.....	145
Diseases and Medical Conditions	149
Health Care Facilities.....	151
Hospital Districts	152
Immunizations.....	156
Medical Records and Personal Health Information	156
Health and Medical Occupations	159
General.....	159
Agency Functions, Powers, and Duties	161
Physicians, Dentists, and Nurses	164
Higher Education	167
General.....	167
Junior and Community College Districts.....	172
Specific Institutions.....	174
Tuition and Fees.....	179
Human Services	185
General.....	185
Medicaid	190
Mental Health and Mental Retardation.....	195
Nursing Home, Assisted Living, and Related Facilities	196
Insurance.....	199
General.....	199
Liability.....	202
Life and Health	203
Property and Casualty.....	210
Labor and Employment.....	215
General.....	215
Texas Workforce Commission Functions and Duties	215
Unemployment Compensation.....	216
Workers' Compensation	218
Workforce Development	220

Law Enforcement.....	223
Local Government.....	229
General.....	229
City Government.....	231
County Government.....	234
Military Forces and Veterans	241
General.....	241
Education	243
Employment.....	244
Occupational Regulation.....	247
General.....	247
Amusements, Games, and Sports.....	249
Barbering and Cosmetology	251
Engineering, Design, and Construction	252
Real Estate	254
Security and Public Safety	257
Open Government and Privacy	261
Parks and Wildlife.....	267
Probate and Guardianship.....	273
Property Interests	277
General.....	277
Landlord-Tenant.....	279
Local Government Regulation	280
Property Owners' Associations	282
Public Lands.....	283
Public Education	285
General.....	285
School Finance.....	291
Student Health and Health Education.....	291
Public Officials and Employees	295
General.....	295
Ethics, Reporting, and Disclosure.....	297
Peace Officers and Firefighters	299
Retirement Systems	303
State Government.....	309
General.....	309
Agencies.....	312
Electronic Government	314
Fiscal Management and Auditing	317
Taxes and Tax Administration.....	321
General.....	321
Hotel Occupancy Tax	321
Property Tax Appraisals and Protests.....	322
Property Taxes.....	324

Sales and Use Taxes	330
Transportation	333
Driver’s Licenses.....	333
Finance, Planning, and Administration of Transportation Systems	335
Motor Vehicles	342
Rules of the Road.....	347
State Highway System	350
Transportation Districts and Authorities	353
Utilities.....	359
General.....	359
Electric Utilities	360
Telecommunications	364
Water	369
Suppliers and Utilities.....	369
Texas Water Development Board Programs	371
Water Rights, Planning, and Conservation	372
Water Districts	375
General.....	375
Groundwater Conservation Districts.....	376
Miscellaneous Districts.....	381
Municipal and Special Utility Districts.....	383
Regional Water Authorities	397
Water Control and Improvement Districts	399
Index to Bills Passed	403

Foreword

The Summary of Enactments of the 79th Legislature provides synopses of all bills enacted and all joint resolutions proposing amendments to the Texas Constitution passed by the legislature during the 2005 Regular Session and 1st and 2nd 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.

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

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

Other sources of information on legislation include:

Sunset bills (list)—www.sunset.state.tx.us/legislation05.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/pubsconamend/pubsconamend.html

Paper copies of enrolled bills and resolutions from the 79th Legislature, regular and called sessions, may be obtained from house and senate document distribution offices until October 2006. 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 79th Legislature convened on January 11, 2005, and adjourned *sine die* on May 30, 2005. Of the 1,388 bills enacted during the session, 19 bills, as well as several items of appropriation in the General Appropriations Act, were subsequently vetoed by Governor Rick Perry. Lawmakers also passed nine joint resolutions proposing amendments to the Texas Constitution, which were submitted to Texas voters for approval in a November 8, 2005, election. Seven of the nine were approved.

Following *sine die* adjournment of the regular session, the 79th Legislature met in two called sessions to consider public school finance, judicial salaries, eminent domain, telecommunications, renewable energy, and funding issues.

		Filed	Passed	Vetoed*	Defeated by Voters
Bills	Regular	5,369	1,388**	19	—
	1st C.S.	202	2	0	—
	2nd C.S.	86	3	0	—
Joint Resolutions	Regular	143	9	0	2
	1st C.S.	27	0	0	—
	2nd C.S.	24	0	0	—

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

** This number does not include Senate Bill 1708, which was enrolled and then recalled from the governor and not reenacted after its recall.

Enactments of the 79th Legislature

Agriculture

This chapter covers legislation on farming, ranching, and programs of the Texas Department of Agriculture. It includes bills relating to livestock, food and fiber crops, and pests, including invasive plants. Bills involving water district irrigation services or agricultural water well 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 373

Effective: 5-30-05

House Author: Swinford

Senate Sponsor: Jackson, Mike

House Bill 373 abolishes the Texas Food and Fibers Commission on January 1, 2006, and amends the Agriculture Code to replace its functions with a food and fibers research grant program in the Texas Department of Agriculture (TDA), administered by a 13-member Food and Fibers Research Council staffed and supported by the TDA. The stated purpose of the program is to assist the Texas fibers and oilseeds industries by identifying and obtaining available funding in support of applied research. The bill also eliminates the natural fibers committee, food protein committee, and executive advisory committee that assisted the abolished commission.

House Bill 774

Effective: 9-1-05

House Author: Hegar

Senate Sponsor: Jackson, Mike

Through House Bill 774, which amends the Agriculture Code, the State of Texas formally enters the Interstate Pest Control Compact, with the agriculture commissioner designated as the state's compact administrator. Under the compact, party states pledge to employ their best efforts to eradicate, or control within the strictest practicable limits, any and all pests. Whenever a party state is threatened by a pest outside its borders but present in another party state, or whenever a party state engaged in pest control finds that success depends on action by one or more other party states, it may request the authorization of an expenditure from the compact's insurance fund for eradication or control measures to be taken by the other states. Requests for fund disbursement to a nonparty state to accomplish the purposes of the compact are also permitted.

House Bill 901

Effective: 9-1-05

House Author: McReynolds

Senate Sponsor: Jackson, Mike

House Bill 901 amends Agriculture Code provisions relating to certain agricultural licenses and certificates to provide that they expire on the anniversary of their issuance or renewal rather than having all licenses or certificates of the same type expire on the same day of the year. Affected are the one-year vegetable seed license, pesticide and herbicide commercial applicator license, rose grading certificate of authority, and egg marketing license and the five year pesticide and herbicide private applicator license.

House Bill 1361

Effective: 9-1-05

House Author: Hardcastle et al.

Senate Sponsor: Jackson, Mike

House Bill 1361 amends the Agriculture Code to authorize the Texas Animal Health Commission (TAHC) to develop and implement an animal identification program that is consistent with the National Animal Identification System of the U.S. Department of Agriculture.

Agriculture

The TAHC may recognize three types of official identification numbers: individual animal identification numbers, group identification numbers, and premises identification numbers assigned to geographically unique locations associated with animal agriculture. The TAHC may require the use of numbers assigned under the program for animal disease control, emergency management, and other TAHC programs. The TAHC may set a deadline by which all premises must be registered and may assess a registration fee for entities that register for a premises identification number. Information collected by the TAHC under the legislation is exempt from public disclosure under the open records law. The bill authorizes release of information to certain parties and under certain circumstances and requires release by the TAHC if necessary for emergency management purposes under the Texas Disaster Act of 1975. Release does not alter the information's confidential status. The bill authorizes the TAHC to adopt rules relating to the program and establishes a Class C misdemeanor offense for failure to comply with a rule or order.

House Bill 1362

Effective: 5-27-05

House Author: Hardcastle et al.

Senate Sponsor: Jackson, Mike

House Bill 1362 amends the Agriculture Code to eliminate a requirement that an authorized inspector of the Texas Animal Health Commission visually examine all livestock at a livestock market before the animals are offered for sale. The bill makes inspection of such livestock discretionary.

House Bill 1363

Effective: 9-1-05

House Author: Hardcastle et al.

Senate Sponsor: Jackson, Mike

House Bill 1363 amends Agriculture Code provisions relating to health certificates for domestic animals, livestock, exotic livestock, domestic fowl, and exotic fowl that are imported into Texas to repeal the 25 cent fee for such a certificate. The bill authorizes the Texas Animal Health Commission (TAHC) to provide by rule for the issuance of a certificate of veterinary inspection by a veterinarian to a person transporting livestock, exotic livestock, domestic fowl, and exotic fowl, and directs TAHC to set and charge a fee for each veterinary inspection certificate.

Senate Bill 1428

Effective: 9-1-05

Senate Author: Duncan et al.

House Sponsor: Swinford

Senate Bill 1428 amends the Agriculture Code to authorize the agriculture commissioner to conduct one last continuation referendum in each boll weevil eradication zone on or after September 1, 2005, instead of the continuation referenda statutorily scheduled every four years. The ballot must give notice that the referendum is the final one on continuation, and must remind the voter of the law that requires a discontinuation election on petition of 30 percent or more of the cotton growers eligible to vote in a zone. The bill authorizes the commissioner, on the request of affected cotton grower steering committees and the Texas Boll Weevil Eradication Foundation, Inc., to designate boll weevil and pink bollworm eradication maintenance areas for the continued protection of the cotton industry. An eradication zone is eligible for inclusion in such an area if it has satisfied any debt owed to the foundation, the commissioner determines the boll weevil to have been functionally eradicated in the zone, and both the foundation and the cotton grower steering committee request inclusion. Maintenance areas must follow the lines of existing eradication zones, except that contiguous zones may be part of the same area and additional contiguous counties not previously included in a zone may be added to a maintenance area on request of the foundation if necessary to prevent reinfestation or otherwise support

state eradication efforts. The bill authorizes the commissioner to impose a per-acre or per-bale maintenance fee in an area, based on several criteria. Maintenance fee revenues are not state funds, but rather must be forwarded to the foundation. The Texas Department of Agriculture, however, may limit the balance of maintenance fees that the foundation may carry over from year to year in its budget.

Senate Bill 1680

Effective: 9-1-05

Senate Author: Jackson, Mike

House Sponsor: Isett

Senate Bill 1680 repeals provisions of the Agriculture Code to eliminate the Agriculture Resources Protection Authority, a state government body with certain advisory and interagency coordination roles in the area of pesticide regulation.

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

HB 749 - Transportation

HB 894 - Health

HB 1733 - Open Government and Privacy

HB 2313 - Environment

SB 1273 - Property Interests

SB 1707 - Environment

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 penalties for alcohol-related offenses and to the functions and operations of the Texas Alcoholic Beverage Commission. Bills relating to local option elections on the sale of alcoholic beverages are in the **Elections** chapter.

House Bill 168

Effective: 9-1-05

House Author: Deshotel

Senate Sponsor: Armbrister

House Bill 168 amends the Alcoholic Beverage Code to authorize the sale of alcoholic beverages by a licensed or permitted premises located at a festival, fair, or concert, and the consumption of alcohol at such an event, between 10 a.m. and noon in addition to any other period during which the sale and consumption of alcohol is authorized.

House Bill 833

Effective: 6-17-05

House Author: Gattis

Senate Sponsor: Ogden

House Bill 833 amends the Alcoholic Beverage Code to make provisions relating to the sale of mixed beverages and beer between midnight and 2 a.m. applicable in a city or county with a population of at least 800,000, rather than 500,000, according to the last preceding federal census and in a city or county with a population of at least 500,000 according to the decennial census released on March 12, 2001.

House Bill 937

Effective: 9-1-05

House Author: Homer

Senate Sponsor: Madla

House Bill 937 amends the Alcoholic Beverage Code to allow the holder of a wine only package store permit, a wine and beer retailer's off-premise permit, or a manufacturer's agent's permit, or the holder of a nonresident seller's permit who owns a winery outside the state, to conduct a wine sampling. The bill authorizes an agent or employee of the permit holder to open, touch, or pour wine, make a presentation, or answer questions at such a sampling and requires that any wine sampled be purchased from or provided by the retailer on whose premises the sampling is held and in a quantity not to exceed the amount used for the sampling. The bill clarifies that this provision does not allow the holder of a wine and beer retailer's off-premise permit, a nonresident seller's permit, or a manufacturer's agent's permit to withdraw or purchase wine from the holder of a wholesaler's permit. The bill also clarifies that, for purposes of the Alcoholic Beverage Code and other law, the permits do not authorize the sale of alcoholic beverages for on-premise consumption and that none of a permit holder's income can be considered as income from the sale of alcoholic beverages for such consumption. The bill requires that samplings held on the premises of wine only package store or wine and beer retailer's off-premise permittees be conducted during regular business hours. Holders of wine only package store permits who hold samplings in areas that allow the sale of wine but not of higher alcohol content wines are authorized to offer for sampling only those wines that may legally be sold under the permit.

House Bill 1357

Effective: 9-1-05

House Author: Flores

Senate Sponsor: Seliger

Current law requires the Department of Public Safety (DPS) to suspend or deny the issuance of a driver's license or permit of a minor who is convicted of an alcohol-related offense if the minor does not present evidence of having completed an alcohol awareness program or

Alcoholic Beverages

community service imposed by the court. The suspension or denial period is set at six months. House Bill 1357 amends the Alcoholic Beverage Code to increase the suspension or denial period to one year if the minor has been previously convicted of any such offense. The bill also amends the Transportation Code to require automatic suspension or denial of the license for a person convicted of purchasing alcohol for or furnishing alcohol to a minor. The bill sets the suspension or denial period at 180 days for a first offense and one year for a subsequent offense.

House Bill 1813

Effective: 9-1-05

House Author: Pickett

Senate Sponsor: Madla

House Bill 1813 amends the Alcoholic Beverage Code and the Penal Code to allow the possession of a handgun on the premises of certain alcoholic beverage license or permit holders if such possession is for the purpose of a historical reenactment authorized by the Alcoholic Beverage Commission. The bill amends the Alcoholic Beverage Code to require the commission to adopt rules allowing such reenactments and prohibiting the use of live ammunition in the reenactments. It provides that a permit or an on-premises or off-premises license will not be canceled because the holder knowingly allowed the possession of a firearm in a building on the licensed premises for such a reenactment. The bill amends the Penal Code to exempt a person licensed to carry a concealed handgun from the prohibition against carrying such a weapon on the premises of an alcoholic beverage license or permit holder if the person is participating in an authorized historical reenactment.

House Bill 2064

Effective: 6-18-05

House Author: Goolsby

Senate Sponsor: Carona

House Bill 2064 amends the Alcoholic Beverage Code to provide that a fraternal or veterans organization that holds a private club alcoholic beverage permit and the private club established under the permit are considered separate entities for purposes of determining compliance with and enforcement of state alcoholic beverage laws. The bill requires such an organization to establish a membership committee for its permitted club and provides that membership in the club, but not in the organization, is governed by provisions of the Alcoholic Beverage Code.

House Bill 2065

Effective: 9-1-05

House Author: Goolsby

Senate Sponsor: Carona

House Bill 2065 amends the Alcoholic Beverage Code to extend from three to seven days the maximum length of a preliminary membership in a private club that may be issued by the club's chairman or a designated agent without the approval of the club's committee or board. The bill also allows, rather than requires, each service check at such a club to have printed on it the percentage of the service charge to be deposited in the alcoholic beverages replacement account if such an account is used.

House Bill 2451

Effective: 9-1-05

House Author: Moreno, Joe E. et al.

Senate Sponsor: Gallegos

House Bill 2451 amends the Alcoholic Beverage Code to authorize the Alcoholic Beverage Commission or its administrator to suspend an original or renewal alcoholic beverage permit for no more than 60 days or to cancel such a permit if, after notice and hearing, the commission determines that the permittee consumed an alcoholic beverage or allowed one to be consumed on the licensed premises or sold, served, or delivered an alcoholic beverage at a time when the consumption or sale of alcohol is prohibited by state law.

House Bill 2526**Effective:** 9-1-05**House Author:** Flores**Senate Sponsor:** Whitmire

House Bill 2526 amends the Alcoholic Beverage Code to create a promotional permit that allows the permit holder, on behalf of a distiller, brewer, rectifier, manufacturer, winery, or wine bottler with whom the permit holder has contracted, to engage in activities to promote and enhance the sale of alcoholic beverages in the state, including activities that take place on the premises of an alcoholic beverage permit or license holder. The bill provides for an annual state permit fee of \$300, prohibits a local fee for the application or issuance of the permit, and prohibits the permit holder from having any direct or indirect interest in any alcoholic beverage permit or license issued by the state other than the authorized promotional contract.

House Bill 2590**Effective:** 6-18-05**House Author:** Gonzales**Senate Sponsor:** Lucio

House Bill 2590 amends the Alcoholic Beverage Code to allow a holder of a wine only package store permit and a package store tasting permit to conduct product tastings on the permitted premises. Only those alcoholic beverages the permit holder is authorized to sell under the wine only package store permit may be included in such a product tasting.

House Bill 2868**Effective:** 9-1-05**House Author:** Frost et al.**Senate Sponsor:** Hinojosa

House Bill 2868 amends the Alcoholic Beverage Code to provide that an adult 21 years of age or older is liable for damages proximately caused by the intoxication of a minor under the age of 18 if the adult is not the minor's parent, guardian, legal custodian, or spouse and the adult served or provided or allowed the serving or provision of alcoholic beverages that contributed to the minor's intoxication.

Senate Bill 269**Effective:** 9-1-05**Senate Author:** Madla**House Sponsor:** Flores

Senate Bill 269 amends the Alcoholic Beverage Code and the Tax Code to authorize the Texas Alcoholic Beverage Commission to round up to the nearest quarter of a dollar the total amount of state tax and administrative fees on alcoholic beverages and the total amount of state tax on 200 or fewer cigarettes that is collected by commission employees at a port of entry from a person who is bringing the products from a foreign country for personal use.

Senate Bill 571**Effective:** 5-17-05**Senate Author:** Madla et al.**House Sponsor:** Homer

Senate Bill 571 amends the Alcoholic Beverage Code to authorize the sale, consumption, or delivery of wine at a winery between 8:00 a.m. and midnight on any day except Sunday, and on Sunday between 10:00 a.m. and midnight. Under previous law, the standard hours specified for the sale, consumption, or delivery of liquor also applied to wineries.

Senate Bill 877**Effective:** See below**Senate Author:** Madla**House Sponsor:** Woolley

Senate Bill 877 amends the Alcoholic Beverage Code to allow wineries in Texas to ship wine, and wineries in other states to sell and deliver wine, directly to ultimate consumers in the state, including those in dry areas. The bill requires the Texas wineries to hold a winery permit and the non-Texas wineries to hold an out-of-state winery direct shipper's permit as created by this bill. For both types of permittees, the bill establishes packaging and label specifications,

Alcoholic Beverages

requires that the wine be delivered by a holder of a carrier permit, and authorizes delivery only to the purchaser or certain other persons. The bill prohibits delivery to a person who is not at least 21 years of age and requires the deliverer to verify the recipient's age and obtain a signed receipt. Permittees are prohibited from delivering more than three gallons of wine within any 30-day period to the same Texas consumer, and out-of-state permittees are further prohibited from selling more than a total of 35,000 gallons of wine annually to ultimate consumers in the state. The bill authorizes a person who purchases wine from a winery in the state to ship the wine in accordance with the same direct-shipment requirements that apply to a Texas winery.

Senate Bill 877 requires the holder of an out-of-state winery direct shipper's permit to meet certain qualifications and to pay an annual fee of \$75 and certain state taxes. The bill requires the permittee to maintain certain records of all sales and deliveries made under that permit for at least five years from the date of sale and to make the records available for inspection by the Texas Alcoholic Beverage Commission or any other appropriate state agency. The commission is authorized to establish certain reporting requirements for such permittees. The bill makes it a Class B misdemeanor for a person without a permit to sell or ship alcohol from outside Texas to an ultimate consumer in the state. A second offense is a Class A misdemeanor and a third offense is a state jail felony. The bill exempts a consumer who purchases wine from an out-of-state permittee from paying the administrative fee for wine imported for personal use, prohibits the consumer from reselling the wine, and establishes that any such wine that is resold is considered an illicit beverage.

The provisions of Senate Bill 877 apply only to wine sales and shipments that occur on or after May 9, 2005, except the requirement for an out-of-state winery shipper's permit and the penalty for shipping wine without such a permit, which take effect 90 days after that date.

Senate Bill 1137
Effective: 6-17-05

Senate Author: Madla et al.
House Sponsor: Swinford

Senate Bill 1137 amends the Agriculture Code and the Alcoholic Beverage Code to make changes relating to the wine industry. One set of provisions relates to legislation from 2003 that allowed winery permit holders in dry areas to sell or dispense wine only if it is manufactured in Texas and contains, by volume, at least 75 percent juice from Texas grapes or fruit. The bill directs the Texas Wine Marketing Research Institute (Texas Tech University) or another qualified entity to report annually to the agriculture commissioner on Texas grape and fruit availability, and authorizes the commissioner to reduce the 75 percent requirement in instances of insufficiency. A determination on reducing the required percentage is due not later than December 31 of each year and applies to wine bottled during the next calendar year. The bill authorizes the commissioner to establish a voluntary registry for Texas vineyards and fruit growers to assist with availability determination and to appoint a wine industry development advisory committee. Other provisions relate to winery advertising, allowable locations for storage of winery product, the sharing of winery premises by permittees, and a repeal of the restriction limiting permittees to no more than four wine festivals per year. The bill amends the Transportation Code to replace provisions for agricultural interest signs along highways with a new tourist-oriented directional sign program targeting eligible wineries and businesses related to agriculture and tourism.

Senate Bill 1255
Effective: 6-18-05

Senate Author: Brimer
House Sponsor: Geren

Senate Bill 1255 amends the Alcoholic Beverage Code to authorize an entity or the successor of an entity that on May 1, 2005, held a brewer's or nonresident brewer's permit or a beer manufacturer's or nonresident manufacturer's license or whose beer brand was legally sold in

the state to contract with another holder of a like permit or license for the use of the other's brewing or manufacturing facilities or to provide brewing or manufacturing services. The bill establishes that the contracting entity or successor is not required to own its brewing or manufacturing facilities and authorizes the Alcoholic Beverage Commission to issue more than one permit or license for a single premises to a permittee or licensee who contracts with such an entity or successor. The bill specifies that a person acting as an agent for an out-of-state brewery or manufacturer is not authorized to contract to brew ale, malt liquor, or beer on the person's behalf and that such a contract must be between parties who both hold an alcoholic beverage permit or license under the Alcoholic Beverage Code. Previous law authorized the commission to destroy alcoholic beverages that are determined to be unfit for public consumption or illicitly manufactured. Senate Bill 1255 requires, rather than authorizes, the destruction and further specifies that such beverages have been seized by a peace officer. The bill establishes that alcoholic beverages are unfit for public consumption if they are damaged, have a manufacturer's code date that is expired, or are determined by the manufacturer or wholesaler to be inappropriate for sale to a consumer. Finally, the bill entitles the commission to recover all costs of a forfeiture suit from the proceeds of the forfeiture sale rather than requiring it to pay such costs out of the confiscated liquor fund or any other fund available for that purpose.

Senate Bill 1331**Effective:** 5-28-05**Senate Author:** Nelson**House Sponsor:** Denny et al.

Senate Bill 1331 amends the Alcoholic Beverage Code to authorize the Alcoholic Beverage Commission to issue a temporary wine and beer retailer's permit to the holder of a mixed beverage permit that covers premises in a public facility with a seating capacity greater than 150,000 for use in areas that are not otherwise covered by a license or permit during a motor vehicle racing event sponsored by a professional motor racing association. Such a permit may be issued for five days and extended for an additional day to accommodate the postponement of scheduled racing events due to an act of nature. The bill prohibits the commission from issuing more than four such temporary permits in a calendar year and prohibits the holder of such a permit from selling alcoholic beverages in factory-sealed containers, selling more than two drinks to a single consumer at one time, selling alcoholic beverages at more than 50 percent of the food and beverage concession stands that are open for business at the same time, or selling alcoholic beverages after a certain point on any day of the event.

Senate Bill 1370**Effective:** 9-1-05**Senate Author:** Madla**House Sponsor:** Truitt

Senate Bill 1370 amends the Alcoholic Beverage Code to authorize legislative appropriations of no more than \$2 million per fiscal year until September 1, 2015, for various purposes relating to the protection and development of grape and wine production. The bill establishes formulas governing both the total annual appropriation amount and the amounts that may go to the various purposes.

Senate Bill 1471**Effective:** 9-1-05**Senate Author:** Whitmire**House Sponsor:** Morrison

Senate Bill 1471 amends the Alcoholic Beverage Code to remove provisions that limit the ability of certain alcoholic beverage permittees and beer manufacturers to offer a prize, premium, or gift to a consumer or to conduct a sweepstakes promotion by allowing only offers or sweepstakes that are national in scope and legally offered and conducted in at least 30 states at the same time.

Alcoholic Beverages

Senate Bill 1472

Effective: 9-1-05

Senate Author: Whitmire

House Sponsor: Geren et al.

Senate Bill 1472 amends the Alcoholic Beverage Code to allow beer manufacturers and distributors to provide beer retailers with carbon dioxide filters for draught systems that use either carbon dioxide or a blend of carbon dioxide and nitrogen, commonly known as “beer gas.” The bill provides that the cost of providing, maintaining, and replacing such a filter is borne by the manufacturer.

Senate Bill 1692

Effective: 9-1-05

Senate Author: Duncan

House Sponsor: Isett

Senate Bill 1692 amends the Alcoholic Beverage Code to allow the holder of a winery permit to obtain a winery storage permit for a location inside or outside the county in which the holder’s business is located, subject to certain restrictions that apply to wineries located in a county wholly or partly in a dry area.

Senate Bill 1850

Effective: 9-1-05

Senate Author: Gallegos et al.

House Sponsor: Geren et al.

Senate Bill 1850 amends the Alcoholic Beverage Code to add provisions applicable to a retail dealer’s on-premise license and a wine and beer retailer’s permit, other than such a license or permit held in conjunction with a food and beverage certificate, for premises in a county with a population of at least 1.4 million.

The bill prohibits a person within the fourth degree of consanguinity or affinity of the current holder of such a license or permit from applying for any alcoholic beverage license while the current holder’s license or permit is suspended or a proceeding against the holder is pending. If the license or permit is canceled, the bill requires a two-year waiting period before the person can apply for a new license relating to that premises.

In addition, Senate Bill 1850 establishes a \$1,000 fee for the original license or permit application and an annual fee of \$750. It authorizes the Alcoholic Beverage Commission to impose an administrative penalty of up to \$4,000 on a person who makes a false or misleading statement on an application and requires the applicant to file a surety bond with the commission. A suspension of the license or permit results in forfeiture of the bond, and reinstatement of the license or permit requires deposit of a new surety bond. The bill allows up to three such deposits in an increasing dollar amount established by the commission, each forfeited upon a subsequent suspension, with the license or permit canceled on the third suspension.

Finally, the bill requires that a commission hearing relating to the suspension of a license or permit for a code violation, felony conviction, neglect of bond maintenance, or certain other action be concluded within 60 days after the hearing notice is issued.

Appropriations

This chapter includes the General Appropriations Act for the state fiscal biennium beginning September 1, 2005, legislation on supplemental appropriations, and legislation relating to the funding of public education. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 1 (1st C.S.)
Effective: 8-9-05

House Author: Pitts et al.
Senate Sponsor: Ogden

The governor vetoed funding for the Texas Education Agency (TEA) that was contained in the General Appropriations Act (Senate Bill 1, Regular Session). House Bill 1, 1st Called Session, appropriates approximately \$31.1 billion to the TEA for the FY2006-FY2007 biennium and removes vetoed TEA funds from control by a General Appropriations Act provision that made its vetoed funds available for appropriation by budget execution. The bill sets out new riders relating to a learning through listening educational outreach program, the Renewing Our Communities Account, funding for technology grants, the Student Success Initiative, the per pupil allotment, and textbook proclamations. Another rider directs the Legislative Budget Board to make necessary adjustments to delineate TEA appropriation authority and expenditure requirements.

House Bill 10
Effective: 6-18-05

House Author: Pitts et al.
Senate Sponsor: Ogden

House Bill 10 makes almost \$3.6 billion in supplemental appropriations. The sources of funding include approximately \$1.9 billion from the Economic Stabilization Fund, \$1.02 billion from federal funds and federal matching funds, \$597 million from the General Revenue Fund and general revenue-dedicated accounts, and \$400,000 from the Foundation School Fund. House Bill 10 also makes a contingency appropriation of \$200 million to the Emerging Technology Fund and reduces appropriations to various state agencies by \$292 million. The bill appropriates \$808.3 million to the state Medicaid program; \$234.6 million to the Children's Health Insurance Program; \$214 million to various Health and Human Services Commission programs; \$258.3 million for child protective services; \$265.3 million for foster care; \$126 million for adoption subsidies; \$148 million for nursing facility services and mental retardation community center services; \$55.8 million to the Department of Aging and Disability Services for community care caseload and costs; \$15.9 million to the Texas Department of Criminal Justice (TDCJ) for contracted temporary capacity; \$66.3 million to TDCJ for managed health care; \$30.7 million to the Teacher Retirement System for the employee pass-through; \$400,000 for the juvenile justice alternative education program; \$560 million to the Foundation School Program; \$339.6 million to purchase textbooks; \$316.1 million for the Student Success Initiative; \$1.9 million to the State Board for Educator Certification for examinations; \$1.5 million to implement the Help America Vote Act; \$2.1 million for repairs to the San Jacinto Monument; \$25 million for petroleum storage tank cleanup; \$78.9 million to partially restore the 2003 reduction of appropriation for certain agency property sales; and \$36,000 to the Ninth Court of Appeals in Beaumont for salaries.

House Bill 3001
Effective: 9-1-05

House Author: Morrison et al.
Senate Sponsor: Duncan

House Bill 3001 amends the Education Code to increase the annual appropriation to the Higher Education Assistance Fund (HEAF) from \$175 million to \$262.5 million beginning

Appropriations

with the state fiscal year ending August 31, 2008, and to increase the annual allocation from the fund to eligible institutions of higher education, beginning with that same year. The bill also makes a lesser annual allocation from the HEAF to each eligible institution for the state fiscal biennium ending August 31, 2007.

Senate Bill 1

Effective: 9-1-05

Senate Author: Ogden

House Sponsor: Pitts

Senate Bill 1, the General Appropriations Act, appropriates almost \$139.4 billion for the FY2006-FY2007 state fiscal biennium beginning September 1, 2005. That amount includes all funding sources, excluding interagency contracts and adjustments for appropriations made by or transferred to House Bill 10. Of the legislatively approved amount, \$71.6 billion, or 51.4 percent, is derived from general revenue, both dedicated and nondedicated. Another \$49.1 billion, or 35.2 percent, represents federal funding, and \$18.8 billion, or 13.5 percent, comes from other funds. (Figures and percentages do not add up due to rounding.) The \$139.4 billion budgetary total for FY2006-FY2007 reflects an increase of 10.1 percent over the FY2004-FY2005 budget.

Legislative appropriations for major governmental functions and services for FY2006-FY2007 compared with appropriations for the preceding fiscal biennium are as follows: General government receives \$3.1 billion, a decrease of 10.3 percent. Total funding for health and human services is \$50 billion, an increase of 13.6 percent. The legislature's education budget, \$54.8 billion, is an increase of 6.4 percent. Business and economic development, which includes transportation, receives \$18.6 billion, an increase of 18.9 percent. Total funding for public safety and criminal justice is \$8.5 billion, an increase of 4.3 percent. Natural resources is funded at \$2.2 billion, a decrease of 3.2 percent. Regulatory functions are appropriated \$540 million, a decrease of 19.4 percent. The judiciary is appropriated \$456.7 million, an increase of 6.5 percent. The legislature is funded at \$317 million, a decrease of 2.4 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, and the comptroller issued that certification. Senate Bill 1 also satisfies constitutional provisions limiting 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 Senate Bill 1.

The governor vetoed approximately \$35.3 billion of the legislature's Senate Bill 1 appropriations, of which \$33.6 billion was funding for the Texas Education Agency. House Bill 1, 1st Called Session, contains substitute TEA appropriations.

The summary for the following bill is in the listed chapter:

SB 1370 - Alcoholic Beverages

Border Affairs

This chapter covers legislation on issues relating to the area of Texas along the border with Mexico, including colonias, international commerce and trade, and border area health care, transportation, and water.

House Bill 775

Effective: 9-1-05

House Author: Gonzales et al.

Senate Sponsor: Lucio

House Bill 775 amends the Government Code to require the Office of Rural Community Affairs to adopt a rule requiring a political subdivision that receives community development block grant program money for street improvement projects to allocate not less than five percent but not more than 15 percent of the total amount to the installation of adequate street lighting in certain colonias within the political subdivision if street lighting in those colonias is absent or needed.

House Bill 805

Effective: 9-1-05

House Author: Martinez et al.

Senate Sponsor: Carona

House Bill 805 amends the Health and Safety Code to authorize emergency medical services personnel or emergency room medical or admissions personnel to take the thumbprint of an unconscious person who has no identification and is transported from Mexico by ambulance or helicopter while receiving emergency prehospital care if the hospital has digital fingerprinting capabilities.

House Bill 925

Effective: 9-1-05

House Author: Chavez

Senate Sponsor: Lucio

House Bill 925 amends the Government Code to create four entities to address border issues and to expand the duties of the border commerce coordinator appointed by the governor and located in the office of the secretary of state. The bill establishes the Texas-Mexico Strategic Investment Commission and designates the coordinator as its chair. It requires the commission to work with certain entities on both sides of the border to address the area's planning and capacity needs and to develop international industry cluster initiatives, and it authorizes the commission to solicit funds and to request state agencies to apply for funds. The bill requires the Public Safety Commission to establish the Advisory Oversight Community Outreach Committee. It also establishes an interagency work group on border issues composed of certain state agency heads or their designees to promote interagency collaboration and coordination of programs and services to border communities and residents, and it requires the work group to meet at least once each year in Austin. Finally, the bill requires the border commerce coordinator to establish the Border Inspection, Trade, and Transportation Advisory Committee composed of representatives of certain state and federal governmental entities and requires the coordinator to work with the advisory committee and the interagency work group to identify and make recommendations for addressing border crossing and transportation infrastructure-related issues and to develop initiatives to mitigate congestion at border ports of entry. The coordinator is also required to report quarterly to the presiding officer of each house of the legislature on the findings and recommendations of the advisory committee.

The bill requires the coordinator to develop, in conjunction with certain business, industry, and metropolitan planning organization representatives and with the advice of the interagency work group, a comprehensive trade and commerce plan for the region, covering 5-year, 10-year, and 15-year periods and designed to accomplish certain specified objectives. The bill also

requires the coordinator to work with industries and communities on both sides of the border to develop international industry cluster initiatives and requires the coordinator to conduct annual conferences of interested persons to publicize the trade and commerce plan and its implementation and to develop new initiatives. In addition, the bill requires the coordinator to help certain governments, organizations, and entities identify and develop initiatives to address the unique planning and capacity needs of the border and to submit a related report to the presiding officer of each house of the legislature before January 1 of each year. The coordinator is also required to take certain actions to increase the use of low-sulfur fuel in the border region.

The bill amends the Transportation Code to allow the Department of Public Safety to enter into agreements with a foreign country relating to reciprocal vehicle registration issues, and it amends Health and Safety Code provisions relating to the geographic area within which the Border Health Foundation can finance health programs and to the filling of vacancies on the foundation's board of directors. It amends the Water Code to authorize the Texas Water Development Board to establish a border projects website.

House Bill 1924

Effective: 9-1-05

House Author: Chavez

Senate Sponsor: Shapleigh

House Bill 1924 amends the Occupations Code to require the Texas State Board of Medical Examiners to certify certain hospital districts to employ physicians. Among other qualifications, a district must be organized and operating as a migrant, community, or homeless health center under federal law or a federally qualified health center and must be located in a county bordering Mexico that has a population of 650,000 or more.

House Bill 3426

Effective: 9-1-05

House Author: Chavez et al.

Senate Sponsor: Shapleigh

House Bill 3426 amends the Health and Safety Code to establish the binational alcohol and substance abuse task force and specify its organization, duties, and authorized activities. The bill requires the task force to report to the governor and legislature regarding its recommendations and findings not later than November 1 of each even-numbered year. The task force is abolished January 1, 2009.

Senate Bill 183

Effective: 6-17-05

Senate Author: Lucio et al.

House Sponsor: Chavez et al.

Senate Bill 183 amends the Transportation Code to specify the membership of the Border Trade Advisory Committee, provide that the law regarding state agency advisory committees does not apply to the committee, and require the committee to make recommendations to the governor in addition to the Texas Transportation Commission. The bill requires the international trade corridor plan developed by the Texas Department of Transportation to address implementation of the committee's recommendations and requires the department to update the plan biennially and report to the presiding officer of each house of the legislature on the plan not later than December 1 of each even-numbered year.

Senate Bill 293

Effective: 6-17-05

Senate Author: Zaffirini et al.

House Sponsor: Guillen et al.

Senate Bill 293 amends the Government Code to require the Department of Public Safety to initiate efforts to meet at least quarterly with the department's counterparts in the Mexican states bordering Texas to discuss issues relating to truck inspections and transportation and

infrastructure involved in truck inspections and transportation. The bill requires the department to contact the border commerce coordinator and the mayor of each municipality in this state in which a port of entry for land traffic is located to assist in this effort and requires at least one department participant in a meeting to be proficient in Spanish. The bill requires the department, in conjunction with the border commerce coordinator, to develop short-range and long-range plans, including recommendations to increase bilateral relations with Mexico and expedite trade and to consider information obtained from the meetings described by this bill in developing the plans. The bill also requires the department to update the plan biennially and submit the updated plan to the lieutenant governor, speaker of the house of representatives, and each member of the legislature on or before December 1 of each even-numbered year.

Senate Bill 425

Effective: 9-1-05

Senate Author: Hinojosa et al.

House Sponsor: Luna et al.

Senate Bill 425 amends the Local Government Code chapter relating to county regulation of subdivisions to add provisions that apply only to a county that is located within 100 miles of an international border and contains the majority of the area of a municipality with a population of more than 250,000. These provisions relate to the connection of utilities, requirements prior to sale or lease of land, a lawsuit by a private person in an economically distressed area, and variances from platting requirements. The bill makes previous law regarding the connection of utilities applicable only to a county located within 50 miles of an international border, and it amends the chapter governing municipal regulation of subdivisions to establish deadlines related to the connection of utilities for counties within 50 and 100 miles of an international border as described above. The bill amends the Government Code, Utilities Code, and Water Code to make conforming changes and to apply certain provisions relating to colonias and economically distressed areas to any county that is subject to the provisions of this bill.

Senate Bill 569

Effective: 6-17-05

Senate Author: Zaffirini et al.

House Sponsor: Guillen et al.

Senate Bill 569 amends the Transportation Code to require the Texas Department of Transportation to initiate efforts to meet at least quarterly, rather than semiannually, with the department's counterparts in the Mexican states bordering Texas to discuss issues relating to truck inspections and transportation and infrastructure involved in truck inspections and transportation. The bill requires the department to contact the border commerce coordinator and the mayor of each municipality in this state in which a port of entry for land traffic is located to assist in this effort and requires at least one department participant in a meeting to be proficient in Spanish. The bill requires the department, in conjunction with the border commerce coordinator, to develop short-range and long-range plans, including recommendations to increase bilateral relations with Mexico and expedite trade and to consider information obtained from the meetings described by this bill in developing the plans. The bill also requires the department to update the plan biennially and submit the updated plan to the lieutenant governor, speaker of the house of representatives, and each member of the legislature on or before December 1 of each even-numbered year.

Senate Bill 827

Effective: 9-1-05

Senate Author: Zaffirini et al.

House Sponsor: Guillen

Senate Bill 827 amends the Government Code to require the secretary of state to establish and maintain systems for identifying colonias and for tracking the progress of state-funded projects that benefit colonias and to submit a related report to the presiding officer of each

house of the legislature not later than December 1 of each even-numbered year. The bill amends the Government Code, Health and Safety Code, and Water Code to require the Office of Rural Community Affairs, colonia ombudsmen in each of the six border counties, the Texas Department of Housing and Community Affairs, the Department of State Health Services, the Texas Transportation Commission, and the Texas Water Development Board to provide specified information to assist the secretary of state in preparing the report.

Senate Bill 1202

Effective: 6-17-05

Senate Author: Lucio et al.

House Sponsor: Chavez

Senate Bill 1202 amends the Government Code to require, rather than authorize, the state's colonia initiatives coordinator to work with agencies and local officials involved in colonia projects and to add the Office of Rural Community Affairs, Office of State-Federal Relations, Texas Department of Insurance, and Texas Department of Transportation to the list of agencies required to designate a liaison for colonia initiatives. The bill also requires the coordinator to consider advice from the Colonia Resident Advisory Committee, and any committee established by the coordinator to supplement the efforts of that committee, in developing a strategy to address the needs of colonia residents and in making recommendations to the legislature based on that strategy. It requires the coordinator to submit a related report to the legislature not later than December 1, 2006.

Business and Commerce

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

Business Organization and Regulation

House Bill 1154
Effective: 9-1-05

House Author: Elkins et al.
Senate Sponsor: Averitt

House Bill 1154 amends provisions of the Texas Limited Liability Company Act, the Texas Revised Limited Partnership Act, and the Texas Revised Partnership Act relating to dissolutions, conversions, and mergers that involve filings with the secretary of state by limited liability companies (LLCs) and partnerships. The bill clarifies procedures for dissolution of an LLC before commencement of business, and it specifies who may conclude the affairs of an LLC after termination of the membership of its last remaining member. The bill also requires the secretary of state, except in certain cases, to regard a limited partnership as continuing in existence until a certificate of cancellation is filed.

The bill establishes a procedure for revocation of voluntary cancellation of a domestic limited partnership. It allows a limited partnership, not later than 120 days from the date a certificate of cancellation is filed with the secretary of state, to revoke the certificate by written consent of all partners unless such action is prohibited by a written partnership agreement. Once revocation of the certificate of cancellation is authorized by the partners, the limited partnership must deliver a certificate of revocation of cancellation to the secretary of state for filing not later than 120 days from the date the certificate of cancellation is issued. The bill sets forth certain requirements for the certificate of revocation of cancellation and certain actions that a limited partnership may take once the certificate is filed. It specifies that if the limited partnership's name is the same as or deceptively similar to a name already on file or reserved or registered with the secretary of state, the secretary of state is required to issue the certificate only if the partnership amends its certificate of limited partnership to change its name.

Regarding conversions, the bill sets forth certain requirements related to filings with the secretary of state and issuance of a certificate of conversion, and it removes language relating to the withdrawal of a partner on conversion of a limited partnership. Regarding mergers, the bill provides for certifying certain information in a statement as an alternative to filing the plan of merger in executing a certificate of merger, and it defines "merger."

House Bill 1319
Effective: 1-1-06

House Author: Giddings
Senate Sponsor: Fraser

House Bill 1319 amends the Business Organizations Code enacted during the 78th Legislature, Regular Session, 2003, to incorporate changes made to the prior source law by bills passed during that legislative session and make those laws consistent with the new code. These bills relate to domestic and foreign business organizations, including general and limited partnerships, limited liability partnerships, and foreign limited liability partnerships, and to nonprofit corporations. House Bill 1319 incorporates simplified procedures for the entities to file certificates of formation and other business documents with the secretary of state and

Business and Commerce

clarifications of certain provisions relating to meetings, voting, mergers, and shareholders. The bill provides that on or after January 1, 2010, the bill's provisions apply to a corporation created under a special statute of this state before January 1, 2006. It allows a filing entity to elect for these provisions to apply to the corporation prior to January 1, 2010, by filing a statement with the secretary of state and taking certain other actions. The bill authorizes a domestic or foreign filing entity whose registration to do business has been revoked or otherwise canceled to reinstate its registration on or after January 1, 2006, and before January 1, 2010.

Senate Bill 446
Effective: 9-1-05

Senate Author: Carona
House Sponsor: Martinez

Senate Bill 446 amends the Business & Commerce Code and the Property Code to regulate stored value cards, including gift cards and gift certificates. The bill requires an expiration date, policy, fee, or other material restriction or contract term applicable to a stored value card to be clearly and conspicuously disclosed to a person at the time the card is sold or issued. Disclosure regarding expiration or a periodic fee that reduces the unredeemed value of the card must be legibly printed on the card. If a stored value card is sold without the required disclosure, it is valid until redeemed or replaced. The bill authorizes the issuer of a stored value card to impose and collect a handling fee, an access fee for an unmanned teller machine transaction, a reissue or replacement charge, or a periodic fee that reduces the unredeemed balance over time if disclosure is provided and the fee is reasonable. The periodic fee cannot be assessed until after the first anniversary of the date the card is sold or issued, nor can it be assessed after the card is presumed abandoned. The bill sets forth the circumstances under which a stored value card is presumed to be abandoned to the extent of its unredeemed and uncharged value, and, for purposes of treating such cards as unclaimed property, it establishes that the address of an apparent owner is the Austin, Texas, address of the comptroller of public accounts if the name and address of the owner are unknown. It requires the comptroller to transfer five percent of money collected from cards presumed to be abandoned for use as student financial assistance grants under the Education Code. It provides that the regulations do not create a cause of action against a person who issues or sells a stored value card and do not apply to prepaid calling cards or certain other cards.

Senate Bill 920
Effective: 6-17-05

Senate Author: Van de Putte
House Sponsor: Anderson

Senate Bill 920 amends the Government Code to require the Texas Historical Commission to create the Texas Treasure Award program to honor businesses that have existed in Texas for 50 years or more. The bill provides for nominations, selection, and recognition under the program.

Business Transactions

House Bill 629
Effective: 9-1-05

House Author: Solomons et al.
Senate Sponsor: Brimer

House Bill 629 amends the Property Code to require notice by a property owner to certain subcontractors on a construction project relating to termination of work or abandonment of performance by the original contractor for purposes of establishing a mechanic's, contractor's, or materialman's lien on retained funds. The bill requires the property owner, not later than the 10th day after the date an original contract is terminated or the original contractor abandons performance under the original contract, to notify each subcontractor who, before the date of

termination or abandonment, gave the requisite notice to establish a lien and who submits a written request by certified or registered mail for notice of termination or abandonment. The bill also specifies what the notice must contain. It provides that a notice sent within the prescribed period is prima facie evidence of the date the original contract was terminated or work was abandoned for purposes of the law, and it provides that a subcontractor who fails to file a timely lien affidavit has a lien to the extent authorized by law if the owner did not provide the notice of termination or abandonment. The provisions do not apply to a residential construction project. Finally, the bill provides that a claimant has a lien on retained funds if the claimant sends the required notices and files an affidavit claiming a lien not later than the 30th day after the earlier of the date the work is completed, the original contract is terminated, or the original contractor abandons performance under the original contract. Under previous law, the claimant was required to file the affidavit within 30 days after the work was completed.

House Bill 982

Effective: 9-1-05

House Author: Reyna

Senate Sponsor: Van de Putte

House Bill 982 amends the Business & Commerce Code to require a restaurant or bar that accepts credit or debit cards to prominently display a sign warning restaurant or bar employees about the criminal penalties for identity theft. The bill specifies the exact wording of the sign, and it requires the sign to be displayed in English and in another language spoken by a substantial portion of the employees. The bill makes failure to comply a misdemeanor offense punishable by a fine of not more than \$25, and it establishes that it is a defense to prosecution that the person charged displays the required sign within 48 hours after receiving a citation.

House Bill 1507

Effective: 9-1-05

House Author: Solomons

Senate Sponsor: Fraser

House Bill 1507 amends the Texas Business Corporation Act to incorporate changes that conform to the Business Organizations Code enacted by the 78th Legislature, Regular Session, 2003. The bill adds the term “limited” to the choice of words, or abbreviations of words, that must be contained in a corporate name, provides that the exclusive right to the use of a corporate name may be reserved by any person, rather than by certain persons, and authorizes a person to renew the reservation of a name for successive 120-day periods by filing a new application and paying the filing fee within 30 days of the reservation’s expiration. It requires a filing with the secretary of state to register a corporate name to include a statement that the corporation validly exists, and it removes a requirement that the filing include a certificate establishing that the corporation is in good standing under the laws of the state or territory wherein it is organized. The bill requires each certificate representing shares issued by a corporation to set forth a full statement, or a reference to such a statement, regarding all the designations, preferences, limitations, and relative rights of the shares, rather than regarding only the limitation or denial of preemptive rights of the shares. It specifies that a shareholder who applies to a court to order an annual meeting of the shareholders of a corporation must have previously submitted a written request to the corporation for the annual meeting, and it specifies provisions that must be included in a corporation’s articles of incorporation if shareholders are to have the preemptive right to acquire additional shares or a cumulative voting right at the election of directors. It removes a requirement that articles of amendment include the date of adoption of the amendment by shareholders or the board of directors of a corporation.

Regarding a plan of merger, the bill clarifies that the plan must set forth the type of entity and jurisdiction of formation, in addition to the name, of each entity that is a party to the merger, and it requires the plan to include the articles of incorporation or other organizational documents of

any new domestic entity, in addition to any new domestic corporation, to be created by the merger and of any entity that is party to the merger that is to survive or be created by the terms of the merger plan and is neither organized under the laws of any state nor required to file organizational documents with a governmental authority. It redefines “organizational documents” and “direct or indirect wholly owned subsidiary” with respect to action on a plan of merger. In computing the fair value of shares held by a dissenting shareholder who demands payment for them, the bill requires consideration to be given to the value of the corporation without including certain payments. The bill allows a corporation, before filing articles of dissolution, to continue its business wholly or partly, including delaying the disposition of property of the corporation, for the period necessary to avoid unreasonable loss of the corporation’s property or business. The bill establishes that the existence of a corporation ceases when a certified copy of the decree of involuntary dissolution is filed with the secretary of state.

House Bill 1507 revises or sets filing deadlines for an application for an amended certificate of authority issued to a foreign corporation to transact business in this state when such corporation changes its name or its purpose, and it authorizes a suit related to transacting business without such a certificate to be brought in Travis County. It makes an offense related to signing a false document with the intent to defraud or harm another a state jail felony.

Senate Bill 149
Effective: 6-17-05

Senate Author: Wentworth
House Sponsor: Giddings

Senate Bill 149 amends the Property Code to allow the holder of an aircraft repair and maintenance lien on an aircraft not registered in the United States to record the lien by filing an affidavit with the secretary of state. The affidavit must state certain information and be filed not later than the 180th day after the date of completion of the contractual storage period or performance of the last repair, fueling, or maintenance. The bill sets forth certain filing fees and requires the secretary of state to maintain indexed records of the information. The bill extends from 30 days to 60 days the deadline for the holder of an aircraft repair and maintenance lien who retains possession of the aircraft to notify the owner of the aircraft and each holder of a lien on that aircraft of certain information pertaining to the repair and maintenance lien once the contractual storage period or last fueling, repair, or maintenance is completed. The bill extends from 60 days to 90 days the period that the lien holder must provide before selling the aircraft for the amount due after the contractual storage period or the last fueling, repair, or maintenance is completed, provided the required notice has been given. The bill also makes it a Class B misdemeanor for a person to improperly obtain possession of an aircraft that is subject to an aircraft repair and maintenance lien.

Senate Bill 335
Effective: 9-1-05

Senate Author: Carona
House Sponsor: Hartnett

Senate Bill 335 amends the Property Code to enact the Uniform Real Property Electronic Recording Act. The bill provides that an electronic document satisfies a law requiring that a document be an original, be on paper, or be in writing as a condition for recording and that an electronic signature satisfies a law requiring a document to be signed. The bill also provides that a requirement that a document or signature be notarized or otherwise witnessed is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. The bill requires the Texas State Library and Archives Commission by rule to adopt standards to implement the Act and requires the commission to consider certain factors in keeping the standards, practices, and technology of county clerks in this state in harmony with recording

offices in other jurisdictions that enact an electronic recording law. The bill amends the Local Government Code to authorize the use of electronic documents in provisions relating to county records.

Senate Bill 359

Effective: 5-17-05

Senate Author: Harris

House Sponsor: Solomons

Senate Bill 359 amends the law relating to rental car damage waivers to revise the notice that must be posted in a conspicuous location if a rental company offers such a waiver. The bill adds language to the notice to inform a renter that the renter's personal automobile insurance policy may or may not provide coverage for a rented vehicle and to advise the renter to determine coverage before deciding whether to purchase a damage waiver. The bill removes language pertaining to Texas personal automobile insurance policies that no longer applies uniformly to all policies.

Senate Bill 495

Effective: 9-1-05

Senate Author: Williams

House Sponsor: Turner

Senate Bill 495 amends provisions of the Government Code relating to the fee paid to the attorney general for examining the record of proceedings authorizing the issuance of a public security or related credit agreement. The bill deletes language setting prescribed examination fees, provides that the fee is equal to the lesser of one-tenth of one percent of the principal amount of the public security to which the record of proceedings relates or \$9,500, and sets the minimum examination fee at \$750. The bill also revises the definition of "record of proceedings" and adds a definition of "credit agreement" for purposes of the examination and registration of public securities.

Senate Bill 709

Effective: 6-18-05

Senate Author: Carona

House Sponsor: Guillen

Senate Bill 709 amends the Business & Commerce Code to increase the maximum late charge or reinstatement fee under a rental-purchase agreement from the lesser of five percent of the delinquent payment or \$5, and not less than \$2, to the lesser of 10 percent of the delinquent payment or \$10, and not less than \$5.

Senate Bill 846

Effective: 5-27-05

Senate Author: Janek

House Sponsor: Chavez

Senate Bill 846 amends the Occupations Code to include sound recordings in the Artists' Consignment Act. The bill specifies that, notwithstanding any provision of the Business & Commerce Code, a consigned sound recording delivered by the artist who produced it to a recording distributor for sale, and the proceeds from the sale, are not subject to a claim, lien, or security interest of a creditor of the recording distributor. The exemption does not apply if the artist delivered the recording pursuant to a sale for which the artist has been paid in full. The bill amends the Business & Commerce Code to exclude sound recordings delivered to a distributor from the application of security interests under the Universal Commercial Code if the Artists' Consignment Act applies to the delivery.

Senate Bill 1563

Effective: 9-1-05

Senate Author: Estes

House Sponsor: McCall

Senate Bill 1563 amends provisions of the Business & Commerce Code relating to negotiable instruments and bank deposits and collections to reflect changes of the National Conference of Commissioners on Uniform State Laws. It updates definitions and other sections to ensure

the coverage of electronic technologies and practices. It also includes new language relating to the discharge of secondary obligors and repeals a provision relating to the joint and several liability for an instrument.

Senate Bill 1593

Effective: 9-1-05

Senate Author: Carona

House Sponsor: Bailey

Senate Bill 1593 modernizes and revises the uniform law on documents of title contained in the Business & Commerce Code. The bill clarifies legal obligations relating to warehouse receipts, bills of lading, and other documents of title, adopts new and updated terminology, and reconciles the law with modern electronic commerce practices.

Consumer Protection

House Bill 210

Effective: 5-27-05

House Author: Solomons

Senate Sponsor: Shapleigh

House Bill 210 revises and updates the Texas Telemarketing Disclosure and Privacy Act. The bill amends the Business & Commerce Code to remove certain qualifications that restricted the eligibility of private vendors to contract with the Public Utility Commission of Texas (PUC) to maintain the Texas no-call list. It also requires the PUC to provide an Internet website for placing or renewing an entry on the list at no charge. The bill establishes that the Texas no-call list is a combined list that includes Texans who requested to be on the national do-not-call registry, and it authorizes the PUC or its designee to provide information on the Texas list to the administrator of the national registry and to allow names on the Texas list to be placed on the national registry. The bill amends the Government Code to exempt information provided to or received from the national registry from public availability under the open records law. It amends the Utilities Code to clarify that limitations on telephone solicitations relating to a customer's choice of retail electric providers apply only to commercial electric customers on the PUC's electric no-call list. It further provides that residential electric customers applying to renew their enrollment on the electric no-call list will be enrolled on the Texas no-call list once their enrollment expires.

House Bill 330

Effective: 5-24-05

House Author: Berman et al.

Senate Sponsor: Deuell

House Bill 330 amends the Property Code to include health savings accounts that comply with provisions of the Internal Revenue Code as a type of savings plan that is exempt from being attached, executed, or seized to satisfy debts. The exemption applies to amounts that qualified as nontaxable rollover contributions on or after January 1, 2004.

House Bill 511

Effective: Vetoed

House Author: Hochberg et al.

Senate Sponsor: Van de Putte

House Bill 511 amends the Business & Commerce Code to require a manufacturer or retailer who offers a rebate, or who uses an independent entity to process a rebate, to mail or electronically pay the amount of the rebate to the consumer within the promised period or, if no date was specified, not later than the 30th day after receiving a properly completed rebate request. The bill specifies when the period begins if the offer is contingent on the consumer continuing to purchase a service for a minimum length of time. If the manufacturer or retailer receives a request that is not properly completed, the bill requires that entity to process the request as if it were properly completed or to notify the consumer by mail or e-mail of the reasons the request

is not properly completed and the consumer’s right to correct the deficiency within 30 days after the date of the notification, and it requires the entity to process the rebate for payment if the consumer corrects the deficiency before the established deadline. It also is required to notify the consumer if it is considering rejecting, or has rejected, the rebate request, and to instruct the consumer of any actions that the consumer may take to cure the deficiency. If the entity erroneously rejects a properly completed rebate request, it is required to pay the consumer as soon as practicable, but not later than 30 days after the date it learns of the error. A violation of this section is actionable under the Deceptive Trade Practices-Consumer Protection Act.

Reason Given for Veto: “Under House Bill No. 511, businesses offering consumer rebates which take more than 30 days to process would be subjected to potential class action lawsuits under the Deceptive Trade Practices Act. This is an unreasonably short period of time, which could subject companies with reasonable procedures for paying rebates to endure expensive and lengthy litigation. These lawsuits could include claims for mental anguish, treble damages and attorneys’ fees, an overly broad and onerous remedy that does not differentiate between companies that withhold rebates unfairly from those that have reasonable payment processes that take more than 30 days.

“Under the guise of consumer protection, this bill would vastly expand class action lawsuits without a direct relationship to demonstrable harm. In these instances, the end result of this bill would be to make the litigation so expensive and so risky that a company could be compelled to pay a large settlement even if it has not harmed anyone.

“The company would also be susceptible to lawsuits if it employs a different procedure for helping consumers fix incorrectly completed rebate applications than the procedure set forth in the bill, or if its notice to a consumer that he has submitted false proof of purchase takes more than 30 days to arrive. The bill also allows retailers to be sued, even though they do not control the mailing of the rebate.

“We want to encourage companies to offer the best prices to Texas consumers. This bill would result in companies offering rebates to consumers in other states, but making them void in Texas.

“Consumer protection laws should not be used as a pretext for the vast expansion of class action and other ‘big ticket’ lawsuits which lead to higher insurance and litigation costs for employers and higher prices to Texas consumers.”

House Bill 698

Effective: 9-1-05

House Author: McCall

Senate Sponsor: Averitt

House Bill 698 amends the Business & Commerce Code to require a business that disposes of a business record that contains certain personal identifying information of a customer of the business to modify, by shredding or erasing or by other means, the information to make it unreadable or undecipherable. The bill provides that a business that fails to dispose of such a business record in the prescribed manner is liable for a civil penalty of up to \$500 for each record, and it authorizes the attorney general to bring an action against the business to recover the penalty and court costs and to obtain any remedy, including injunctive relief. The bill establishes when a business is not liable for the penalty and when a business is not required to modify a record, and it exempts certain entities from the bill’s requirements.

House Bill 853

Effective: 9-1-05

House Author: Solomons et al.

Senate Sponsor: Harris

House Bill 853 adds a new Business & Commerce Code provision relating to the return of merchandise. The bill provides that a merchant or a third party under contract with a merchant who requires a consumer returning an item of merchandise to provide a driver’s license or social security number is authorized to use the number or numbers solely for identification purposes if the consumer does not have a valid receipt for the item being returned and is seeking a cash, credit, or store credit refund. The bill also provides that a merchant or a third party under contract

with a merchant is prohibited from disclosing the number or numbers to any other merchant or third party not involved in the initial transaction; is authorized to use the number or numbers only to monitor, investigate, or prosecute fraudulent return of merchandise; and is required to destroy or arrange for the destruction of records containing the number or numbers after six months from the date of the last transaction. A person who violates this section is liable to the state for a civil penalty in an amount not to exceed \$500 for each violation, and the attorney general or the prosecuting attorney in the county in which the violation occurs is authorized to bring suit to recover the penalty. The attorney general is also authorized to bring an action in the name of the state to restrain or enjoin a violation.

House Bill 1098

Effective: 9-1-05

House Author: McCall et al.

Senate Sponsor: Zaffirini

Phishing, a form of consumer fraud and often identity theft, typically involves an e-mail that misrepresents a real business, directs the e-mail recipient to a phony Internet location mimicking that business's web site, and attempts to collect personal identifying information from the recipient. House Bill 1098 amends the Business & Commerce Code to adopt the Anti Phishing Act. It prohibits a person, with the intent of fraudulently using or possessing someone else's identifying information, from sending or prompting an e-mail to a Texas resident that represents itself falsely as being sent by a legitimate online business, refers or links the e mail recipient to a web page that appears to be associated with that business, and induces, requests, or solicits the recipient to provide identifying information for a purpose that the recipient believes to be legitimate. The bill also prohibits a person with the same intent from creating a web page or Internet domain that represents itself as a legitimate online business without the business owner's authorization, and using the web page, a link to it, the domain name, or another Internet site to similarly induce, request, or solicit someone to provide identifying information. The bill authorizes civil actions to seek injunctive relief, recover damages, or both, if the law is violated. Such actions may be brought by the attorney general or by an Internet service provider or web page or trademark owner who is adversely affected by a violation.

House Bill 1130

Effective: 9-1-05

House Author: Cook, Byron et al.

Senate Sponsor: Ellis

House Bill 1130 adds a Business & Commerce Code provision relating to the adoption of a privacy policy by a person who requires the disclosure of an individual's social security number as part of a business transaction. The bill prohibits such a person from requiring disclosure unless the person adopts a privacy policy, makes it available to the person providing a social security number, and maintains the confidentiality of that information. The bill specifies what the policy must include and provides an exemption for persons, entities, and governmental bodies subject to privacy policies under other state or federal statutes. It provides that a person who violates the provision is liable to the state for a civil penalty of up to \$500 for each month during which a violation occurs, and it authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring suit to recover the penalty. The bill also authorizes the attorney general to bring an action in the name of the state to restrain or enjoin a violation.

House Bill 1379

Effective: 6-18-05

House Author: Jones, Jesse

Senate Sponsor: Deuell

House Bill 1379 adds a new Civil Practice and Remedies Code provision relating to the admissibility of a business record in a civil action relating to identity theft. The bill provides that unless the party offering the record has obtained it from a source other than law enforcement

personnel, the record is not admissible if it is provided to law enforcement personnel in connection with an investigation of an alleged violation involving fraudulent use or possession of personal identifying information.

House Bill 1823

Effective: 9-1-05

House Author: Dutton et al.

Senate Sponsor: Lucio

House Bill 1823 amends the Property Code to provide for certain rights of a purchaser in an executory contract under which the seller holds the deed for the property until the buyer has paid for the property in full. The bill entitles a purchaser, at any time and without paying penalties or charges of any kind, to convert the purchaser's interest in property under an executory contract into recorded, legal title if the purchaser tenders the amount owed or delivers a promissory note for the balance due and simultaneously executes a deed of trust that secures the purchaser's payment and conveys the property to a trustee. The bill also entitles the purchaser to receive a written statement from the seller regarding the amount owed by the purchaser under the contract and the seller's desired trustee for a deed of trust, and it entitles the purchaser to cancel and rescind an executory contract at any time if the purchaser learns that the seller has not properly subdivided or platted the property. The bill establishes requirements and procedures that relate to these rights. It prohibits a potential seller from executing an executory contract if the seller does not own the property in fee simple title free from any liens or other encumbrances, establishes when this prohibition does not apply, and provides that a violation is actionable under the Deceptive Trade Practices-Consumer Protection Act. The bill further amends the Property Code to add certain protections for a purchaser leasing property with an option to buy the property. House Bill 1823 also amends the Local Government Code to require the municipal authority responsible for approving plats to provide certain information about the plat to a purchaser of real property under a contract for deed, executory contract, or other executory conveyance.

House Bill 1833

Effective: 9-1-05

House Author: Chisum

Senate Sponsor: Seliger

House Bill 1833 amends the Business & Commerce Code to require disclosures for certain consumer contracts solicited by mail. The bill requires a person who makes an offer that the recipient may accept by endorsing and negotiating a check or draft to clearly and conspicuously disclose on the check or draft, next to the place for endorsement, that by signing and negotiating the document, the depositor agrees to pay for future goods or services. The bill also requires notice in connection with an offer that includes an incentive with a time limit that results in a contract unless the recipient cancels the offer by the end of the time period. The bill provides that an offer is void if the offeror does not provide the disclosure or notice as required or provides an incentive with a time limit that is less than two weeks. The bill also provides that the delivery of any goods or services does not operate to form a contract if the offer does not contain the disclosure or notice as required or if the offeror fails to honor the recipient's request to cancel made under the terms of the offer. It further provides that a violation of these provisions is actionable under the Deceptive Trade Practices-Consumer Protection Act.

House Bill 1855

Effective: 9-1-05

House Author: Giddings

Senate Sponsor: Ellis

House Bill 1855 amends the Business & Commerce Code to establish certain requirements for a business that accepts checks from customers in the ordinary course of business. The bill requires the business to delete any electronic record indicating that a customer has issued a dishonored check or any other information, with certain exceptions, on which the business bases

a refusal to accept a check. The bill requires the deletion not later than the 30th day after the date the customer and the business agree that the information contained in the record is incorrect or the customer presents certain information to the business. The bill provides that a business that violates the requirements is liable to the state for a civil penalty of up to \$1,000 and authorizes the attorney general to sue to collect the penalty and to recover reasonable expenses.

House Bill 1893

Effective: 6-17-05

House Author: Eiland

Senate Sponsor: Averitt

House Bill 1893 amends the Business & Commerce Code to authorize a consumer reporting agency to furnish a person with a consumer report that contains information the person needs in order to avoid violating a federal law prohibiting a person convicted of certain offenses from engaging in certain insurance business activities.

Senate Bill 99

Effective: 9-1-05

Senate Author: Ellis et al.

House Sponsor: Giddings

Senate Bill 99 amends the Business & Commerce Code to prohibit a person from denying an extension of credit, including a loan, or restricting the amount of credit extended to an individual solely because the individual has been a victim of identity theft. The bill makes a license issued under the Finance Code that is held by a person who violates this prohibition subject to revocation or suspension. The bill also amends the Insurance Code to authorize a property and casualty insurer in this state to offer and issue insurance coverage for a loss suffered by a policyholder who is the victim of identity theft or attempted identity theft. The coverage may be offered as a separate insurance policy or as a rider or endorsement to certain other policies and may be underwritten and issued as an individual or group insurance policy. The commissioner of insurance is authorized to adopt rules as necessary to implement the chapter.

Senate Bill 122

Effective: 9-1-05

Senate Author: Hinojosa et al.

House Sponsor: Giddings

Senate Bill 122 amends the Business & Commerce Code to create the Identity Theft Enforcement and Protection Act. The bill prohibits a person from obtaining, possessing, transferring, or using certain personal identifying information of another person, without the other person's consent, to obtain a good, service, insurance, extension of credit, or any other thing of value in the other person's name. The bill imposes a duty on persons who conduct business in Texas to protect and safeguard certain personal information collected or maintained in the regular course of business and to provide notification to affected persons residing in Texas of a breach of security of computerized data containing certain personal information. The bill sets out specific procedures for and exceptions to notification. The bill provides that a person who violates this act is liable to the state for certain civil penalties recoverable by the attorney general and sets out procedures for such an action. The bill also makes this activity actionable under the Deceptive Trade Practices Act. Senate Bill 122 allows certain victims of identity theft to file an application with a district court for the issuance of a court order declaring that the person is a victim of identity theft. The bill sets out procedures for issuing and vacating such an order and makes the order confidential, except for use in certain civil proceedings. The bill also amends the Code of Criminal Procedure to require a peace officer to whom an alleged act of fraudulent use of identifying information has been reported to make a written report to the officer's employing agency that includes certain information about the victim and the theft and to authorize the report to be given to the victim if requested by the victim.

Senate Bill 327

Effective: 9-1-05

Senate Author: Zaffirini et al.

House Sponsor: McCall

Senate Bill 327 amends the Business & Commerce Code by adding Chapter 48, the Consumer Protection Against Computer Spyware Act, to combat unauthorized computer software that is put into a person's computer to gather information about the person and relay it to advertisers or other interested parties. The bill prohibits a person, other than the owner or operator of the computer, from knowingly causing computer software to be copied to a computer in this state and using the software to collect personally identifiable information; cull from the hard drive credit card, debit card, or bank account numbers, passwords, social security numbers, or account balances or history; modify computer settings; damage the computer; interfere with efforts to block the installation of or to disable unwanted computer software; or perform certain other actions by intentionally deceptive means. The bill authorizes an Internet service provider and certain other persons to file suit for injunctive relief and to recover damages in an amount equal to actual damages or \$100,000 per violation, whichever is greater. It authorizes a court to award an amount up to three times the actual damages if the court finds that the frequency of violations constitutes a pattern; and it authorizes a telecommunications carrier or cable operator to take certain actions if the carrier or operator incurs costs related to calls over a customer's modem as a result of a violation. It establishes that a person who violates this chapter is liable to the state for a civil penalty in an amount not to exceed \$100,000 for each violation, and it authorizes the attorney general to bring suit to recover the penalty. The attorney general is also authorized to issue a temporary restraining order or permanent or temporary injunction to restrain a violation and to recover reasonable attorney's fees and court costs in obtaining injunctive relief or civil penalties. Prohibitions in the act do not apply to a service provider that monitors or has interaction with a subscriber's Internet or other network connection or to a multichannel video programming distributor that uses a navigation device or collects or discloses subscriber information subject to federal regulation.

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

HB 607 - Financial Institutions

HB 955 - Financial Institutions

HB 1919 - Property Interests

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 68

Effective: 9-1-05

House Author: McClendon

Senate Sponsor: Williams

House Bill 68 amends the Civil Practice and Remedies Code to increase from six months to 12 months the time period in which the occurrences of criminal gang activity can be accrued in calculating whether such activity rises to the classification of public nuisance.

House Bill 107

Effective: 6-18-05

House Author: Van Arsdale et al.

Senate Sponsor: Carona

House Bill 107 amends provisions of the Civil Practice and Remedies Code relating to personal responsibility for food consumption. The bill provides that a manufacturer, seller, trade association, livestock producer, or agricultural producer is not liable for any claim arising out of weight gain or obesity or any associated or allegedly associated health condition resulting from long-term consumption of food. House Bill 107 does not prohibit a person from bringing an action for an injury related to an individual's weight gain, obesity, or related health condition if the proximate cause of the injury is a manufacturer or seller of food who knowingly or wilfully violates certain federal or state statutes. The bill does not prohibit a person from bringing an action under the Texas Food, Drug, and Cosmetic Act or under certain provisions of the Deceptive Trade Practices Act. House Bill 107 sets out provisions relating to pleadings and stays and requires a court to immediately dismiss any pending action under its jurisdiction filed on or after June 1, 2005, that, under the law as amended by this bill, could not be brought before the court.

House Bill 616

Effective: 9-1-05

House Author: Callegari

Senate Sponsor: Lindsay

House Bill 616 amends provisions of the Civil Practice and Remedies Code relating to a landowner's liability for injuries incurred during recreational activities on the landowner's property. The bill amends the definition of "recreational activities" to clarify that pleasure driving includes the off-road driving of motorcycles, automobiles, and all-terrain vehicles and to include bicycling, mountain biking, disc golfing, and dog walking. House Bill 616 extends the limitation on liability relating to certain recreational activities to all governmental units and adds soap box derby use to such activities. Previous law provided the limitation to the state, municipalities, and counties. The bill stipulates that if a person enters premises owned, operated, or maintained by a governmental unit and engages in certain recreational activities, the governmental unit does not owe to the person a greater degree of care than is owed to a trespasser on the premises.

House Bill 729

Effective: 5-17-05

House Author: Nixon

Senate Sponsor: Janek

House Bill 729 amends the Civil Practice and Remedies Code to clarify that in a court proceeding relating to a judgment for the collection of debt, a court is authorized to enter or enforce an order that requires the turnover of nonexempt property without identifying in the order the specific property subject to turnover.

Civil Remedies and Procedures

House Bill 735**Effective:** 9-1-05

House Bill 735 amends Chapter 26, Business & Commerce Code, to update citations to Chapter 74, Civil Practice and Remedies Code, relating to medical liability.

House Author: Nixon**Senate Sponsor:** Duncan**House Bill 736****Effective:** 9-1-05

House Bill 736 amends Chapter 84, Civil Practice and Remedies Code, to update citations to Chapter 74, Civil Practice and Remedies Code, relating to medical liability.

House Author: Nixon**Senate Sponsor:** Duncan**House Bill 737****Effective:** 9-1-05

House Bill 737 amends Chapter 88, Civil Practice and Remedies Code, to update citations to Chapter 74, Civil Practice and Remedies Code, relating to medical liability.

House Author: Nixon**Senate Sponsor:** Duncan**House Bill 738****Effective:** 9-1-05

House Bill 738 amends Chapter 81, Health and Safety Code, to update citations to Chapter 74, Civil Practice and Remedies Code, relating to medical liability.

House Author: Nixon**Senate Sponsor:** Duncan**House Bill 739****Effective:** 9-1-05

House Bill 739 amends Chapter 241, Health and Safety Code, to update citations to Chapter 74, Civil Practice and Remedies Code, relating to medical liability.

House Author: Nixon**Senate Sponsor:** Duncan**House Bill 740****Effective:** 9-1-05

House Bill 740 amends Chapter 578, Health and Safety Code, to update citations to Chapter 74, Civil Practice and Remedies Code, relating to medical liability.

House Author: Nixon**Senate Sponsor:** Duncan**House Bill 741****Effective:** 9-1-05

House Bill 741 amends Chapter 611, Health and Safety Code, to update citations to Chapter 74, Civil Practice and Remedies Code, relating to medical liability.

House Author: Nixon**Senate Sponsor:** Duncan**House Bill 742****Effective:** 9-1-05

House Bill 742 amends Chapter 159, Occupations Code, to update citations to Chapter 74, Civil Practice and Remedies Code, relating to medical liability.

House Author: Nixon**Senate Sponsor:** Duncan**House Bill 743****Effective:** 9-1-05

House Bill 743 amends Chapter 160, Occupations Code, to update citations to Chapter 74, Civil Practice and Remedies Code, relating to medical liability.

House Author: Nixon**Senate Sponsor:** Duncan**House Bill 744****Effective:** 9-1-05

House Bill 744 amends Chapter 164, Occupations Code, to update citations to Chapter 74, Civil Practice and Remedies Code, relating to medical liability.

House Author: Nixon**Senate Sponsor:** Duncan

House Bill 755

Effective: 9-1-05

House Author: Gattis

Senate Sponsor: Duncan

House Bill 755 amends the Civil Practice and Remedies Code to require, rather than authorize, the court to include, among other things, consideration of the extent to which an injury or death resulted from acts or omissions that occurred in Texas when determining whether to grant a motion to stay or dismiss an action under the doctrine of forum non conveniens. The bill requires a court that grants a motion to stay or dismiss an action under the doctrine to set forth specific findings of fact and conclusions of law. House Bill 755 deletes language prohibiting such a stay or dismissal under certain conditions.

House Bill 854

Effective: 5-27-05

House Author: Madden

Senate Sponsor: Estes

Currently, registered architects and licensed professional engineers are provided certain protections in an action for damages alleging professional negligence. House Bill 854 amends the Civil Practice and Remedies Code to provide registered professional land surveyors with the same protections.

House Bill 1294

Effective: 6-18-05

House Author: Rose et al.

Senate Sponsor: Williams

House Bill 1294 amends the Civil Practice and Remedies Code to provide that a county court at law or a county court, as well as a district court, may issue a written order for interlocutory appeal in a civil action not otherwise appealable, if certain conditions are met.

House Bill 1690

Effective: 9-1-05

House Author: Keel et al.

Senate Sponsor: West, Royce

House Bill 1690 amends the Civil Practice and Remedies Code to expand provisions relating to common nuisance suits to include condominium complexes. The bill includes a council of owners of a condominium project or a condominium unit owners' association among those who can be sued for a common nuisance and sets out the factors that must be considered in bringing such a suit, including the owner's prompt notification and cooperation with the appropriate authorities. The bill adds that a person must knowingly tolerate prohibited activities and further must fail to make reasonable attempts to abate the activities to establish that a common nuisance exists at places, including multiresidential unit properties, to which people habitually go to commit certain acts. The activities prohibited as a public nuisance are defined as the same for both types of property. House Bill 1690 also sets out provisions relating to the admissibility, inadmissibility, and evidentiary import of certain actions of the defendant in addressing a common nuisance on the defendant's property.

House Bill 2039

Effective: 9-1-05

House Author: Nixon et al.

Senate Sponsor: Wentworth

House Bill 2039 amends the Local Government Code to statutorily provide for the adjudication of claims arising under written contracts with local governmental entities. The bill defines a "local governmental entity" to mean a political subdivision of the state other than a county or a unit of state government, as defined in the Government Code, and includes a municipality, public school or junior college district, and a special-purpose district or authority. The bill provides that a local governmental entity authorized by statute or the constitution to enter into contracts is not immune from suits arising from those contracts, subject to certain specified restrictions and limitations.

House Bill 2645

Effective: 9-1-05

House Bill 2645 amends the Civil Practice and Remedies Code to clarify that an expert report for a medical malpractice suit is due no later than the 120th day after the date the original petition is filed.

House Author: Nixon

Senate Sponsor: Wentworth

House Bill 2988

Effective: 9-1-05

House Bill 2988 amends the Government Code to clarify that statutory prerequisites to a suit, including the provision of notice, are jurisdictional requirements in all suits against a governmental entity.

House Author: Nixon

Senate Sponsor: Ellis

Senate Bill 15

Effective: 9-1-05

Senate Bill 15 amends the Civil Practice and Remedies Code to establish a defined procedure for claims involving asbestos-related and silica-related injuries. The bill raises the threshold for bringing a civil claim involving exposure to asbestos or silica. The bill provides that a person is eligible to bring a civil claim if the person is seeking recovery of damages for or arising from an asbestos-related or a silica-related injury or death, rather than for exposure to asbestos and silica with no functional impairment evidenced. The bill sets out the requirements and procedures relating to the reports and diagnoses necessary for such claims and the requirements for a motion to dismiss and voluntary dismissal of claims. The bill also makes any action pending as of September 1, 2005, subject to multidistrict litigation proceedings. Senate Bill 15 provides that nothing in these provisions is intended to affect the rights of any party in a bankruptcy proceeding or the ability of any person to satisfy the claim criteria for compensable claims or demands under certain trusts. The bill provides that, unless all parties agree otherwise, claims relating to more than one exposed person may not be joined for a single trial, and the bill authorizes the Supreme Court of Texas to promulgate rules regarding the joinder of claimants in claims involving asbestos-related and silica-related injury if the rules are consistent with the bill's joinder-of-claimants provision.

Senate Author: Janek et al.

House Sponsor: Nixon et al.

Senate Bill 15 sets out a schedule of dates from which the cause of action will accrue for personal injury or death resulting from asbestos-related or silica-related injuries. The bill authorizes an appeal from an interlocutory order that denies a motion to dismiss such an action and requires trial courts to give priority in setting the court docket to actions in which a claimant has been diagnosed with malignant mesothelioma, other malignant asbestos-related cancer, malignant silica-related cancer, or acute silicosis. The bill also prohibits certain entities that offer a health benefit plan or an annuity or life insurance policy or contract in Texas from using the fact that a person has been exposed to asbestos fibers or silica or has filed a claim due to such exposure to reject, deny, limit, cancel, refuse to renew, increase the premium for, or otherwise adversely affect the person's eligibility for coverage under the policy or contract. Senate Bill 15 also provides that there is a direct accelerated appeal to the Supreme Court of Texas from orders based on the constitutionality or validity of the provisions as added by the act.

Senate Bill 554

Effective: 9-1-05

Senate Bill 554 amends Chapter 88, Civil Practice and Remedies Code, relating to the liability resulting from the duty of certain insurance carriers, health maintenance organizations,

Senate Author: Duncan

House Sponsor: Gattis

and other managed care entities to exercise ordinary care. The bill clarifies that Chapter 88 does not apply to an employee benefit plan regulated under the federal Employee Retirement Income Security Act of 1974 (ERISA).

Senate Bill 555

Effective: 9-1-05

Senate Author: Janek

House Sponsor: Uresti

Senate Bill 555 amends the Civil Practice and Remedies Code to require the Texas Medical Disclosure Panel to make certain medical and treatment risk disclosure forms available in both English and Spanish.

Senate Bill 890

Effective: 6-9-05

Senate Author: Williams

House Sponsor: Nixon

Senate Bill 890 amends the Civil Practice and Remedies Code to provide that if the claimant in a personal injury case has settled with one or more persons, the court shall further reduce the amount of damages to be recovered by the claimant by the sum of the dollar amounts of all settlements. The bill also eliminates the option to reduce the amount of damages by a percentage equal to each settling person's percentage of responsibility.

Senate Bill 1224

Effective: 9-1-05

Senate Author: Duncan

House Sponsor: Rose

Senate Bill 1224 amends provisions of the Civil Practice and Remedies Code relating to a landowner's liability for injuries incurred during recreational activities on the landowner's property. The bill amends the definition of "recreational activities" to clarify that pleasure driving includes the off-road driving of motorcycles, automobiles, and all-terrain vehicles and to include bicycling, mountain biking, disc golfing, and dog walking. Senate Bill 1224 extends the limitation on liability for certain recreational activities to all governmental units. Previous law provided the limitation to the state, municipalities, and counties. The bill stipulates that if a person enters premises owned, operated, or maintained by a governmental unit without specific permission and engages in certain recreational activities, the governmental unit does not owe to the person a greater degree of care than is owed to a trespasser on the premises.

Senate Bill 1450

Effective: 9-1-05

Senate Author: Averitt

House Sponsor: Hopson

Senate Bill 1450 amends the Finance Code to provide that the reference point for the prime rate when defining the post judgment interest rate in a money judgment of a court is the rate as published by the Board of Governors of the Federal Reserve System, rather than by the Federal Reserve Bank of New York.

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

HB 1379 - Business and Commerce

HB 2868 - Alcoholic Beverages

SB 442 - Occupational Regulation

Corrections

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

House Bill 43

Effective: 9-1-05

House Author: Davis, Yvonne

Senate Sponsor: Ellis

House Bill 43 amends the Government Code to require the Texas Department of Criminal Justice to test an inmate who is eligible for release from prison or state jail for HIV before the inmate is released and to report the results of a positive HIV test to the Department of State Health Services for certain notification and reporting purposes.

House Bill 93

Effective: 9-1-05

House Author: Riddle

Senate Sponsor: Janek

House Bill 93 amends the Health and Safety Code to require the death certificate of a person who was an inmate of the Texas Department of Criminal Justice at the time of death and who was lawfully executed to classify the manner of death as death caused by judicially ordered execution.

House Bill 157

Effective: 9-1-05

House Author: Cook, Byron et al.

Senate Sponsor: Averitt

House Bill 157 amends the Code of Criminal Procedure to specify that a judge must require, as a condition of community supervision, that a person who is convicted of driving while intoxicated must spend not less than 72 hours of continuous confinement in county jail. Currently, the time of confinement required is at least three days but can be calculated to result in actual confinement time of less than 72 hours.

House Bill 681

Effective: 9-1-05

House Author: Gattis

Senate Sponsor: Ogden

House Bill 681 amends the Government Code to provide that a final order relating to a frivolous application for a writ of habeas corpus, defined as an application brought by an inmate for the purpose of abusing judicial resources, requires the Texas Department of Criminal Justice to forfeit certain amounts of good conduct time for an inmate bringing such an application.

House Bill 1262

Effective: 9-1-05

House Author: Farabee

Senate Sponsor: Seliger

House Bill 1262 amends Government Code provisions requiring the Department of Public Safety to collect, record, and disseminate information relating to a person's expression of intent to inflict serious bodily injury or death on a peace officer and to alert the peace officer of such a threat. The bill extends the provisions to include information regarding threats against detention officers employed in municipal or county jails.

House Bill 1681

Effective: 9-1-05

House Author: McCall

Senate Sponsor: Seliger

House Bill 1681 amends the Government Code to specify that, although a penal institution may not hold an inmate past the inmate's statutory release date, the institution may use disciplinary action resulting in the loss of good conduct time if an inmate refuses to provide a blood sample or other specimen for the state DNA database. The bill defines "statutory release date" as the date on which an inmate is discharged from the inmate's controlling sentence.

House Bill 1896

Effective: Vetoed

House Author: Hodge et al.

Senate Sponsor: Whitmire

The law allows certain offenders whose parole, mandatory supervision, or conditional pardon is revoked on or after September 1, 2001, and who have less than 50 percent of their sentence left to serve to be credited with the time spent on parole, mandatory supervision, or conditional pardon. House Bill 1896 makes this provision retroactive to revocations issued before September 1, 2001.

Reason Given for Veto: “House Bill No. 1896 would retroactively allow the crediting of time served on parole to certain felons who are returned to prison after their parole or mandatory supervision is revoked. This would effectively shorten the length of prison time an offender serves.

“Retroactively crediting parolees who have been revoked from parole with time served on the street prior to revocation is tantamount to rewarding bad behavior. Furthermore, it is dangerous public safety policy.”

House Bill 2193

Effective: Vetoed

House Author: Madden et al.

Senate Sponsor: Whitmire

House Bill 2193 amends provisions of the Code of Criminal Procedure, the Health and Safety Code, the Government Code, and the Local Government Code to make changes to the system of community supervision. The bill reduces from 10 years to five years the length of initial probation and deferred adjudication terms a judge is authorized to impose on certain felony offenders and allows the judge to extend the length of initial probation for up to 10 years, under certain circumstances. The bill maintains the 10-year probation period for certain violent felony offenders and sex offenders, but removes a judge’s authority to extend the period of probation. House Bill 2193 provides for a mandatory judicial review after a defendant has served one-half of the term to determine whether to reduce or terminate community supervision. Certain provisions of the bill relating to the reduced terms of community supervision apply to persons currently under community supervision.

House Bill 2193 requires certain counties to establish drug courts and provides for a court fee of \$50 to be assessed against persons convicted of certain intoxication offenses to fund the drug courts. The bill also requires the Texas Department of Criminal Justice to establish a pilot program that provides grants to local probation departments to implement a system of progressive sanctions. The bill makes other changes regarding credit to defendants for time spent in a court-ordered residential program or facility, a judge’s discretion to require community service as a condition of community supervision, the administration of probation departments, and judicial immunity.

Reason Given for Veto: “House Bill No. 2193 would reduce the maximum period of probation for certain third degree felonies from 10 to 5 years. This bill would shorten the probation for those who are convicted of assault on a peace officer and taking a weapon away from a peace officer. I will not sign legislation that reduces penalties for offenses against law enforcement officers.

“This bill would also reduce the maximum period of probation for offenses such as kidnapping, injury to a child, repeated spousal abuse, intoxication assault and habitual felony drunk driving. These are serious crimes and I do not believe Texas should reduce probationary sentences for offenders who endanger the lives of others in such crimes.

“House Bill No. 2193 would also add court fines to expand drug courts in Texas; however, there was no appropriation of these new revenues and the intended purpose would not be funded.

“Attempts to improve this legislation that would have provided greater public safety were rebuffed, ensuring a flawed piece of legislation that would endanger public safety made it to my desk instead of one that could have made needed improvements to our probation system.

“This legislation has raised concerns from many on the front lines of prosecuting these crimes, and I can only conclude their opposition stems from good cause.

“Senate Bill No. 1, the Appropriations Bill, provides \$55 million in additional funding for probation officers, which will help reduce their caseloads, and I support that funding.”

House Bill 2195

Effective: 6-18-05

House Author: Madden

Senate Sponsor: Whitmire

House Bill 2195 amends the Health and Safety Code to provide that the health care information of a patient who is a defendant or an inmate in state prison is allowed to be exchanged between health care personnel of the Department of Health and health care personnel of The University of Texas Medical Branch at Galveston or the Texas Tech University Health Sciences Center. The bill provides that the authorization of the defendant or inmate is not required for the exchange of the information.

House Bill 2197

Effective: 6-18-05

House Author: Madden

Senate Sponsor: Whitmire

House Bill 2197 amends the Government Code to include an inmate’s Texas Department of Criminal Justice photograph in the list of items subject to disclosure under the Texas open records law.

House Bill 2837

Effective: 9-1-05

House Author: Allen, Ray

Senate Sponsor: Seliger

House Bill 2837 amends the Education Code to provide that the Windham School District must ensure that its educational programs, such as GED and ESL, are integrated with an applied vocational context leading to employment and to prioritize the programs that result in certification or licensure. The bill requires the district to evaluate the effectiveness of training services provided to persons confined or imprisoned in the Texas Department of Criminal Justice (TDCJ) in consultation with the Legislative Budget Board (LBB) and requires the LBB to submit an annual report to state leadership based on the evaluation data. The district is also required, rather than authorized, to coordinate vocational education and job training programs with certain agencies to ensure that district students are equipped with the skills necessary to compete for current and emerging jobs. House Bill 2837 amends the Labor Code to include persons committed to the Texas Youth Commission (TYC) in reintegration of offender programs (Project RIO) administered by the Texas Workforce Commission (TWC) and eliminates TWC’s responsibilities in relation to developing a memorandum of understanding relating to Project RIO and an annual report. The bill also requires TWC, TYC, and TDCJ to establish a data interface to assist in the reintegration of former offenders into the labor force and sets out parameters for the interface.

House Bill 2839

Effective: 9-1-05

House Author: Allen, Ray

Senate Sponsor: Harris

House Bill 2839 amends the Government Code to add an institution of higher education to the list of those with whom the Texas Department of Criminal Justice may contract for the sale of prison-made articles or products. The bill requires contracts for services with private businesses entered into by the prison industries office to be certified by the Private Sector Prison Industries Oversight Authority as complying with all requirements of the Private Sector/Prison Industry Enhancement Certification Program and to be certified by the authority that the contract would not cause the loss of certain existing jobs in this state. The contracts also must be approved by

the Texas Board of Criminal Justice. The bill limits the number of work program participants in the prison industries office contracts to not more than 500 and exempts payment of the participants from certain wage requirements.

Senate Bill 396

Effective: 6-17-05

Senate Author: Seliger

House Sponsor: Allen, Ray

Senate Bill 396 amends the Health and Safety Code to add the Correctional Managed Health Care Committee to the list of agencies required to exchange information relating to certain offenders with special needs and to reflect the reorganization of Texas health and human services agencies and the abolition of the Criminal Justice Policy Council.

Senate Bill 1264

Effective: 9-1-05

Senate Author: Whitmire

House Sponsor: Allen, Ray

Senate Bill 1264 amends the Government Code to allow the Commission on Jail Standards to collect reasonable fees to cover the cost of reinspecting a municipal or county jail in response to a request by a jail operator for reinspection following a determination by the commission that the jail does not comply with minimum standards. The bill also requires that money paid to the commission be deposited to a special account to pay for inspection services provided by the commission.

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

HB 129 - Local Government

HB 549 - Criminal Justice

HB 2077 - Criminal Justice

HB 2196 - State Government

HB 2384 - Human Services

SB 665 - Health

SB 951 - Local Government

Courts

This chapter covers legislation on the jurisdiction, administration, and personnel of municipal, county, district, and appellate courts, including salaries and retirement benefits. 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 11 (2nd C.S.)
Effective: 12-1-05

House Author: Hartnett et al.
Senate Sponsor: Duncan

House Bill 11 amends the Government Code and the Human Resources Code to increase the salaries and retirement benefits of state-paid judges. The bill also has the effect of increasing retirement benefits for retired statewide elected officers, legislators, and district attorneys and provides for recomputation of those benefits for certain retired state-paid judges. The bill also increases the annual salary supplement to which a county judge is entitled if at least 40 percent of the functions that the judge performs are judicial functions. The bill amends the Local Government Code to fund the raises through an additional filing fee in the civil courts of \$37 per case and \$4 per conviction in certain criminal cases. House Bill 11 amends the Government Code to require the collection of data relating to judicial turnover, specifically the rate at which state judges resign from office or do not seek reelection and the reason behind such actions. The bill makes the necessary appropriations to implement the new judicial salary structure.

House Bill 75
Effective: 9-1-05

House Author: Hope
Senate Sponsor: Duncan

House Bill 75 amends the Code of Criminal Procedure and the Government Code to provide that, pursuant to a plan approved by the county commissioners court, a court's designee may hear and determine a prospective juror's excuse for not serving as a juror in a civil or criminal case. A juror may be discharged if the juror submits to the court's designee a statement of the ground of the exemption or lack of qualification or other excuse and it is considered sufficient.

House Bill 231
Effective: 9-1-05

House Author: Hartnett et al.
Senate Sponsor: Wentworth

House Bill 231 amends the Civil Practice and Remedies Code to allow the use of special judges in civil and family law matters in statutory probate courts and county courts, as well as in district courts. The bill authorizes the judge, on agreement of the parties in civil and family law cases, to order referral of a case pending in the judge's court to a special judge. The bill further provides that the applicable rules and statutes relating to evidence and procedure are those of the referring court and that the special judge has the same powers as the referring judge, with certain exceptions.

House Bill 646
Effective: 9-1-05

House Author: Otto
Senate Sponsor: Seliger

House Bill 646 amends the Code of Criminal Procedure to clarify that the office of the attorney general is entitled to obtain any court record from a district court, county court, state agency, or office of an attorney representing the state that is needed for federal habeas review. The bill requires the agency, office, or court to provide the records to the attorney general not later than the 10th day after the date the request is received without restriction or delay.

House Bill 1326
Effective: 5-30-05

House Author: Hope et al.
Senate Sponsor: Whitmire

House Bill 1326 amends provisions of the Government Code relating to community supervision and corrections departments in judicial districts and to the immunity of certain judges for administrative acts in connection with those departments. Previous law required the district judge trying criminal cases in each judicial district to establish a community supervision and corrections department, approve the community justice plan, employ personnel, and perform other management duties of the department. House Bill 1326 shifts the responsibility for management, operation, and administration of the department to the department director. The bill also requires statutory county court judges trying criminal cases in the counties served by a judicial district to participate with the district judges in the establishment of the department and approval of the department's budget and community justice plan.

House Bill 1470
Effective: 6-18-05

House Author: Hegar
Senate Sponsor: Hinojosa

House Bill 1470 amends the Code of Criminal Procedure to authorize a community supervision and corrections department to collect certain administrative fees owed to a county resulting from a criminal matter, regardless of the size of the county's population, with the written approval of the clerk of the court or fee officer and to collect money payable as otherwise provided by law.

House Bill 1642
Effective: 9-1-05

House Author: Hartnett et al.
Senate Sponsor: Harris

House Bill 1642 amends the Government Code to provide that in a county with a population of 50,000 or more, a court may appoint certain spoken language interpreters who are not certified or licensed court interpreters if the relevant language is not Spanish and the court finds that there is no appropriate licensed court interpreter within 75 miles.

House Bill 1686
Effective: 9-1-05

House Author: Oliveira
Senate Sponsor: Wentworth

House Bill 1686 amends the Government Code to increase the salary of presiding judges of administrative judicial regions to a maximum of \$33,000 a year. The bill increases the salaries of certain other presiding judges who are retired or former district judges or who are retired appellate judges by \$10,000 a year.

House Bill 1934
Effective: 9-1-05

House Author: Gonzalez Toureilles et al.
Senate Sponsor: Gallegos

House Bill 1934 amends the Code of Criminal Procedure to require a defendant convicted of a misdemeanor offense in a justice court to pay a \$4 security fee as a cost of court for courthouse security and to provide for the distribution of the funds.

House Bill 2200
Effective: 9-1-05

House Author: Thompson
Senate Sponsor: Carona

House Bill 2200 amends the Government Code to conform statutes relating to a certified court interpreter to agency changes enacted in House Bill 2292, 78th Legislature, Regular Session. The bill clarifies that a court proceeding includes an arraignment, deposition, mediation, court-ordered arbitration, or other form of alternative dispute resolution and references the Texas

Court Reporters Association, rather than Court Reporters Certification Board, as the certification organization for persons providing translation services for a hearing-impaired individual in court proceedings.

House Bill 2200 amends the Civil Practice and Remedies Code and Code of Criminal Procedure to require the interpreter in a court proceeding to hold a current legal certificate issued by the National Registry of Interpreters for the Deaf or a current state court interpreter certificate.

House Bill 2414
Effective: 6-18-05

House Author: Keffer, Jim
Senate Sponsor: Fraser

House Bill 2414 amends the Government Code to allow a county where there is only one district court and only one county court at law to use a single jury pool interchangeably between the two courts.

House Bill 2518
Effective: 6-18-05

House Author: Coleman et al.
Senate Sponsor: Duncan

House Bill 2518 amends the Health and Safety Code to expand the scope of a mental health court program to include persons who have been arrested for or charged with a felony and to address incompetency to stand trial issues. The bill specifies that a mental health court program must meet certain requirements relating to the voluntary nature of the program, the availability of legal counsel, individualized treatment plans, and the probationary period of the program.

House Bill 3531
Effective: 10-1-05

House Author: Jackson, Jim
Senate Sponsor: Harris

House Bill 3531 amends the Human Resources Code to require that the Dallas County district and county courts administrator be appointed by the local administrative district judge and the judges of the district courts in Dallas County that give preference to civil, criminal, family law, or juvenile matters. The bill abolishes the Dallas County child support office and family services department and creates the Dallas County domestic relations office. The bill establishes provisions relating to the appointment and supervision of the director of the office by the judges of district courts in Dallas County that give preference to family law matters. The bill also establishes the office of the Dallas County criminal district courts administrator and provides for the appointment and supervision of the administrator by the judges of the district courts in Dallas County that give preference to criminal matters.

In addition, House Bill 3531 amends the Family Code to require that a court-ordered parent education and family stabilization course be made available in both English and Spanish in a county with a population of more than two million that is adjacent to a county of more than one million.

House Joint Resolution 87
For Election: 11-8-05

House Author: Farabee
Senate Sponsor: Lindsay

House Joint Resolution 87 proposes a constitutional amendment to add one additional public member and one judge of a constitutional county court to the membership of the State Commission on Judicial Conduct. The proposed amendment also sets out certain geographical restrictions on members of the commission.

Senate Bill 291

Effective: 9-1-05

Senate Author: West, Royce

House Sponsor: Alonzo et al.

Senate Bill 291 amends the Government Code to update the index of Texas court costs, fees, and penalties to provide a complete and comprehensive list of those currently in Texas statutes.

Senate Bill 348

Effective: 5-3-05

Senate Author: Wentworth

House Sponsor: Naishtat

Senate Bill 348 amends the Health and Safety Code to authorize courts with jurisdiction over emergency detention or court-ordered treatment proceedings to be open only during normal business hours but requires that a probate judge or magistrate be available at all times if so requested by a person taken into custody, detained, or proposed to be made a patient under court ordered treatment.

Senate Bill 436

Effective: 9-1-05

Senate Author: Gallegos

House Sponsor: Solis

Senate Bill 436 amends the Government Code to require a person who vacates the office of justice of the peace to transfer all court records, documents, property, and unfinished business to the person's successor on the date the successor takes office. The bill also requires the business of the office to be completed by the successor.

Senate Bill 451

Effective: 9-1-05

Senate Author: Wentworth

House Sponsor: Hartnett

Senate Bill 451 amends the Code of Criminal Procedure and the Government Code to exclude a person who is under indictment or legal accusation or who has been convicted of misdemeanor theft from appearing as a grand or petit juror. The bill also provides that a jury commissioner is not qualified to be selected for or to serve as a grand juror during the term of court for which the commissioner is serving as a commissioner.

Senate Bill 550

Effective: 9-1-05

Senate Author: Duncan

House Sponsor: Hartnett

Senate Bill 550 amends the Government Code to allow the salary of the bailiff of the 106th District Court to be paid out of either the general fund or the courthouse security fund of each county. The bill also allows the security fund of the courthouse or a municipal court building to be used to finance security personnel for a district, county, justice, or municipal court.

Senate Bill 1147

Effective: 6-17-05

Senate Author: Harris

House Sponsor: Hartnett

Senate Bill 1147 amends the Family Code to provide that the law relating to contracting with former or retired agency employees does not apply to the appointment of a visiting associate judge who is appointed for child protection cases and child support Title IV-D cases.

Senate Bill 1704

Effective: See below

Senate Author: Ellis et al.

House Sponsor: Hartnett et al.

Senate Bill 1704 amends the Government Code to provide that jurors be paid a minimum of \$40 a day, after the first day of service. The bill requires the state to reimburse the county for the increase at a rate of \$34 per juror per day if the county files a claim for reimbursement with the comptroller. The bill also provides that a person who knowingly provides false information

in an attempt to avoid jury service is subject to a contempt action and certain fines. Senate Bill 1704 also details the procedures whereby a person may postpone the person's initial appearance for jury service. The provisions of Senate Bill 1704 relating to the reimbursement of jurors take effect January 1, 2006; all other provisions take effect September 1, 2005.

County Courts

House Bill 564

Effective: 9-1-05

House Author: Gattis

Senate Sponsor: Ogden

House Bill 564 amends the Government Code to create the County Court at Law No. 4 of Williamson County, effective January 1, 2006.

House Bill 595

Effective: 5-27-05

House Author: Smithee

Senate Sponsor: Seliger

House Bill 595 amends the Government Code to expand the concurrent jurisdiction of a county court at law in Randall County with the district court to accept pleas in uncontested felony cases and to preside over civil cases in which the amount in controversy is more than \$500 but does not exceed \$100,000.

House Bill 597

Effective: 9-1-05

House Author: Smithee

Senate Sponsor: Seliger

House Bill 597 amends the Government Code to create the County Court at Law No. 2 of Randall County, effective October 1, 2006.

House Bill 1404

Effective: 9-1-05

House Author: Deshotel

Senate Sponsor: Hinojosa

House Bill 1404 amends the Local Government Code to provide that a fee of \$25 be charged for the filing of certain orders applicable to probate cases, if the document is more than 25 pages in length.

House Bill 1418

Effective: 9-1-05

House Author: Gonzalez Toureilles et al.

Senate Sponsor: Hinojosa

Under previous law, a county commissioners court was authorized to create a justice court technology fund and could require a defendant convicted of a misdemeanor offense to pay a technology fee not to exceed \$4 as a cost of court. House Bill 1418 amends the Code of Criminal Procedure to require a county commissioners court to create a justice court technology fund and to require a defendant convicted of a misdemeanor offense to pay a \$4 technology fee as a cost of court for deposit in the fund. The bill provides that this fund may be used only to finance the cost of continuing education and training for justice court judges and clerks regarding technological enhancements in the courts, as well as the purchase and maintenance of such enhancements.

House Bill 1622

Effective: 9-1-05

House Author: Pitts

Senate Sponsor: Averitt

House Bill 1622 amends the Government Code and the Human Resources Code to create the County Court at Law of Hill County and to set forth provisions relating to the court's jurisdiction and terms.

House Bill 3263

Effective: 9-1-05

House Author: Hegar et al.

Senate Sponsor: Janek

House Bill 3263 amends the Government Code to transfer the powers, duties, and privileges in Fort Bend County involving children's protective services from the district attorney to the county attorney.

House Bill 3441

Effective: 9-1-05

House Author: Herrero

Senate Sponsor: Hinojosa

House Bill 3441 amends the Government Code to allow a justice of the peace to hold court for any other justice in any county at the request of that justice. The bill also provides that justices of any county may exchange benches if they consider it expedient, though not for a period to exceed five days, and that the justices are not entitled to compensation from the commissioners court of the temporary bench.

House Bill 3475

Effective: 9-1-05

House Author: Haggerty

Senate Sponsor: Shapleigh

House Bill 3475 amends the Government Code to create a second probate court in El Paso County and to allocate responsibility relating to mental illness proceedings between the two probate courts of El Paso County.

House Bill 3481

Effective: 9-1-05

House Author: Hope

Senate Sponsor: Staples

House Bill 3481 amends the Government Code to allow judges of the district courts and statutory county courts in Montgomery County, with the consent and approval of the Commissioners Court of Montgomery County, to jointly appoint one or more magistrates to perform specified duties. The bill establishes provisions relating to the qualifications, compensation, judicial immunity, jurisdiction, responsibilities, and duties of such magistrates.

House Bill 3485

Effective: 9-1-05

House Author: Oliveira

Senate Sponsor: Lucio

House Bill 3485 amends the Code of Criminal Procedure and the Government Code to allow a majority of the members of a board composed of the judges of the district courts and statutory county courts of Cameron County to appoint not more than two criminal law hearing officers to perform certain specified duties. The bill establishes provisions relating to the qualifications, compensation, oath, criminal jurisdiction, mental health jurisdiction, judicial immunity, duties, and powers of such a criminal law hearing officer. The bill also establishes the duties of the sheriff and the district clerk relating to a criminal law hearing officer in Cameron County.

House Bill 3489

Effective: 9-1-05

House Author: Dawson et al.

Senate Sponsor: Janek

House Bill 3489 amends the Government Code to create the County Court at Law No. 4 and Probate Court of Brazoria County, effective January 1, 2007. The bill also provides that the initial vacancy in the office of judge of the court shall be filled by election.

House Bill 3519

Effective: 9-1-05

House Author: Naishtat

Senate Sponsor: Wentworth

House Bill 3519 amends the Government Code to provide that in certain counties with a population of more than 800,000, the county judge may appoint a qualified person to serve as

a temporary justice of the peace to hold court to help reduce crowded dockets. The bill also provides that the county judge may delegate the responsibility for making this appointment to the local administrative statutory county court judge.

House Bill 3541**Effective:** 9-1-05**House Author:** Cook, Robby**Senate Sponsor:** Ogden

House Bill 3541 amends the Code of Criminal Procedure to expand the definition of a magistrate to include magistrates appointed by the judges of the district courts and the statutory county courts of Brazos County. In addition, the bill amends the Government Code to expand the range of criminal law, family law, and tax cases that can be referred to a magistrate in Brazos County. The bill further provides that a magistrate in Brazos County may preside over a bench trial on the merits, with the written consent of the parties and the approval of the referring judge.

House Bill 3547**Effective:** 9-1-05**House Author:** Brown, Betty**Senate Sponsor:** Deuell

House Bill 3547 amends the Government Code and the Human Resources Code to create the County Court at Law No. 2 of Kaufman County and establish the civil jurisdiction of the court.

House Bill 3557**Effective:** 9-1-05**House Author:** Talton**Senate Sponsor:** Harris

House Bill 3557 amends the Government Code to permit the Harris County Probate Court No. 3 to appoint an associate judge.

House Bill 3570**Effective:** 9-1-05**House Author:** Martinez et al.**Senate Sponsor:** Hinojosa

House Bill 3570 amends the Government Code to create the County Court at Law No. 6 of Hidalgo County and provides that the court shall give preference to family law cases and proceedings.

Senate Bill 235**Effective:** 5-3-05**Senate Author:** Harris**House Sponsor:** Smith, Todd

Senate Bill 235 amends the Government Code to remove the residential requirements for bailiffs appointed by judges in Tarrant County district courts giving preference to criminal cases.

Senate Bill 524**Effective:** 5-3-05**Senate Author:** Eltife**House Sponsor:** Frost

Senate Bill 524 amends the Government Code to create the County Court at Law of Cass County and to establish its jurisdiction.

Senate Bill 792**Effective:** 6-17-05**Senate Author:** Staples**House Sponsor:** Hope

Senate Bill 792 amends the Government Code to clarify that the county attorneys in Montgomery County shall represent the state, Montgomery County, and the officials of the county in all civil matters pending before a court of Montgomery County or any other court. The bill specifies that the county attorney has certain powers, duties, and privileges relating to

Courts

civil commitment matters, juvenile matters, child protective services, and protective orders. The bill also provides that the commissioners court in Montgomery County may retain independent counsel in any civil matter.

Senate Bill 1424

Effective: 9-1-05

Senate Author: Gallegos

House Sponsor: Solis

Senate Bill 1424 amends the Local Government Code to provide that the filing of a counterclaim is included as an action on which a justice court or a small claims court is authorized to assess a fee.

Senate Bill 1425

Effective: 9-1-05

Senate Author: Gallegos

House Sponsor: Solis

Senate Bill 1425 amends the Government Code to provide that a person who has been determined by the court to be indigent may avoid paying court costs for an appeal of a small claims court judgment in a county court or a county court at law, provided that person has filed an affidavit of inability to pay.

Senate Bill 1875

Effective: 9-1-05

Senate Author: Hinojosa

House Sponsor: Martinez et al.

Senate Bill 1875 amends the Government Code to create the County Court at Law No. 6 of Hidalgo County and to provide that the court shall give preference to family law cases and proceedings.

Courts of Appeals

House Bill 1077

Effective: 9-1-05

House Author: Crabb

Senate Sponsor: Wentworth

House Bill 1077 amends the Government Code to remove certain counties from the concurrent jurisdiction of more than one appellate court. The bill removes Burleson, Walker, and Trinity Counties from the First and Fourteenth Courts of Appeals Districts, adds Burleson and Walker Counties to the Tenth Court of Appeals District, and adds Trinity County to the Twelfth Court of Appeals District; transfers Angelina County from the Ninth Court of Appeals District to the Twelfth Court of Appeals District; removes Van Zandt County from the Fifth Court of Appeals District; and removes Hopkins, Kaufman, and Panola Counties from the Twelfth Court of Appeals District. The bill specifies certain transitional arrangements regarding court fees.

House Bill 1586

Effective: 9-1-05

House Author: West, George "Buddy"

Senate Sponsor: Seliger

House Bill 1586 allows the Court of Appeals for the Eleventh Court of Appeals District to meet in the city of Eastland or in any county in the district as the court determines.

House Bill 1997

Effective: 9-1-05

House Author: Keffer, Jim

Senate Sponsor: Estes

House Bill 1997 requires the commissioners court of each county in the Eleventh Court of Appeals District, on request of the chief justice of the court of appeals, to establish an appellate judicial system to assist the court of appeals for the county with processing appeals filed from other courts in the county. The bill requires each county to collect a \$5 fee for each civil suit filed in the county to be used to fund the appellate judicial system and establishes guidelines for the administration of the fee.

Senate Bill 241**Effective:** 9-1-05**Senate Author:** Wentworth**House Sponsor:** Keel

Senate Bill 241 amends the Government Code to require the commissioners court of each county in the Third Court of Appeals District to establish an appellate judicial system to assist the court of appeals for the county in the processing of appeals and to defray costs incurred by the county. To fund the system, the commissioners court of each county within the district is required to set a court costs fee of not more than \$5 for each civil suit filed in a county court, county court at law, probate court, or district court.

District Courts**House Bill 593****Effective:** 1-1-06**House Author:** Smithee**Senate Sponsor:** Seliger

House Bill 593 amends the Government Code to lengthen the term of the 47th Judicial District in Armstrong County from six months to twelve months.

House Bill 788**Effective:** 9-1-05**House Author:** Hardcastle**Senate Sponsor:** Duncan

House Bill 788 amends the Government Code to provide that the 50th Judicial District court may hear any case that a county court in Baylor, Cottle, King, or Knox County does not retain and that all the necessary processes, writs, bonds, recognizances, and obligations from the transferring court would be transferred to the district court as if they had been originally issued by that court. The bill also provides that, in addition to other jurisdiction provided by law, the 50th Judicial District court has the criminal as well as civil jurisdiction of a county court.

House Bill 2174**Effective:** 9-1-05**House Author:** Phillips**Senate Sponsor:** Estes

House Bill 2174 amends the Government Code to provide that the terms of the 15th District Court and 59th District Court begin on the first Mondays in January and July, rather than January, April, July, and October. The bill removes the term provisions of the 336th District Court.

House Bill 2256**Effective:** 9-1-05**House Author:** Gallego**Senate Sponsor:** Madla

House Bill 2256 amends the Government Code to reduce the number of grand jury panels for the 112th District Court in Pecos County from four panels in a year to two six-month terms. The bill provides that the terms will begin on the first Mondays in May and November.

House Bill 2569**Effective:** 1-1-09**House Author:** Eiland**Senate Sponsor:** Williams

House Bill 2569 amends the Government Code to provide that Liberty County and Chambers County will no longer share a district attorney and to create the office of district attorney for the 344th Judicial District to serve Chambers County.

House Bill 2913**Effective:** 5-17-05**House Author:** Luna**Senate Sponsor:** Hinojosa

House Bill 2913 amends the Government Code to establish that the 28th, 94th, 105th, 117th, 148th, 214th, 347th, and 319th district courts have concurrent jurisdiction with the county courts at law in Nueces County to receive guilty pleas in misdemeanor cases that are pending in a

Courts

county court at law in Nueces County and dispose of the cases, regardless of whether the cases are transferred to the district court. The bill clarifies that the disposition of the district court regarding these offenses is valid and binding as if the cases were pending in the district court.

House Bill 3199

Effective: 9-1-05

House Author: Hope

Senate Sponsor: Staples

House Bill 3199 amends the Government Code to provide that the terms of the 410th District Court begin on the first Monday in January and the first Monday in July.

Senate Bill 234

Effective: 4-27-05

Senate Author: Harris et al.

House Sponsor: Smith, Todd

Senate Bill 234 amends the Government Code to remove the limit on the total number of bailiffs who may be appointed by the district judges of the courts in Tarrant County that give preference to criminal cases and the criminal district courts in Tarrant County.

Senate Bill 321

Effective: 9-1-05

Senate Author: Harris

House Sponsor: Goodman

Senate Bill 321 amends the Government Code to expand the concurrent original jurisdiction of the 396th District Court and the county criminal courts in Tarrant County over misdemeanor cases to include the justice courts in Tarrant County.

Senate Bill 441

Effective: 9-1-05

Senate Author: Madla

House Sponsor: Hilderbran

Senate Bill 441 amends the Government Code to include the district attorney for the 112th Judicial District in the list of prosecutors subject to provisions governing certain professional prosecutors and to delete a provision permitting the counties in the district to supplement the salary of the district attorney for the 112th Judicial District.

Senate Bill 552

Effective: 5-20-05

Senate Author: Duncan

House Sponsor: Hartnett

Senate Bill 552 amends the Government Code to allow the Commissioners Court of Nolan County to authorize the judge of the district court to appoint magistrates. The bill sets forth the qualifications, compensation, immunity, jurisdiction, and powers and duties of such appointed magistrates.

Senate Bill 729

Effective: 9-1-05

Senate Author: Wentworth

House Sponsor: Puente

Senate Bill 729 requires the Office of Court Administration of the Texas Judicial System to contract with an appropriate independent nonprofit organization to conduct a study of the weighted caseload of each Texas district court, considering the nature and complexity of the cases, for the purpose of making recommendations regarding the implementation of a systematic approach for analyzing the need for new district courts. The bill also sets out timeframes and report requirements.

Senate Bill 1189

Effective: See below

Senate Author: Wentworth

House Sponsor: Hartnett et al.

Senate Bill 1189 amends the Government Code and the Human Resources Code to create new judicial districts in certain counties and modify the composition of other judicial districts. The bill makes provisions for cases to be assigned and docketed at random by the district clerk

in a number of district courts in Hidalgo County. The bill modifies the terms and jurisdictions of certain courts in the counties of Hays, Caldwell, Comal, Hidalgo, and Cameron. The bill creates judicial districts and modifies the terms and jurisdictions of certain courts in the counties of Webb, Brazoria, Williamson, Bell, Travis, Hays, Comal, Fort Bend, and Dallas. The bill creates the 424th Judicial District and sets out provisions relating to its jurisdiction, terms, and jury matters. The bill also provides for the selection or election of the local administrative judge for Blanco, Burnet, Llano, San Saba, and El Paso Counties. The bill amends the Human Resources Code to provide that the judge of the 33rd District Court, rather than the juvenile court judge, is the chairman of the juvenile board in certain counties. The bill also amends the Human Resources Code to provide for a criminal courts administrator in Tarrant County and to make provisions relating to the juvenile boards in Webb and Leon Counties. This bill takes effect September 1, 2005, except that sections dealing with the creation of the 430th, 425th, 426th, 427th, 433rd, and 434th Judicial District Courts and the sections dealing with the concurrent jurisdiction of the 27th, 264th, and 426th Judicial District Courts in Bell County take effect January 1, 2007.

Municipal Courts

House Bill 596

Effective: 5-27-05

House Author: Smithee

Senate Sponsor: Seliger

House Bill 596 amends the Government Code to provide that the restrictions on the residency of and private practice by a municipal judge of the city of Amarillo do not apply to a judge employed to work less than 40 hours a week.

House Bill 1394

Effective: 6-17-05

House Author: Zedler

Senate Sponsor: Brimer

House Bill 1394 amends the Government Code to allow the City of Kennedale to appoint magistrates to serve the municipal court of record in certain specified instances.

House Bill 2509

Effective: 6-18-05

House Author: Bohac

Senate Sponsor: Ellis

House Bill 2509 amends the Transportation Code to grant a municipal court concurrent original jurisdiction with the county court or county court at law over an action to enforce certain vehicle dealer and manufacturer license plate laws.

Senate Bill 1014

Effective: 5-9-05

Senate Author: Harris

House Sponsor: Goodman

Senate Bill 1014 amends the Government Code to conform the language in the Uniform Municipal Court of Record Act to the language currently contained in the Rules of Appellate Procedure and the Code of Criminal Procedure by replacing references to “transcript” and “statement of facts” with references to “clerk’s record” and “reporter’s record,” respectively.

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

HB 282 - Local Government

HB 1271 - Elections

Criminal Justice

This chapter covers legislation relating to criminal offenses, penalties, procedures, and crime victims. Bills on correctional, juvenile, and rehabilitation facilities, jails, incarcerated individuals, and community supervision are in the **Corrections** chapter, and bills relating to law enforcement agencies, including the Department of Public Safety, and concealed handguns 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 1489
Effective: 9-1-05

House Author: Turner
Senate Sponsor: Williams

The compensation to victims of crime fund is expended primarily for direct compensation to crime victims. Fund amounts in excess of the amount needed to fund the Crime Victims' Compensation Program and the Crime Victims' Institute are certified by the attorney general for appropriation by the legislature for other victim-related services and assistance. House Bill 1489 amends the Code of Criminal Procedure to change the method by which the excess amount is calculated by eliminating the 120 percent multiplier and by basing the certification of the excess amount on the amount estimated to be in the fund and subtracting the amount estimated to be expended for direct crime victim compensation. The bill broadens the definition of "victim" to include a person who suffers personal injury, rather than bodily injury, and defines "victim-related services or assistance."

House Bill 1831
Effective: 9-1-05

House Author: Talton
Senate Sponsor: Hinojosa

House Bill 1831 amends the Government Code to allow a person who is on deferred adjudication for an offense other than certain felony offenses, including offenses against a person and robbery offenses, to apply for a license to carry a concealed handgun 10 years after the order of deferred adjudication was entered.

House Bill 2036
Effective: 9-1-05

House Author: Allen, Ray
Senate Sponsor: Shapiro

House Bill 2036 amends provisions of the Government Code, the Health and Safety Code, and the Occupations Code relating to sex offender treatment providers. The bill increases the membership on the Council on Sex Offender Treatment from six to seven members and changes the system under which sex offender treatment providers are allowed to practice from a registration system to a licensing system. The bill prohibits a person from providing a rehabilitation service or acting as a sex offender treatment provider unless the person is licensed and makes it a Class A misdemeanor offense to practice as a sex offender treatment provider without a license. House Bill 2036 also requires the council to develop rules relating to the licensing system in coordination with the Texas Department of Criminal Justice (TDCJ) and the Texas Youth Commission (TYC) and allows the boards governing TDCJ and TYC to vote to exempt employees of the agencies from specific licensing requirements if such licensing would cause financial or operational hardship for the agencies. The bill adds provisions relating to the emergency suspension of the prescribed license and an administrative penalty scheme for a person who violates certain licensing statutes, rules, or orders.

House Bill 2036 requires the council to implement an adult dynamic risk assessment pilot program in certain large counties, make a report on the program, and study the recidivism rates of the program's participants.

Senate Bill 465
Effective: 6-17-05

Senate Author: West, Royce
House Sponsor: Naishtat

Senate Bill 465 amends provisions of the Health and Safety Code and the Code of Criminal Procedure to bring certain statutes relating to the administration of psychoactive medication against a person's will to a person found incompetent to stand trial or not guilty by reason of insanity or a person committed to a state mental health and mental retardation facility or psychiatric hospital into compliance with rulings of the Supreme Court of the United States. The bill includes provisions relating to information required to be included in an application for an order to authorize the administration of a psychoactive medication, clarifies patients for whom an order may be issued and conditions that must be met before an order may be issued, and adds issues a court must consider in finding that treatment with a proposed medication is in the best interest of the patient. Senate Bill 465 also adds issues a court must consider in determining that the administration of a psychoactive medication is warranted because a patient presents a danger to the patient or others and includes provisions relating to required review and expiration of an order and the date by which a motion to compel medication must be filed.

Senate Bill 912
Effective: 9-1-05

Senate Author: Shapiro
House Sponsor: Allen, Ray et al.

Senate Bill 912 amends the Health and Safety Code to expand the criminal offenses that could qualify a person for civil commitment as a sexually violent offender to include murder and capital murder if, during certain proceedings, it is deemed beyond a reasonable doubt that the crimes were sexually motivated. The bill limits the locations where a civilly committed sexual predator may be required to reside to a Texas residential facility under contract with the Council on Sex Offender Treatment or at another location or facility approved by the council and eliminates the judicial option to transfer jurisdiction in such a civil commitment case to the district court where the offender lives.

Senate Bill 912 requires the council to enter a memorandum of understanding with the Texas Department of Public Safety for assistance in the preparation of criminal complaints, warrants, and related documents and in the apprehension and arrest of a person. The bill also requires the council to provide through the case management system any supervision or tracking service required for a civilly committed sexual predator residing in Dallas, Harris, or Tarrant County. The bill eliminates the strict prohibition against housing a civilly committed sexual predator in a mental health facility, state school, or community center and allows such housing only if the placement is the result of governmental action. The bill also sets out provisions relating to compensation of experts used in certain civil commitment proceedings.

Senate Bill 912 provides that certain duties imposed by the civil commitment of sexual predator law are suspended for the duration of any subsequent confinement of a sexual predator or any subsequent commitment of such a person to a community center, mental health facility, or state school by governmental action and eliminates exceptions to the suspension of duties.

Senate Bill 912 requires the council to study the ways in which certain sexually violent offenders use the Internet to meet or establish contact with potential victims and sets out parameters of the resultant report.

Senate Bill 1551
Effective: 6-17-05

Senate Author: Estes
House Sponsor: Driver

Senate Bill 1551 repeals the sunset provision of the Penal Code section relating to certain unlawful interception, use, or disclosure of wire, oral, or electronic communications and the sunset provision of the Code of Criminal Procedure article relating to certain interception and use of wire, oral, or electronic communications. The provisions were set to expire September 1, 2005.

Offenses and Penalties

House Bill 51
Effective: 9-1-05

House Author: Smith, Todd et al.
Senate Sponsor: Zaffirini

House Bill 51 amends provisions of the Penal Code and the Code of Criminal Procedure related to penalties for certain intoxication offenses. The bill adds the offense of driving while intoxicated with a child passenger to the list of offenses for which a conviction that occurs on or after September 1, 1994, is considered a final conviction for purposes of enhancement, whether the sentence is imposed or probated. The bill amends the law to provide that if it is shown at trial that a defendant convicted of certain intoxication offenses had a blood alcohol concentration of 0.15 or more at the time the analysis was performed, the court must require that the defendant, as a condition of community supervision, install an ignition interlock device on the appropriate vehicle and not operate a vehicle without such a device. House Bill 51 also removes the 10-year time limit on previous intoxication offenses that may be used for enhancement purposes for subsequent intoxication offenses.

House Bill 164
Effective: See below

House Author: Berman et al.
Senate Sponsor: Estes

House Bill 164 amends provisions of Texas law relating to the civil and criminal consequences of certain activities related to the manufacture of methamphetamine and to the wholesale distribution and retail sales of prescription and nonprescription drugs.

House Bill 164 amends the Civil Practice and Remedies Code to increase the strict liability of a person who manufactures methamphetamine from \$10,000 to \$20,000 for each incident of exposure to the manufacturing process. The bill amends the Family Code to authorize a representative of the Department of Family and Protective Services, a law enforcement officer, or a juvenile probation officer to take possession of a child under certain circumstances that would lead a person of ordinary prudence and caution to believe that the parent or person in possession of the child has permitted the child to remain on premises used for the manufacture of methamphetamine. The bill also amends the Penal Code to provide that, for purposes of the offense of child endangerment, it is presumed that a person engaged in culpable conduct if the person manufactured methamphetamine in the presence of a child. The bill amends the Health and Safety Code to add certain items used in the manufacture, processing, analyzing, storing, or concealing of methamphetamine to the list of items whose possession is prohibited due to their use in the manufacture of drugs. The provisions prescribed in this paragraph take effect August 1, 2005.

House Bill 164 amends the Health and Safety Code to require a drug wholesaler to make and maintain certain records and reports when selling, transferring, or otherwise furnishing products containing ephedrine, pseudoephedrine, or norpseudoephedrine. The bill provides that a wholesaler who, with reckless disregard, fails to report may be subject to certain disciplinary

action. The bill makes it a state jail felony if a person does not comply with these record and reporting requirements, knowingly makes a false statement in relation to such records and reports, or violates a rule related to such records and reports. House Bill 164 also creates a regulation scheme for over-the-counter sales of ephedrine, pseudoephedrine, or norpseudoephedrine, including provisions relating to rules by the State Health Services Council, fees collected by the Department of State Health Services, statewide application and uniformity, sales by pharmacies, sales by establishments other than pharmacies and certificates of authority, restriction of access to ephedrine, pseudoephedrine, or norpseudoephedrine, prerequisites to sale, maintenance of records, and administrative penalties. The provisions prescribed in this paragraph take effect August 1, 2005.

House Bill 164 amends the Health and Safety Code to create separate licensing schemes for the wholesale distribution of nonprescription drugs and the wholesale distribution of prescription drugs, both of which are administered by the Department of State Health Services. The bill adds certain provisions applicable only to the wholesale distribution of prescription drugs, including provisions relating to ongoing relationships between certain manufacturers and distributors, exemptions from certain provisions for some wholesale distributors, license application information relating to criminal history records and other personal data for key personnel in the prescription drug distribution chain, qualifications for a license, bonds, minimum restrictions on transactions, required pedigree (electronic record of chain of possession of drug), pedigree contents, and an order to cease distribution. The bill increases the fees the department is allowed to collect for each of the licensing programs from 50 percent of the program expenditures to full recovery for the expenditures. House Bill 164 also provides for the refusal, suspension, or revocation of a license for the wholesale distribution of prescription drugs and nonprescription drugs in the case of an incomplete application or an application containing false, misleading, incorrect, or nonverifiable information. The provisions prescribed in this paragraph take effect on September 1, 2005.

House Bill 164 adds a number of items based on the updated licensing schemes to the list of prohibited acts relating to the wholesale distribution of drugs. The bill creates two new offenses in the Health and Safety Code relating to the wholesale distribution of prescription drugs. The bill makes it an offense punishable by a fine not to exceed \$50,000 if a person engages in the wholesale distribution of prescription drugs in violation of the new licensing scheme. The bill provides that if a person knowingly engages in such conduct, the offense is punishable by imprisonment for not more than 15 years, a fine not to exceed \$500,000, or both. The provisions prescribed in this paragraph take effect on March 1, 2006.

House Bill 549
Effective: 6-17-05

House Author: Phillips et al.
Senate Sponsor: Seliger

House Bill 549 amends the Penal Code to expand the list of substances and items prohibited in certain correctional facilities and specifies the category of offense.

House Bill 582
Effective: 9-1-05

House Author: Reyna
Senate Sponsor: Whitmire

House Bill 582 amends the Penal Code to expand the offense of taking or attempting to take a firearm, nightstick, or personal protection chemical dispensing device from a peace officer, parole officer, or community supervision and corrections department officer to include a stun gun and defines “stun gun.”

House Bill 825**Effective:** 9-1-05

House Bill 825 amends the Penal Code to add an on-duty, county or municipal animal control officer to the list of officers against whom a person commits an offense if the person with criminal negligence interrupts, disrupts, impedes, or interferes with the officer's performance of a duty.

House Author: Talton**Senate Sponsor:** Whitmire**House Bill 904****Effective:** 9-1-05

House Bill 904 amends the Penal Code to provide that a sentence or plea agreement for the offense of intoxication assault, in addition to a sentence or plea agreement for the offense of intoxication manslaughter, may run consecutively or concurrently whether the accused is convicted of violations of the same offense more than once or is convicted of violations of both offenses. The bill also provides that a sentence or plea agreement for the offense of improper photography or visual recording of a child or for the offense of possession or promotion of child pornography may run consecutively or concurrently whether the accused is convicted of violations of the same offense more than once or is convicted of violations of both offenses. House Bill 904 also provides that the right to severance at trial does not apply to a prosecution in the circumstances described above.

House Author: Gattis**Senate Sponsor:** Ogden**House Bill 970****Effective:** 9-1-05

House Bill 970 amends the Penal Code to provide that an offense defined by municipal ordinance or by order of a county commissioners court may not dispense with the requirement of a culpable mental state if the offense is punishable by a fine exceeding the fine allowed for a Class C misdemeanor.

House Author: Keel et al.**Senate Sponsor:** Hinojosa**House Bill 1012****Effective:** 6-18-05

Texas law provides for the offense of desecration of a cemetery in the Health and Safety Code. House Bill 1012 repeals the Health and Safety Code provisions and amends the Penal Code by broadening the offense of abuse of a corpse to include a person who knowingly and without legal authority vandalizes, damages, or treats in an offensive manner the space in which a human corpse has been interred or otherwise permanently laid to rest, under certain circumstances. The bill also removes the requirement that the offense of abuse of a corpse be committed intentionally. House Bill 1012 requires the court to order a defendant who has been convicted of the offense of criminal mischief involving damage or destruction inflicted on a place of human burial or of abuse of a corpse to make restitution to the affected cemetery. The bill allows the restitution required of an unemancipated minor to be satisfied by community service hours or by the minor's parents, at the court's discretion. House Bill 1012 amends the Family Code to provide that if a juvenile is adjudicated to have engaged in the conduct described above, in addition to any other conditions of probation, the court is required to order restitution.

House Author: Hilderbran**Senate Sponsor:** Whitmire**House Bill 1095****Effective:** 9-1-05

House Bill 1095 amends the Penal Code to create the offense of harassment of a public servant. The bill makes it a third degree felony if a person, with the intent to assault, harass, or alarm, causes another person the actor knows to be a public servant to contact the blood,

House Author: Menendez**Senate Sponsor:** Deuell

certain bodily fluids, or feces of the actor, any other person, or an animal while the public servant is lawfully discharging an official duty. House Bill 1095 provides that the court must order a person who is charged with such an offense against a public servant or certain officers in a correctional facility to undergo tests for certain communicable diseases. The bill also requires the court to order a person convicted of the prescribed offense to make restitution to the victim of the offense or the victim's employer for expenses incurred for the testing of the victim for such communicable diseases and any treatment needed if the victim contracts such diseases as a result of the offense.

House Bill 1323

Effective: 9-1-05

House Author: Swinford et al.

Senate Sponsor: Seliger

House Bill 1323 amends the Penal Code to provide that a person commits an offense if the person, without the effective consent of the cardholder, possesses someone else's credit card or debit card with the intent to use the card. The bill removes as a requirement for the offense that the offender sign or write the name of the cardholder or the offender.

House Bill 1634

Effective: 9-1-05

House Author: Allen, Ray et al.

Senate Sponsor: Gallegos

House Bill 1634 amends the Penal Code to create a state jail felony offense of arson for a person who recklessly starts a fire or causes an explosion while manufacturing or attempting to manufacture a controlled substance if the fire or explosion damages any building, habitation, or vehicle. The bill also provides enhanced penalties for certain intentional, injurious acts of arson. House Bill 1634 amends the Local Government Code to provide that a person commits the misdemeanor offense of contempt of fire investigation if the person is the owner of property subject to a fire investigation and the person refuses to be sworn, refuses to appear and testify, or fails and refuses to produce certain documentation to the county fire marshal.

House Bill 2077

Effective: 9-1-05

House Author: Kolkhorst

Senate Sponsor: Staples

House Bill 2077 amends the Penal Code to include a wireless communications device or a component of a wireless communications device among the items prohibited to be provided to an inmate or for an inmate to possess.

House Bill 2104

Effective: 9-1-05

House Author: Delisi

Senate Sponsor: Nelson

House Bill 2104 amends provisions of the Penal Code relating to the prosecution of the offense of hindering apprehension or prosecution. The bill provides that it is an offense to undertake certain activities with the intent to hinder the arrest of another person who is under the authority of a warrant or a capias. The bill also expands the circumstances of the offense to include hindering the apprehension or prosecution of a person who violates penal law, rather than penal law of the grade of felony.

House Bill 2228

Effective: 6-18-05

House Author: McCall et al.

Senate Sponsor: Ellis

House Bill 2228 amends the Penal Code to create the offense of online solicitation of a minor and to provide for a penalty range from a state jail felony to a second degree felony. The bill also amends the Code of Criminal Procedure to require a person convicted or adjudicated of the prescribed offense to register as a sex offender.

House Bill 3376**Effective:** 9-1-05**House Author:** Taylor**Senate Sponsor:** Lucio

House Bill 3376 amends provisions of the Penal Code and Code of Criminal Procedure relating to money laundering and insurance fraud. The bill expands the offense of money laundering to apply to a person who conducts or intends to conduct the financing or investment of funds intended for use in criminal activity and specifies that a person commits such an offense by knowing that funds are proceeds of criminal activity but without knowing the specific nature of the activity. The bill makes it a state jail felony for a person to launder funds with a value of at least \$1,500 and not more than \$20,000 and revises the value limits for other felony offenses, making it a third-degree felony if the funds are at least \$20,000 and not more than \$100,000, a second-degree felony if at least \$100,000 and not more than \$200,000, and a first-degree felony if over \$200,000. The bill exempts a financial institution that seizes funds for a law enforcement purpose from paying civil damages to those who claim an ownership interest in the funds or who conduct a transaction with funds involved in a money laundering offense.

House Bill 3376 applies provisions relating to insurance fraud to any type of insurance policy or other instrument regulated by the Texas Department of Insurance (TDI) rather than specifically to a health insurance policy or a property and casualty insurance policy. The bill provides that an insurance claim's materiality includes information that may affect policy coverage eligibility, payment on a claim, or an insurer's decision to issue a policy and expands the offense of insurance fraud to include fraudulent conduct relating to an insurance policy application. The bill makes it a state jail felony to prepare a statement for an insurer that the person knows to contain false or misleading material information and increases from \$20 to \$50 the minimum amount required for a Class B misdemeanor relating to a false claim, making it a Class C misdemeanor for a false claim for less than that amount. The bill adds insurance fraud to the list of offenses punishable as organized crimes. House Bill 3376 amends the Code of Criminal Procedure to increase the statute of limitations for insurance fraud from three to five years from the commission of the offense and to require a court to notify TDI if a licensed insurance agent is convicted of or receives deferred adjudication for theft, fraud, money laundering, or insurance fraud.

Senate Bill 60**Effective:** 9-1-05**Senate Author:** Lucio et al.**House Sponsor:** Goolsby et al.

Senate Bill 60 amends the Code of Criminal Procedure, the Government Code, and the Penal Code to add life without parole as a sentencing option for offenders convicted of capital murder and to eliminate the option of a life sentence under which the person may become eligible for parole in 40 years. The bill requires the Court of Criminal Appeals to reform a sentence of death in a capital murder case for an offense committed before September 1, 1991, and establishes requirements for the court in reforming the pre-1991 death sentences.

The bill also provides that an attorney, to be eligible to be appointed as lead counsel in a death penalty case or as lead counsel in the direct appeal of a death penalty case, must not have been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case.

Senate Bill 60 amends the Penal Code to prohibit any person younger than 18, rather than 17, years of age at the time of the offense from receiving the death penalty.

Senate Bill 91**Effective:** 9-1-05**Senate Author:** Hinojosa et al.**House Sponsor:** Riddle

Senate Bill 91 amends provisions of the Penal Code to authorize a previous felony conviction for assault against a person who is in a dating relationship with, a family member of, or in a

household with the perpetrator to be used as a factor to enhance the punishment from a Class A misdemeanor to a third degree felony for any subsequent assaultive offense, criminal homicide, kidnapping, aggravated kidnapping, or indecency with a child perpetrated against a person within one of the categories described above, whether the subsequent offense is punishable as a felony or a misdemeanor. The bill provides that a conviction under the laws of another state for an offense containing elements that are substantially similar to the elements of assaultive offense, criminal homicide, kidnapping, aggravated kidnapping, or indecency with a child under Texas law can be used to enhance the penalty as well. Senate Bill 91 provides that punishment for an offense for aggravated assault is enhanced from a second degree felony to a first degree felony if the perpetrator uses a deadly weapon during the commission of the assault and causes serious bodily injury to a person who is in a dating relationship with, a family member of, or in a household with the perpetrator, under certain circumstances. Additionally, the bill amends the Code of Criminal Procedure to authorize a peace officer to arrest without a warrant a person the officer has probable cause to believe has committed any offense involving family violence, including an offense against a dating partner, rather than only an assaultive offense resulting in bodily injury perpetrated against a member of the family or household.

Senate Bill 481

Effective: 9-1-05

Senate Author: Wentworth

House Sponsor: Keel et al.

Senate Bill 481 amends the Business & Commerce Code to make it an offense for a person, with the intent to record a motion picture, to operate the audiovisual recording function of any device in a movie theater without the consent of the theater owner. The bill sets out the range of penalties for the offense and establishes a defense to prosecution for a person who operates the recorder solely for official law enforcement purposes. The bill allows an individual who reasonably believes that another person has knowingly recorded a movie to detain the person for a reasonable time to allow for the arrival of law enforcement authorities.

Senate Bill 1791

Effective: 9-1-05

Senate Author: Whitmire

House Sponsor: Keel

Senate Bill 1791 amends the Penal Code to add to the list of offenses that constitute capital murder the murder of a person in retaliation for or on account of the victim's service or status as a member of the Texas judiciary.

Procedures

House Bill 269

Effective: 6-18-05

House Author: Keel et al.

Senate Sponsor: West, Royce

House Bill 269 amends the Code of Criminal Procedure to delete exceptions to the prohibition on the release or dissemination of expunged records to remedy a conflict with other state law that prohibits the release of those records. The bill provides that maintaining the expunged records is also prohibited and directs the Department of Public Safety to take action as soon as practicable to comply with this change in the law, including the destruction of information maintained by the department.

House Bill 291

Effective: 9-1-05

House Author: Goolsby

Senate Sponsor: Carona

House Bill 291 amends the Code of Criminal Procedure to require a clerk of the court, when a defendant is discharged or released to outpatient care based on the insanity plea, to provide

available victim contact information to the Texas Department of Criminal Justice victim services division. The bill requires the division to notify the victim or the victim's guardian or close relative of the discharge or release. The bill authorizes the clerk of the court to inspect a victim impact statement for the purpose of such notification.

House Bill 413**Effective:** 9-1-05**House Author:** Turner**Senate Sponsor:** Gallegos

House Bill 413 amends the Code of Criminal Procedure and Government Code to require the court, upon written request of the petitioner, to send, by secure electronic mail or facsimile transmission, notice of a hearing on the expunction of criminal records, a final order of expunction, or a final order of nondisclosure of certain criminal history record information to each official or agency or other entity named in the petition. The bill allows the court the option to have a final expunction order hand-delivered to certain designated entities. The bill allows the Department of Public Safety to send, by secure electronic mail or facsimile transmission, a copy of an order of nondisclosure to the appropriate entities.

House Bill 544**Effective:** 9-1-05**House Author:** Naishtat et al.**Senate Sponsor:** Zaffirini et al.

House Bill 544 amends the Code of Criminal Procedure to provide that a victim of an alleged sexual assault is entitled to a forensic medical examination if the alleged assault is reported within 96 hours of its occurrence and to require a law enforcement agency, with the consent of the victim, the victim's representative, or an employee of the Department of Family and Protective Services, to request a forensic medical examination for a victim of sexual assault that complies with the 96-hour reporting requirement. The bill allows a law enforcement agency to decline to request the examination if the victim of the alleged sexual assault has made one or more false reports of sexual assault to any law enforcement agency and there is no other evidence to corroborate the current allegation of sexual assault. The bill provides that if the sexual assault is reported to law enforcement later than 96 hours after its commission, the law enforcement agency has the discretion to determine whether to request the examination.

House Bill 546**Effective:** 5-27-05**House Author:** Bailey**Senate Sponsor:** Whitmire

House Bill 546 amends the Government Code to require, in a county with a population of three million or more, that the forensic portion of a medical examination of a child alleged to be the victim of sexual assault include certain photo documentation by a medical professional. The bill allows the medical professional to forego the photo documentation for good cause and requires the professional to document in the child's medical records the reason photo documentation was not produced. The bill sets out provisions relating to the admissibility at trial of the documentation.

House Bill 550**Effective:** 9-1-05**House Author:** Phillips**Senate Sponsor:** Seliger

House Bill 550 amends the Code of Criminal Procedure to require a judge to permit a defendant or the defendant's counsel to read the presentence report at least 48 hours before sentencing a defendant, unless such a right is waived by the defendant. The bill removes the defendant's option to request that such a report be prepared in felony cases under certain circumstances.

House Bill 705

Effective: 9-1-05

House Author: Castro

Senate Sponsor: Zaffirini

House Bill 705 amends the Code of Criminal Procedure to allow a weapon that is seized in a criminal proceeding to be forfeited to a county forensic laboratory.

House Bill 823

Effective: 9-1-05

House Author: Keel et al.

Senate Sponsor: Hinojosa et al.

The law provides that the offense of unlawful carrying of a weapon is not applicable to a person who is traveling. House Bill 823 amends the Penal Code to clarify that, for this purpose, a person is presumed to be traveling if the person is in a private motor vehicle, is not otherwise engaged in criminal activity other than certain traffic offenses, is not otherwise prohibited by law from possessing a firearm, is not a member of a criminal street gang, and is not carrying a handgun in plain view. The bill also provides evidentiary instructions relating to any penal law presumption in favor of a defendant with respect to any fact.

House Bill 839

Effective: 9-1-05

House Author: Riddle et al.

Senate Sponsor: Williams

House Bill 839 amends the Code of Criminal Procedure to provide that, following a final conviction for an offense involving child pornography, the court must order the child pornography to be destroyed or forfeited to the state. The bill also sets out the disposition of child pornography in cases in which there is no prosecution or final conviction and provides that obscene material and child pornography include digital images and the media and equipment on which those images are stored.

House Bill 839 also provides immunity from liability for certain communication service or computer service providers for an offense involving obscene material or child pornography on account of any action taken by the provider in good faith in providing the service.

House Bill 840

Effective: 9-1-05

House Author: Riddle et al.

Senate Sponsor: Williams

House Bill 840 amends provisions of the Code of Criminal Procedure relating to the forfeiture of contraband used in the commission of certain offenses. The bill expands the definition of “contraband” to include property used to facilitate or intended to be used to facilitate the commission of the offense of criminal solicitation of a child or sexual performance by a child. The bill also provides that under the forfeiture statute the city attorney is the attorney representing the state in certain littering and illegal dumping cases and deletes a reference that made the city attorney the designated prosecutor representing the state in certain money laundering cases.

House Bill 867

Effective: 9-1-05

House Author: Allen, Ray

Senate Sponsor: Shapiro

House Bill 867 amends the Code of Criminal Procedure to reorganize the statutes relating to the registration and supervision of sex offenders, including general provisions, registration and verification requirements and related notice, expiration of duty to register and general penalties for noncompliance, provisions applicable to certain workers and students, provisions applicable to persons subject to civil commitment, removal of registration information, exemption from registration for certain young adult sex offenders, and exemptions from registration for certain juveniles.

House Bill 867 creates a new subchapter to set up a judicial procedure by which certain sex offenders, after registering for the minimum amount of time required under federal law, may

request early termination of their requirement to register as a sex offender. The bill provides that the state is entitled to appeal an order exempting certain young adult offenders and certain juvenile offenders from registration requirements, as well as to appeal an early termination order. Additionally, the bill standardizes certain registration and exemption requirements for juvenile offenders and adult offenders. The bill increases the membership of the risk assessment review committee of the Texas Department of Criminal Justice from five to seven members by adding the executive director of the Sex Offender Treatment Council and a sex offender treatment provider.

House Bill 867 eliminates specific guidelines for newspaper notification relating to sex offenders residing in an area. The bill allows newspaper notification of the residence of high risk offenders at the discretion of the local law enforcement authority. It expands neighborhood notification relating to high risk sex offenders residing in the area by requiring notification by mail to business addresses as well as residential addresses, but excludes post office boxes.

House Bill 867 adds a conviction for the wholesale possession or promotion of certain obscene material depicting a child to the list of offenses requiring lifetime registration as a sex offender. The bill also requires a registrant, when changing residences, to report not less than weekly to the registrant's designated law enforcement authority until the new permanent address is established.

House Bill 867 requires the Department of Public Safety (DPS) to provide to each prosecuting attorney's office, on an annual basis, information relating to DPS's determination regarding whether an offense under the laws of another state or country are substantially similar to certain offenses in Texas. House Bill 867 adds a previous conviction for an attempt to commit the offense of failure to comply with sex offender registration requirements as a factor for enhancement of the punishment. The bill sets out a number of venues in which the offense of failure to comply with sex offender registration requirements may be prosecuted.

House Bill 867 amends the Government Code to provide that DPS must require a law enforcement agency serving as a sex offender's primary registration authority to take from each registrant a DNA specimen, to preserve the specimen, and to maintain a record of the collection, if the registrant has not provided a specimen under other law. The bill also prohibits the executive commissioner of the Health and Human Services Commission from providing sexual performance enhancing medication under certain federal and state programs to a person required to register as a sex offender.

House Bill 967
Effective: 9-1-05

House Author: Haggerty
Senate Sponsor: Whitmire

House Bill 967 amends the Code of Criminal Procedure to add a defendant's state identification number and incident number if either number has been assigned at the time of the judgment to the list of items that a written judgment of a court must reflect. The bill requires the Department of Information Resources to publish monthly on the Department of Public Safety's Internet website or on another electronic publication a report listing each arrest by local jurisdiction for which there is no corresponding final disposition, for use in determining the status of outstanding dispositions.

House Bill 967 amends the Transportation Code to require the Department of Public Safety to accept as satisfactory proof of identity an offender identification card or similar form of identification issued to an inmate by the Texas Department of Criminal Justice when an application is made for a driver's license or commercial driver's license.

House Bill 969

Effective: 6-18-05

House Author: Keel

Senate Sponsor: Hinojosa

House Bill 969 amends the Code of Criminal Procedure to require, rather than authorize, upon motion by a criminal defendant, discovery of the prosecution's evidence, except evidence that is considered work product or privileged. The bill repeals a provision relating to certain time limitations on a motion to set aside an indictment, trial, or mistrial, a motion for dismissal, and a motion for discharge.

House Bill 975

Effective: 9-1-05

House Author: Madden

Senate Sponsor: Harris

The law allows a defendant to have the deposition of a witness taken for use in criminal trial under certain circumstances. House Bill 975 amends the Code of Criminal Procedure to also allow the prosecution to have the deposition of a witness taken under such circumstances.

House Bill 1048

Effective: 9-1-05

House Author: Chisum

Senate Sponsor: Seliger

House Bill 1048 amends provisions of the Code of Criminal Procedure relating to seizure and forfeiture of property by law enforcement. The bill requires the court reporter, during or after a criminal proceeding in a county with a population of 500,000 or more, to release for safekeeping any firearm or contraband received as an exhibit in that proceeding to the law enforcement agency that collected, seized, or took possession of the firearm or contraband. The bill also expands the definition of "contraband" to include property used in the commission of the unlawful transport of persons and the proceeds gained from the commission of identity theft by electronic device. The bill deletes references to seizure of contraband used in the commission of certain felony offenses involving the Medicaid program.

House Bill 1068

Effective: 9-1-05

House Author: Driver

Senate Sponsor: Hinojosa

House Bill 1068 amends provisions of the Code of Criminal Procedure and the Government Code relating to the creation of the Texas Forensic Science Commission, the collection and forensic analysis of certain evidence, crime laboratory accreditation, and DNA testing and records.

The bill creates the nine-member commission to develop and implement a reporting system through which accredited laboratories, facilities, or entities report professional negligence or misconduct, to require all such entities that conduct forensic analyses to report professional negligence or misconduct to the commission, and to investigate, in a timely manner, certain allegations of professional negligence or misconduct. The bill also sets out provisions relating to commission membership, duties and powers, reimbursement, assistance available to the commission, and submission of certain reports.

House Bill 1068 redefines "forensic analysis" and adds a prosecutor, criminal suspect or defendant, and the court to the list of those who may request a forensic analysis by a crime laboratory of certain evidence. The bill sets out provisions relating to the admissibility of certain evidence and the effect that the accreditation status of a laboratory has on such admissibility.

The bill requires any crime laboratory, public or private, and any entity that conducts a forensic analysis of evidence to be accredited by the Department of Public Safety (DPS). It also expands the powers of the director of public safety of DPS in the accreditation scheme relating to establishing minimum standards, procedures, policies, and practices; modifying,

removing, and allowing exemptions from accreditation; validating methodologies; requiring cost recovery; inspecting facilities; and auditing records, reports, procedures, and other quality assurance matters.

House Bill 1068 updates provisions relating to DNA collection and the DNA database system in Texas, including expanding the list of those who have to contribute DNA samples, regulating DNA laboratories, setting requirements and time frames for the collection of samples from certain incarcerated adults and juveniles and certain persons on community supervision or released on bail or bond, providing for the exemption and removal of DNA records, providing access to DNA database information, and confidentiality provisions.

House Bill 1601

Effective: 9-1-05

House Author: Madden

Senate Sponsor: Averitt

House Bill 1601 amends the Code of Criminal Procedure to provide that a qualified telephone interpreter may be used to interpret for the person charged or a witness in a Class C misdemeanor case or a proceeding before a magistrate if an interpreter is not available to appear in person before the court or if the only available interpreter is not considered to possess the interpretive skills needed for the situation. The bill also allows the judge to require as a condition of community supervision that the defendant reimburse the county in which the prosecution was instituted for compensation paid to an interpreter in the case.

House Bill 1701

Effective: 9-1-05

House Author: Keel et al.

Senate Sponsor: Williams

House Bill 1701 amends provisions of the Government Code relating to indigent defense in criminal cases. The bill transfers from the Office of Court Administration to the Task Force on Indigent Defense the duty to set the form and manner in which the rules and regulations used by a county for its indigent defense system are submitted. The bill continues to require that the information be sent to the office but adds revisions of rules and verifications of rules to the information that must be submitted and requires the submission on a biennial rather than annual basis. Additionally, the bill requires similar information be submitted by the juvenile board in each county. House Bill 1701 amends the Code of Criminal Procedure to add to the standards required for an attorney to be eligible to be appointed as lead counsel in a capital case or as lead counsel in the direct appeal of a capital case to include that the attorney must not have been found by federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case.

House Bill 1751

Effective: 9-1-05

House Author: Pena

Senate Sponsor: Whitmire

House Bill 1751 amends provisions of the Code of Criminal Procedure relating to restitution payments by criminal defendants. The bill authorizes a court to order a defendant to make restitution to the compensation to victims of crime fund to the extent that the fund has paid compensation on behalf of the victim and gives direction to the court on factors to be considered in setting the restitution amount. The scheme of allowable means for restitution payment is simplified to include restitution to the victim for any expenses incurred as a result of the offense or to the fund to the extent that the fund has paid compensation on behalf of the victim. The bill provides that if a court requires the restitution to be made in installments, the court may require the defendant to pay a one-time fee of \$12 to be divided equally between the court and the fund. House Bill 1751 also expands the group eligible to receive restitution to include a broader category of “victim” and a broader scope of compensable injuries by including personal injury (both mental and physical), rather than only bodily injury.

House Bill 1759

Effective: 9-1-05

House Author: Keel

Senate Sponsor: Whitmire

House Bill 1759 amends the Code of Criminal Procedure to authorize a jury to recommend community supervision for a defendant who has been convicted of a state jail felony, unless the imposition of the sentence is automatically suspended and community supervision is ordered under the law. The bill also removes a provision that authorized a judge to impose a certain period of confinement as a condition of community supervision for a state jail felony.

House Bill 2194

Effective: 6-18-05

House Author: Madden

Senate Sponsor: Whitmire

House Bill 2194 amends the Health and Safety Code to require the Texas Correctional Office on Offenders with Medical or Mental Impairments to approve and make available in electronic format a standard form for use by experts in reporting competency examination results. The bill amends the Code of Criminal Procedure to require a court to direct the expert in a criminal competency hearing to report on the defendant's competency or incompetency to stand trial to the appropriate parties on this prescribed form. The bill also requires the court, as soon as practicable, to forward a copy of the expert report to the office for review and reporting purposes.

House Bill 2275

Effective: 9-1-05

House Author: Cook, Byron

Senate Sponsor: Ellis

House Bill 2275 amends provisions relating to the forfeiture of a motor vehicle used in certain repeat intoxication and alcoholic beverage offenses to delete such a proceeding from the Transportation Code and add it to the standard forfeiture proceeding in the Code of Criminal Procedure. The bill also expands the definition of "contraband" to include the proceeds gained from the commission of identity theft by electronic device. The bill deletes reference to seizure of contraband used in the commission of certain felony offenses involving the Medicaid program.

House Bill 2294

Effective: 9-1-05

House Author: Cook, Robby

Senate Sponsor: Armbrister

House Bill 2294 amends the Code of Criminal Procedure to provide for the venue for prosecution of offenses involving the misapplication of property held as a fiduciary or property of a financial institution. The bill limits the venue for prosecution of misapplication of construction trust funds to the county in which the construction project is located.

House Bill 2296

Effective: 9-1-05

House Author: Cook, Robby

Senate Sponsor: Armbrister

House Bill 2296 amends the Penal Code to clarify that, at the request of the prosecuting attorney, the court may authorize the prosecuting attorney to prosecute a state jail felony as a Class A misdemeanor.

House Bill 2767

Effective: 9-1-05

House Author: Talton

Senate Sponsor: Hinojosa

House Bill 2767 amends the Code of Criminal Procedure to prohibit, in counties that do not have a bail bond board, a person from being surety for a bail bond unless the person completes eight hours of specified continuing legal education. The bill authorizes the sheriff to post a list of eligible bail bond sureties whose security has been determined to be sufficient and requires

each surety on the list to file annually a sworn financial statement with the sheriff. House Bill 2767 sets out procedures for service of citation for a surety who is an individual and a surety who is a corporation, authorizes the waiver of service of citation, and adds certain items that must be attached to the citation. The bill also requires that when a defendant is held in custody or held to bail for his appearance to answer a criminal charge in any court, rather than district court, the prosecution must, under certain circumstances, dismiss the charge and discharge the bail.

House Bill 2791**Effective:** 6-18-05**House Author:** Hodge**Senate Sponsor:** Deuell

House Bill 2791 amends provisions of the Government Code and the Code of Criminal Procedure relating to participants in a drug court program established under Chapter 469, Health and Safety Code, or a similar program as an alternative to adjudication and confinement. Previous law allowed treatment through the drug court program for a person who had not been indicted, but did not allow treatment for such a person through treatment programs established specifically for offenders. House Bill 2791 requires the community supervision Treatment Alternative Incarceration Program, in making referrals to appropriate treatment, to include referrals for participants in the prescribed drug court program and requires the community supervision Substance Abuse Felony Punishment Program to allow referrals for participants in such a drug court program or a similar program established under other law. Additionally, the bill authorizes the Texas Board of Criminal Justice to modify requirements of the Substance Abuse Felony Punishment Program and community supervision to properly treat individuals who are participating in the program, but not as a condition of community supervision.

House Bill 2885**Effective:** 9-1-05**House Author:** Giddings**Senate Sponsor:** Carona

House Bill 2885 amends the Code of Criminal Procedure to prohibit a justice of the peace or judge in a county with a population of more than two million that does not have a county attorney from issuing an arrest warrant for issuance of a bad check unless the district attorney has approved the complaint or affidavit upon which the warrant is based. The bill also requires a complaint for issuance of a bad check in the prescribed counties to be approved by the district attorney regardless of whether a collection proceeding is initiated by the district attorney.

House Bill 3093**Effective:** 9-1-05**House Author:** Pena**Senate Sponsor:** West, Royce

House Bill 3093 amends provisions of the Code of Criminal Procedure and the Government Code relating to ex parte petitions for the expunction or nondisclosure of criminal records and files. The bill provides that a person's conviction of a felony in the five years preceding the date of the arrest does not affect the person's entitlement to expunction for purposes of an ex parte petition filed on behalf of the person by the director of the Department of Public Safety and sets out procedures for such a petition. The bill authorizes a person on deferred adjudication community supervision to petition the court for an order of nondisclosure regardless of whether the person has been previously placed on deferred adjudication community supervision for another offense under certain circumstances. House Bill 3093 also specifies the entities to which the information subject to the nondisclosure order may be released, sets out requirements to seal such information, and details fees and time frames related to such release. The bill specifies the consequences of a sealed criminal history record in relation to job applications and jury duty. Additionally, the bill prohibits the Department of Public Safety from releasing, for a certain

time period, any more criminal history record information to a private entity that purchases such information if that entity has five or more violations of compiling or disseminating information subject to an order of nondisclosure.

House Bill 3152
Effective: Vetoed

House Author: Escobar et al.
Senate Sponsor: Ellis

House Bill 3152 amends the Code of Criminal Procedure to prohibit an attorney for the state in a criminal case from initiating or encouraging an attempt to obtain from an unrepresented defendant a waiver of the right to counsel or communicating with a defendant who has requested the appointment of counsel for indigent defendants unless the court has denied the request. The bill also prohibits the court from directing or encouraging the defendant to communicate with the attorney for the state until the court advises the defendant of the right to counsel and the procedure for obtaining counsel, and the defendant has been given a reasonable opportunity to obtain counsel. If a defendant requests appointment of a counsel for indigent defendants, the bill prohibits the court from such communication unless the court has denied the defendant's request.

Reason Given for Veto: "House Bill No. 3152 would establish new requirements for the waiver of counsel in all criminal cases – even those punishable only by a fine, such as a traffic offense. There are a number of instances in which it is beneficial for prosecutors and defendants without attorneys to initiate discussions regarding a guilty plea or referral to trial. This bill would inhibit prosecutors' ability to seek plea bargains on minor offenses, resulting in a backlog of cases and an undue burden on the municipal, justice of the peace and county court systems.

"I have heard from prosecutors who argue that this bill would create tremendous confusion in our courts and could jeopardize hundreds of thousands of convictions. Under this bill, persons who wish to negotiate with prosecutors to resolve their cases would be prohibited from doing so unless a specific waiver is filed, and neither a judge nor a prosecutor could ask a defendant to file the waiver.

"Current law and court decisions provide adequate protections for defendants who wish to waive their right to an attorney."

House Bill 3265
Effective: 9-1-05

House Author: Straus et al.
Senate Sponsor: Wentworth

House Bill 3265 amends the Code of Criminal Procedure to provide that, in certain criminal cases that are tried before a jury on a plea of not guilty, if the jury fails to agree on the issue of guilt or innocence, the judge must declare a mistrial and discharge the jury, and jeopardy does not attach. The bill limits the consequence of a jury's failure to agree on the issue of punishment to a declaration of a mistrial in the punishment phase of the trial only. In such a case, the bill requires the court to impanel another jury as soon as practicable to determine the issue of punishment.

Senate Bill 56
Effective: 9-1-05

Senate Author: Nelson
House Sponsor: Reyna

Senate Bill 56 amends the Code of Criminal Procedure to require a judge or magistrate to give reasonable notice to the prosecuting attorney before reducing the bail of a defendant charged with certain serious offenses. The bill also requires the judge or magistrate, on request of the prosecuting attorney, the defendant, or the defendant's counsel, to provide an opportunity for a hearing on the proposed bail reduction.

Senate Bill 166
Effective: 6-17-05

Senate Author: West, Royce
House Sponsor: Keel

Senate Bill 166 amends the Code of Criminal Procedure to delete exceptions to the prohibition on the release or dissemination of expunged records to remedy a conflict with other state law that prohibits the release of those records. The bill provides that maintaining the expunged records is also prohibited and directs the Department of Public Safety to take action as soon as practicable to comply with this change in the law, including the destruction of information maintained by the department.

Senate Bill 599
Effective: 9-1-05

Senate Author: Staples
House Sponsor: Gattis et al.

Senate Bill 599 amends the Code of Criminal Procedure to provide that a defendant who is being detained for a violation of a condition of bail related to the safety of a victim of the alleged offense or to the safety of the community is ineligible for mandatory release based on a delay in the commencement of the trial. The bill repeals a provision relating to the calculation of time for release in cases in which conditions of bail are violated.

Senate Bill 611
Effective: 6-17-05

Senate Author: Nelson
House Sponsor: King, Phil

Senate Bill 611 amends the Code of Criminal Procedure to expand the use of electronic documents in criminal proceedings. The bill allows an indictment, information, complaint, or other charging instrument or a related document in a criminal case to be filed in electronic form with a judge or clerk authorized to receive the document. The bill sets out conditions that must be met to receive such documents and certain exemptions applied to electronic documents. Senate Bill 611 allows a district clerk, county clerk, or court to issue in electronic form a *capias* for the failure of a person to appear before a court, pay a fine, or comply with a court order. The bill sets out provisions relating to the legal significance and admissibility of an electronic document.

Senate Bill 651
Effective: 6-17-05

Senate Author: Harris
House Sponsor: Geren

Senate Bill 651 transfers from the Education Code to the Code of Criminal Procedure statutes governing the University of North Texas Health Science Center at Fort Worth (center) missing persons DNA database. The change allows forensic information from the center's missing persons DNA database to be electronically transmitted directly to the Federal Bureau of Investigation's DNA database. The bill also requires a physician acting on the request of a justice of the peace, county coroner, county medical examiner, or other law enforcement entity to collect samples of unidentified human remains for DNA analysis. The bill requires a justice of the peace, county coroner, county medical examiner, or other law enforcement entity to submit the sample to the center for DNA analysis and to maintain the sample after it is returned.

Senate Bill 679
Effective: 9-1-05

Senate Author: Duncan
House Sponsor: Keel

Senate Bill 679 amends provisions of the Code of Criminal Procedure and the Health and Safety Code to clarify and make technical changes to the procedure for determining the incompetency of a defendant to stand trial. The bill provides that at any time during the proceedings to determine whether a defendant is incompetent to stand trial after the issue is first raised, the court on the motion of the attorney representing the state may dismiss all charges

pending against the defendant, regardless of whether there is evidence to support a finding of the defendant's competency or whether the court has made a finding of incompetency. Upon dismissal of the charges, the court may not continue the proceedings, except that, if there is evidence to support a finding of incompetency, the court may proceed under statutes relating to civil commitment or may discharge the defendant. Senate Bill 679 requires the court to conduct a separate trial to determine competency, rather than a hearing, and provides that the current procedures for a hearing apply to the prescribed trial.

Senate Bill 679 provides that a defendant who is found incompetent may not be committed to an institution for a cumulative period that exceeds the maximum term provided by law for the offense for which the defendant was to be tried, but upon expiration of the maximum term allows the defendant to be confined for an additional time period only pursuant to civil commitment proceedings. The bill authorizes a court to order only one commitment and one extension. The bill provides that any additional confinement must be pursuant to a civil commitment proceeding and requires certain expertise in the witnesses for such commitments. The bill also sets out timeframes for court appearances by the defendant.

Senate Bill 679 authorizes a hearing in a criminal competency proceeding or a commitment proceeding to be conducted using an electronic broadcasting system under certain circumstances and sets out parameters for and recordkeeping of such use.

Senate Bill 679 requires that examinations to determine the fitness of children to proceed with respect to adjudications of delinquent conduct or conduct in need of supervision be reviewed by the Texas Correctional Office on Offenders with Medical or Mental Impairments and requires a district or juvenile court to regularly submit reports on such examinations to the office.

Senate Bill 837
Effective: 9-1-05

Senate Author: Wentworth
House Sponsor: Keel

Senate Bill 837 amends the Code of Criminal Procedure to reorganize the statutes governing the insanity defense, including provisions relating to raising the insanity defense, court-ordered examination and report, determination of the issue of a defendant's sanity, disposition following acquittal by reason of insanity with no finding of dangerous conduct, and disposition following acquittal by reason of insanity with a finding of dangerous conduct. The bill gives more detailed instructions in procedures in not guilty by reason of insanity cases relating to the jury or judge determining the issue of sanity; qualifications of experts; determinations that must be reflected in the judgment in the case; immediate determination of whether a person acquitted by reason of insanity engaged in dangerous conduct; disposition of a person found not to have engaged in dangerous conduct; reports on the evaluation, treatment, and postevaluation of a person found to have engaged in dangerous conduct; hearing on the disposition of a person found to have engaged in dangerous conduct; and order of commitment to inpatient treatment or residential care for a person found to have engaged in dangerous conduct.

Senate Bill 837 also encompasses the following changes and additions:

- increases from 10 days to 20 days before trial the time by which notice must be given to the court that the defendant intends to raise the insanity defense
- prohibits an expert who examines the defendant for purposes of determining the defendant's sanity from filing a report regarding the defendant's sanity if in the opinion of the expert the defendant is incompetent to proceed
- allows the parties, with the consent of the judge, to agree to the dismissal of the indictment or information on the ground that the defendant was insane and to the entry of a judgment of dismissal due to the defendant's insanity, and provides that the entry of the judgment

has the same effect as a judgment stating that the defendant has been found not guilty by reason of insanity

- provides that a defendant who is found not guilty by reason of insanity is not considered acquitted for purposes of the expunction of criminal records
- requires the court to retain jurisdiction over a person who is found not guilty under this defense and determined to have engaged in dangerous conduct, and eliminates the court's option to relinquish jurisdiction to a different court
- limits the time that a defendant may be detained in jail or another appropriate place pending further proceedings to no more than 14 days
- specifies the effect of stabilization under the treatment regimen of a person found to have engaged in dangerous conduct
- specifies what procedures may and may not be set before a jury
- details the appeals process
- adds detailed provisions relating to the status of an acquitted person who is committed to a facility, the transfer of such a person to a nonsecure facility, renewal of orders for inpatient commitment or outpatient community-based treatment and supervision, location of court-ordered outpatient or community-based treatment and supervision, supervisory responsibility for outpatient or community-based treatment and supervision, and detention pending proceedings to modify or revoke an order for outpatient or community-based treatment and supervision

Senate Bill 837 amends the Health and Safety Code to provide that the executive commissioner of the Health and Human Services Commission must require the Department of State Health Services to collect certain information and maintain current records regarding certain persons found not guilty by reason of insanity.

Senate Bill 1005

Effective: 9-1-05

Senate Author: Carona

House Sponsor: Keel

Senate Bill 1005 amends the Code of Criminal Procedure to provide that a judge must require a defendant under 25 years of age who has committed a moving traffic offense and who has received deferred adjudication for the offense to take a certain driving safety course during the deferral period. If the defendant holds a provisional license, the bill also provides that the judge must require the defendant to take the demonstration portion of the driver's license examination, regardless of whether the defendant has taken it previously. Senate Bill 1005 requires the defendant to pay a \$10 examination fee and stipulates that the fee is to be used for certain purposes. The bill requires the judge to impose the fine applicable for the offense if the defendant does not present satisfactory evidence that the defendant has completed the driving safety course and taken the demonstration portion of the license examination during the deferral period. The bill provides that the imposition of the fine constitutes a final conviction of the defendant.

Senate Bill 1006

Effective: 9-1-05

Senate Author: Harris

House Sponsor: Goodman

Senate Bill 1006 amends provisions of the Government Code and the Code of Criminal Procedure relating to pretrial intervention programs. The bill increases from one year to two years the maximum amount of time a defendant may be allowed by the court to participate in a local community supervision and corrections department pretrial intervention program. The bill allows the court to charge a defendant in the program up to \$60 per month plus expenses.

Senate Bill 1126
Effective: 9-1-05

Senate Author: Hinojosa
House Sponsor: Escobar

Senate Bill 1126 amends the Code of Criminal Procedure to update a statutory reference to reflect the transfer of the Sexual Assault Prevention and Crisis Services Program from the Texas Department of Health to the office of the attorney general.

Senate Bill 1195
Effective: Vetoed

Senate Author: Hinojosa
House Sponsor: Dutton

Senate Bill 1195 amends the Code of Criminal Procedure to prohibit a peace officer who stops a motor vehicle for any alleged traffic violation from searching the vehicle unless the officer has probable cause or other legal basis for the search, obtains consent, or meets certain other requirements. The bill amends the Government Code to require the director of the Department of Public Safety to establish certain requirements for the forms and audio and video recordings used in the prescribed stops.

Reason Given for Veto: "Senate Bill No. 1195 would require law enforcement officers, in certain traffic stop situations, to get a signed or video or audio taped consent before searching a vehicle. A limited number of jurisdictions in Texas already require their officers to get a signed or recorded consent before searching a vehicle, and there is nothing in current law that prohibits other entities from adopting policies that require their officers to receive written consent prior to conducting searches.

"I believe we already have sufficient protections in our Constitution and case law that protect Texans against unreasonable searches. Furthermore, there is insufficient information available at this time to determine whether signed or taped consent requirements place too onerous a burden on law enforcement or provide additional protections to the public. I would expect members of the legislature to review this issue during the interim and to bring back their findings to the 80th legislative session."

Senate Bill 1426
Effective: 9-1-05

Senate Author: Gallegos
House Sponsor: Riddle et al.

Current law prohibits a court from charging a fee to have certain court records of a minor expunged. Senate Bill 1426 amends the Alcoholic Beverage Code, the Code of Criminal Procedure, and the Health and Safety Code to require courts to charge \$30 for each application for an expungement of a conviction for certain offenses committed by a minor to help defray the cost of notifying state agencies of orders of expungement.

Senate Bill 1461
Effective: 9-1-05

Senate Author: Seliger
House Sponsor: Hegar

Senate Bill 1461 amends the Code of Criminal Procedure to expand the list of offenses for which an order for a wire tap is authorized to include felonious murder and felonious capital murder.

Senate Bill 1469
Effective: 6-17-05

Senate Author: Whitmire
House Sponsor: Keel

Senate Bill 1469 amends the Code of Criminal Procedure to exclude hospitals from the definition of "institution" for purposes of certain notification and reporting of the death of a resident of an institution.

Senate Bill 1507
Effective: 9-1-05

Senate Author: Hinojosa
House Sponsor: Pena

Senate Bill 1507 amends the Code of Criminal Procedure to provide that in the sentencing phase of a capital murder case the introduction of evidence of extraneous conduct is governed by certain notice requirements.

Senate Joint Resolution 17
For Election: 11-8-05

Senate Author: Staples
House Sponsor: Gattis

Senate Joint Resolution 17 proposes an amendment to the state constitution to authorize the denial of bail pending trial for a criminal defendant accused of a felony who violates a condition of the defendant's release if the violation, as determined by a district judge, is related to the safety of a victim of the alleged offense or to the safety of the community.

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

- HB 56 - Elections
- HB 126 - Public Education
- HB 2823 - Law Enforcement

Economic Development

This chapter covers legislation on issues relating to economic development, including community development, defense base development, economic and industrial development, and economic development districts. 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.

Community Development

House Bill 1982

Effective: 9-1-05

House Author: Blake et al.

Senate Sponsor: Staples

House Bill 1982 amends the Agriculture Code to create the Texas Certified Retirement Community Program within the Texas Department of Agriculture (TDA). The bill requires TDA to establish the program to encourage retirees and potential retirees to make their homes in Texas communities that have met the criteria for certification as a Texas certified retirement community. The bill sets forth the mission of the program, requirements for eligibility, and criteria for a scoring system to determine whether an applicant community qualifies for certification. If TDA finds that a community successfully meets the requirements of a Texas certified retirement community, the bill requires TDA to provide certain services to the community not later than the 90th day after the application is submitted. The bill authorizes TDA to contract with a local or regional nonprofit organization to provide a service under this requirement and requires TDA to consult with the Office of Rural Community Affairs to establish parameters for certification of rural communities. The bill establishes that a community's certification expires five years from the date the initial certification is issued and sets forth certain requirements for recertification. In addition, the bill establishes the Texas certified retirement community program account as a general revenue fund account composed of application fees collected by TDA from communities seeking certification. The bill requires TDA to adopt rules and to implement the program not later than September 1, 2006.

Senate Bill 833

Effective: Vetoed

Senate Author: Barrientos

House Sponsor: Dukes

Senate Bill 833 amends the Tax Code to require a rail transportation project plan prepared by the board of directors of a reinvestment zone that is designated on or after January 1, 2005, in a county with a population between 800,000 and 1.4 million to contain a residential component that includes the construction of affordable housing in the zone and a requirement that at least 25 percent of the tax increment of the zone be used to acquire necessary real property and construct affordable housing with the goal of achieving a specified mix of multifamily and single-family dwellings.

Reason Given for Veto: "Senate Bill No. 833 would require that Travis County, should it create a reinvestment zone as part of developing a new commuter rail project, devote a portion of the tax increment finances created within the zone for building affordable housing. I respect the intent of this legislation. My administration strongly supports affordable housing and efforts to expand housing opportunities for working Texans.

"However, local governments use tax increment financing to promote economic growth and redevelopment in designated areas. The success of these zones depends on local government officials and citizens setting priorities for the zone, as well as strong local management to see that the zone's intended purposes are met. These zones are intended to finance and implement complex economic development

Economic Development

strategies to benefit an entire community, and certainly few projects will be as complex as those associated with a new commuter rail project in Travis County. For this reason, I oppose setting in state law the priorities of a reinvestment zone in Travis County.

“Moreover, as the Texas economy continues to grow, our communities are meeting the challenges of expanding their transportation infrastructure. That is why I am opposed to diverting limited funding for critical transportation projects to any other purpose. While the reinvestment zone envisioned in Senate Bill No. 833 would not directly fund rail construction in Travis County, the zone is an integral part of making the rail line successful and promoting the economic vitality of the adjacent area. I am confident that officials and concerned citizens in Travis County will make wise decisions as to how best to use tax increment financing associated with any new commuter rail project, and meet the needs of all of the county’s residents.”

Defense Base Development

House Bill 2340

Effective: 9-1-05

House Author: Corte et al.

Senate Sponsor: Shapleigh

House Bill 2340 amends the Government Code to authorize the Military Preparedness Commission to use the Texas Military Value Revolving Loan Account to provide loans to defense communities for economic development projects that minimize the negative impact of a defense base reduction on the defense community or for an infrastructure project that accommodates new and expanded military missions as a result of the federal base realignment process. The bill sets out the criteria for and the administration of such a loan and requires the commission and the Texas Public Finance Authority to determine certain matters relating to the bond to fund the loan. In addition to a current grant for a community adversely affected by defense reduction, House Bill 2340 authorizes the Department of Commerce to award a grant to a local governmental entity for a restructuring project in positively affected defense communities, but requires that preference for grants be given to adversely affected communities. The bill also reinstates the deduction from taxable capital under the franchise tax for defense readjustment projects.

House Bill 2931

Effective: 6-18-05

House Author: Delisi

Senate Sponsor: Fraser

House Bill 2931 amends the Government Code to authorize a municipality that is a municipal defense community to acquire land and construct or acquire a building or other facility for the purpose of leasing the land, building, or facility to the federal government to enhance the military value of a military facility in or near the defense community.

House Bill 3163

Effective: 9-1-05

House Author: Noriega, Melissa

Senate Sponsor: Shapleigh

House Bill 3163 amends the Government Code to increase the number of public members of the Texas Military Preparedness Commission from nine to thirteen.

House Bill 3302

Effective: 9-1-05

House Author: Corte

Senate Sponsor: Shapleigh

House Bill 3302 amends the Government Code to authorize the Texas Military Preparedness Commission to award loans for economic development projects to defense communities adversely impacted by base realignment or closure and sets out procedures and criteria for the loans. The bill increases the number of commission members and removes from the list of commission duties employment support activities, development and maintenance of a database of defense-related

contractors and subcontractors, and development of a biennial strategic plan concerning base realignment and closure. It reduces the frequency of reports on military installations and related topics that the commission is required to present to the governor and other state officials and requires the commission to meet with state agencies that have defense-related programs or projects to discuss defense-related issues. House Bill 3302 also enumerates the mandatory content of a defense community economic redevelopment value statement that is required when a defense community adjacent to a closed military installation applies for assistance from the Texas military value revolving loan account.

Senate Bill 252**Effective:** 4-12-05**Senate Author:** Estes et al.**House Sponsor:** Delisi

Senate Bill 252 amends the Development Corporation Act of 1979 to restore authority to use development corporation powers, including Sections 4A and 4B tax proceeds, to undertake projects to develop or redevelop closed or realigned military bases. Those powers, which had been removed in 2003, are also expanded by the bill to encompass military facilities in general. Supporting provisions specify that authorized projects include those targeted at creation and retention of U.S. Army, Navy, Air Force, and Marine Corps jobs, and Coast Guard jobs associated with a military base or a military purpose.

Senate Bill 1090**Effective:** 9-1-05**Senate Author:** Madla**House Sponsor:** Menendez et al.

Senate Bill 1090 amends the Local Government Code to expand the authorized powers and duties of a defense base development authority to include setting borrowing and bond amount caps; leasing, owning, and operating an airport and exercising related powers; leasing, owning, and operating port facilities for air, trucking, and rail transportation; providing port security; and cooperating with and participating in state and federal Homeland Security programs and security efforts. The bill reinstates a defense base development authority's tax exemption from the commonly termed 4A/4B sales tax.

Senate Bill 1481**Effective:** 6-17-05**Senate Author:** Shapleigh**House Sponsor:** Corte

Senate Bill 1481 amends the Government Code to authorize the Texas Military Preparedness Commission to award loans for economic development projects to defense communities adversely impacted by or positively affected by base realignment or closure and sets out procedures and criteria for the loans. The bill removes from the list of commission duties employment support activities, development and maintenance of a database of defense-related contractors and subcontractors, and development of a biennial strategic plan concerning base realignment and closure. It reduces the frequency of reports on military installations and related topics that the commission is required to present to the governor and other state officials and requires the commission to meet with state agencies that have defense-related programs or projects to discuss defense-related issues. Senate Bill 1481 also enumerates the mandatory content of a defense community economic redevelopment value statement that is required when a defense community adjacent to a closed military installation applies for assistance from the Texas military value revolving loan account.

Economic and Industrial Development

House Bill 551

Effective: 6-17-05

House Author: Phillips

Senate Sponsor: Estes

House Bill 551 amends the Development Corporation Act provision relating to projects that are eligible to receive assistance from a development corporation in connection with a primary job. The bill adds a job that is included in the telephone call centers sector of the North American Industry Classification System to the definition of “primary job.”

House Bill 918

Effective: 5-17-05

House Author: Krusee

Senate Sponsor: Wentworth

House Bill 918 amends the Local Government Code to specify that, for purposes of establishing economic development programs, a municipality includes an area that has been annexed by the municipality for limited purposes or is in the extraterritorial jurisdiction of the municipality.

House Bill 1253

Effective: 6-18-05

House Author: Kuempel

Senate Sponsor: Armbrister

House Bill 1253 amends the Development Corporation Act provision relating to projects that may be undertaken by a development corporation created under the act. The bill amends the definition of “project” to include land, buildings, equipment, facilities, improvements, and expenditures determined by the corporation’s board of directors to be required or suitable for use as a career center, provided the area to benefit from the career center is not located within the taxing jurisdiction of a junior college district.

House Bill 1528

Effective: 9-1-05

House Author: Woolley et al.

Senate Sponsor: Madla

House Bill 1528 removes the January 1, 2007, expiration date for a law creating the Other Events trust fund. The fund helps an endorsing county or municipality with a population of one million or more to attract the Super Bowl, a World Cup soccer game, a National Collegiate Athletic Association Final Four tournament game or Bowl Championship Series game, the All-Star Game of Major League Baseball, the National Basketball Association, or the National Hockey League, or certain other games.

House Bill 1659

Effective: 9-1-05

House Author: Chavez

Senate Sponsor: Lucio

House Bill 1659 amends the Government Code to add an area located in a distressed county, defined to mean a county that has certain poverty, education-level, and unemployment characteristics, to the areas that automatically qualify for designation as an enterprise zone. The bill requires the Texas Economic Development Bank administered by the Texas Economic Development and Tourism Office to annually compile data identifying the distressed counties that qualify for the enterprise zone designation. The bank is required to make its designations, with regard to enterprise projects, using a weighted scale in which certain percentages of the evaluation depend on the project’s location in a distressed county and the project applicant’s commitment to the revitalization of the distressed county.

House Bill 1747**Effective:** 9-1-05**House Author:** Keffer, Jim et al.**Senate Sponsor:** Staples

House Bill 1747 amends the Government Code to establish the Texas Entrepreneurship Network to develop and diversify the economy of this state by facilitating the development of entrepreneurs. The bill requires the Texas Center for Rural Entrepreneurship to operate the network under an agreement with the Department of Agriculture and specifies the founding members, general duties and goals, and authorized programs of the network. It requires the center to establish an advisory board to guide and advise the operations of the network and provides for the board's membership, terms, and reimbursement. The bill authorizes certain entities to join the network and requires the network to work with these entities and others to develop and support strategies to assist individuals who have a business or an idea for a business and who register with the network. It requires the network to develop a statewide association of local individuals who are trained to develop business plans and authorizes the network to establish local entrepreneurship centers in every county practicable. The bill establishes the Texas Entrepreneurship Network fund as an account in the general revenue fund administered by the department for certain specified purposes and provides for appropriations and donations to be deposited in the fund.

House Bill 1765**Effective:** 6-14-05**House Author:** Morrison et al.**Senate Sponsor:** Shapiro

House Bill 1765 amends the Government Code to create programs and funding to encourage research and development activities in emerging technology industries. The bill establishes the Texas emerging technology fund for the purposes of expediting innovation and commercialization; attracting, creating, or expanding private sector entities that will promote a substantial increase in high-quality jobs; and increasing higher education applied technology research capabilities. The bill specifies that the fund is a dedicated account in the general revenue fund financed by appropriations from the legislature; benefits realized from a project undertaken with money from the fund; gifts, grants, and other donations; and interest earned on the investment of money in the fund. The bill also specifies that administration of the fund is considered to be a trusteed program within the office of the governor. It authorizes the governor to award money appropriated from the fund only with the express written prior approval of the lieutenant governor and speaker of the house of representatives. The bill allocates certain percentages of the fund for incentives to create regional centers of innovation and commercialization in six regions of the state and other suitable locations, for research grant matching, and for acquiring or enhancing research superiority at public institutions of higher education; it further specifies procedures for awarding grants in each funding category. It creates the Texas Emerging Technology Committee to make recommendations to the governor, lieutenant governor, and speaker for awarding money from the fund. The bill also provides for confidentiality of information concerning an entity being considered for an award and for the allocation of proceeds realized from any grant awarded from the fund. The bill specifies for each funding category proposals that must be given priority for funding, authorized expenses, and guarantees or documentation that must be provided by the grant recipient relating to benefits that the state may expect to gain as a result of the grant award.

House Bill 1938**Effective:** 9-1-05**House Author:** Ritter et al.**Senate Sponsor:** Brimer

House Bill 1938 amends the Government Code to establish certain requirements for an entity to be eligible for a grant under the Texas Enterprise Fund and to require, rather than

authorize, the governor to specify certain conditions in writing before awarding a grant from the fund. The bill expands the conditions to provide for repayment of the grant and other sanctions if the grant recipient fails to meet performance targets and makes certain other conditions optional. The bill authorizes a grant agreement to include a provision for the withholding of grant money until specified performance targets are met and requires the governor, after consultation with the speaker of the house of representatives and the lieutenant governor, to make certain determinations relating to the grant agreement. It requires an entity entering into a grant agreement to submit to the governor, lieutenant governor, and speaker an annual progress report regarding the attainment of performance targets and stipulates that repayment of a grant for nonattainment of performance targets may be prorated to reflect partial attainment. House Bill 1938 requires the governor, before the beginning of each regular session of the legislature, to submit to the lieutenant governor, speaker, and each member of the legislature a report that includes certain information relating to the use of money in the fund. The bill also requires the Texas Economic Development and Tourism Office to prepare a detailed statement of a grant's economic and fiscal impact before the governor awards the grant.

House Bill 2307

Effective: 5-10-05

House Author: Cook, Byron

Senate Sponsor: Fraser

House Bill 2307 amends the Government Code to increase the terms of office of members of the Product Development and Small Business Incubator Board from two years to six years.

House Bill 2755

Effective: 6-18-05

House Author: McReynolds et al.

Senate Sponsor: Duncan

House Bill 2755 amends the Development Corporation Act provision relating to the authority of a development corporation created under Section 4B of the Act to undertake projects for the development, retention, or expansion of business enterprises. The bill expands the definition of "project" to include a project undertaken by a corporation created by an eligible city that meets certain qualifications.

House Bill 2928

Effective: 9-1-05

House Author: Kolkhorst et al.

Senate Sponsor: Seliger

House Bill 2928 amends Development Corporation Act provisions relating to projects that may be undertaken by development corporations with respect to business enterprises or business development. The bill expands the definition of "project" to include sewer utilities, site improvements, and beach remediation along the Gulf of Mexico, and in certain cities and counties, a project may include airport-related facilities, airports, ports, and sewer or solid waste disposal facilities. The bill provides for projects necessary to promote or develop expanded business enterprises or development in cities and counties that meet certain criteria relating to population, location, and certain economic factors.

House Bill 3036

Effective: 6-18-05

House Author: Deshotel

Senate Sponsor: Janek

House Bill 3036 amends the Development Corporation Act to change the number of directors of a corporation created by a city under Section 4A of the Act from five to at least five and to allow the governing body of the city to remove a director at any time without cause. The bill requires the governing body of the city to determine the number of directors and the length of the term of each director, not to exceed six years, and to take action to conform the length of terms of the directors to the requirements of this provision not later than January 1, 2006.

House Joint Resolution 80
For Election: 11-8-05

House Author: Krusee
Senate Sponsor: Ogden

House Joint Resolution 80 proposes a constitutional amendment to clarify that a program created or a loan or grant of public money made for economic development that is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the political subdivision does not constitute or create a debt for the purpose of any provision of the Texas Constitution.

Senate Bill 150
Effective: 9-1-05

Senate Author: Wentworth
House Sponsor: Puente

Provisions in state law help qualifying counties or municipalities to attract certain major athletic events. Senate Bill 150 amends the law to add major motor sports racing events to the types of events that are supported. The bill expands the definition of “site selection organization” to include the Automobile Competition Committee for the United States affiliated with the Federation Internationale de l’Automobile, the Champ Car organization, and the American Le Mans Series organization. The bill also sets out provisions relating to the guarantee of state and municipal or county obligations and establishing the motor sports racing trust fund.

Senate Bill 593
Effective: 6-17-05

Senate Author: Carona
House Sponsor: Anchia

Senate Bill 593 enacts provisions to require the office of the governor to conduct a study relating to encouraging economic development and emerging technology. The bill specifies the study outline, and it requires the governor to report study results and recommendations to the lieutenant governor, the speaker of the house of representatives, and the members of the 80th Legislature not later than December 1, 2006.

Senate Bill 771
Effective: 6-18-05

Senate Author: West, Royce
House Sponsor: Hartnett

Senate Bill 771 amends the Tax Code to add the presence of certain unused structures to the conditions that can lead to the designation of an area as a reinvestment zone and to establish that the implementation of a project plan to alleviate the conditions and to promote development or redevelopment of a reinvestment zone in accordance with the Tax Increment Financing Act serves a public purpose. The bill also imposes restrictions on certain municipalities considering a petition to designate a proposed reinvestment zone and expands the powers and duties of the board of directors of a reinvestment zone relating to use of the tax increment fund of the zone. It provides that, if a municipality does not determine the portion of the tax increment that the municipality is required to pay into the fund for a reinvestment zone, the municipality is required to pay the entire tax increment produced by the municipality, with a certain exception. The bill also specifies the conditions under which certain municipalities may reduce the portion of the tax increment that the municipality is required to pay into the tax increment fund for a reinvestment zone.

Senate Bill 1038
Effective: 6-17-05

Senate Author: Lucio
House Sponsor: Oliveira

The Other Events trust fund helps qualifying counties or municipalities to attract certain major athletic events. Senate Bill 1038 expands the list of eligible events to include a national collegiate championship of an amateur sport sanctioned by the entity recognized as the national governing body of the sport by the United States Olympic Committee and an Olympic activity,

Economic Development

including a junior or senior activity, training program, or feeder program sanctioned by the United States Olympic Committee's Community Olympic Development Program. The bill removes the provision limiting eligibility to be an endorsing county to counties with a population of one million or more. It also eliminates the January 1, 2007, expiration date for the law creating the fund.

Senate Bill 1142

Effective: 9-1-05

Senate Author: Carona et al.

House Sponsor: Hamric

Senate Bill 1142 amends the Government Code to require the Music, Film, Television, and Multimedia Office, located within the Office of the Governor, to establish a film industry incentive program for film production companies in Texas. The bill sets out provisions relating to qualification, grants, additional grants for underused areas, and state debt.

Economic Development Districts

House Bill 167

Effective: 6-18-05

House Author: Smith, Wayne

Senate Sponsor: Jackson, Mike

House Bill 167 amends the Local Government Code to authorize a municipal development district (MDD) located in a county with a population of 3.3 million or more to use money in the development project fund to pay certain costs associated with a project within the district boundaries or the extraterritorial jurisdiction of the municipality in which the MDD is located, to pay certain costs associated with bonds or other obligations issued by the district, or to pay certain costs associated with the operation or maintenance of a project.

House Bill 525

Effective: 9-1-05

House Author: Rodriguez et al.

Senate Sponsor: Barrientos

House Bill 525 amends the Local Government Code to authorize certain municipalities to create homestead preservation districts and reinvestment zones to increase home ownership, provide affordable housing, prevent involuntary loss of homesteads by existing low-income and moderate-income homeowners living in disadvantaged neighborhoods, and improve economic and social conditions within disadvantaged communities. The bill authorizes such a municipality to create and operate a homestead land trust or a homestead preservation reinvestment zone or to adopt a homestead land bank plan to coordinate development in concert with the needs of the existing population of the district.

House Bill 1458

Effective: 6-17-05

House Author: Bailey

Senate Sponsor: Gallegos

House Bill 1458 amends the Special District Local Laws Code to create the Airline Improvement District in Harris County. The bill grants the district the powers of a 4B development corporation. If authorized by the appropriate elections, the district may impose an ad valorem tax and a sales and use tax. It is prohibited from imposing an impact fee or assessment on residential property. The bill requires the district to obtain City of Houston approval for issuance of any improvement project bond unless the district has obtained its approval of a capital improvements budget. The City of Houston must also approve plans and specifications for certain improvement projects.

House Bill 1587**Effective:** 6-18-05**House Author:** West, George “Buddy”**Senate Sponsor:** Seliger

House Bill 1587 amends the law relating to liability or immunity from liability for the Downtown Midland Management District or a director or employee of the district. The bill also validates all governmental acts and proceedings of the district as of their date of occurrence, except matters in litigation or invalidated by a final court judgment.

House Bill 1830**Effective:** 9-1-05**House Author:** Wong**Senate Sponsor:** Ellis

House Bill 1830 amends the Government Code to provide that a person, other than a member of the legislature, who intends to apply for the passage of a law establishing a municipal management district must notify by mail each person who owns real property in the proposed district not later than the 30th day before the intended law is introduced in the legislature. The bill details the content of the notice and specifies the persons who are not required to be mailed a notice.

House Bill 1937**Effective:** 6-18-05**House Author:** Ritter**Senate Sponsor:** Seliger

House Bill 1937 amends the Local Government Code to revise provisions authorizing a county with a population of less than 45,000 to call an election to create a county assistance district for certain purposes. The bill specifies that the authority applies only to a county that does not contain any part of a municipality that, before the election is called, created a development corporation or imposed a certain sales and use tax. It adds the promotion of economic development and tourism to the purposes for which a district may be created.

House Bill 2549**Effective:** 5-27-05**House Author:** Nixon**Senate Sponsor:** Janek

House Bill 2549 validates and confirms all governmental acts and proceedings of the Westchase District and of the district’s board of directors that occurred before May 27, 2005, except matters invalidated by the courts or involved in litigation on that date and ultimately held to be invalid by a final court judgment.

House Bill 3517**Effective:** 6-17-05**House Author:** Coleman**Senate Sponsor:** Ellis

House Bill 3517 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, financing, and boundaries of the Harris County Improvement District No. 7. The district is authorized to impose assessments, ad valorem taxes, and impact fees 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 3518**Effective:** 9-1-05**House Author:** Coleman**Senate Sponsor:** Ellis

House Bill 3518 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, financing, and boundaries of the Harris County Improvement District No. 6. The district is authorized to impose assessments, ad valorem taxes, and impact fees 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 3526

Effective: 6-17-05

House Author: Hochberg

Senate Sponsor: Ellis

House Bill 3526 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the Greater Sharpstown Management District in Harris 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. The bill provides the district with the authority to impose an assessment or a property tax and, subject to approval by the City of Houston, issue bonds or similar obligations.

House Bill 3528

Effective: 6-17-05

House Author: Bailey

Senate Sponsor: Gallegos

House Bill 3528 amends the Special District Local Laws Code to exempt a condominium from an impact fee or assessment imposed by the Greater Greenspoint Management District of Harris County in specified circumstances. The bill also validates and confirms actions and proceedings of the district that occurred before April 15, 2005.

House Bill 3550

Effective: 6-18-05

House Author: Bailey

Senate Sponsor: Gallegos

House Bill 3550 amends the Special District Local Laws Code to rename the Aldine Community Improvement District the Aldine Improvement District. The bill includes provisions relating to the appointment and removal of the board of directors of the district and requires a petition to be filed before the board can finance services and improvements with assessments. The bill also provides that the district shall have all the powers of a municipal utility district, including the power to issue bonds and impose a tax, but may not exercise the power of eminent domain.

House Bill 3554

Effective: 6-18-05

House Author: Howard

Senate Sponsor: Janek

House Bill 3554 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the Imperial Redevelopment District as a municipal utility district in Fort Bend County with additional road utility district powers. Subject to voter approval, the district is authorized to impose a tax and to issue bonds or other obligations to provide certain improvements and services, including the construction and operation of roads.

House Bill 3560

Effective: 6-18-05

House Author: Bohac

Senate Sponsor: Whitmire

House Bill 3560 changes the name of the Spring Branch Area Community Improvement District to the Spring Branch Management District, updates the list of the district's board of directors, continues the board until September 1, 2009, and alters the boundaries of the district.

Senate Bill 993

Effective: 6-17-05

Senate Author: Ellis

House Sponsor: Allen, Alma

Senate Bill 993 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the Harris County Improvement District No. 5. The district is authorized to levy an assessment and, subject to voter approval,

impose a property tax and issue bonds or other obligations to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

Senate Bill 1353
Effective: 6-17-05

Senate Author: Williams
House Sponsor: Eissler

Senate Bill 1353 amends provisions of law relating to the Town Center Improvement District of Montgomery County that address the employment and jurisdiction of peace officers, the regulation of certain public places and district property, and the adoption and enforcement of board rules. The bill also provides that the district is not required to seek competitive bids for certain contracts of \$25,000 or less.

Senate Bill 1555
Effective: Vetoed

Senate Author: Gallegos
House Sponsor: Noriega, Melissa

Senate Bill 1555 amends the Special District Local Laws Code to authorize the Greater East End Management District to limit the exemption from a district-imposed tax, impact fee, or assessment on residential properties to multiunit residential properties consisting of fewer than 13 units.

Reason Given for Veto: "Senate Bill No. 1555 would allow the Greater East End Management District in Houston to impose assessments on multi-unit residential property consisting of more than 13 units. Currently, the district is prohibited from imposing assessments or taxes on any residential property. The general law governing management districts prohibits districts from imposing impact fees, assessments or taxes on single-family detached residential property, duplexes, triplexes or quadraplexes. The language in this bill would allow for the first time for the management district to assess property taxes on single family homes. Imposing property taxes and assessments on single-family residential property is contrary to the general law governing municipal management districts."

Senate Bill 1751
Effective: 6-17-05

Senate Author: Duncan
House Sponsor: Jones, Delwin

Senate Bill 1751 amends provisions of the Special District Local Laws Code relating to the composition of the board of directors of the Lubbock Reese Redevelopment Authority and authorizes the district to issue a bond or similar obligation.

Senate Bill 1805
Effective: 6-17-05

Senate Author: Jackson, Mike
House Sponsor: Taylor

Senate Bill 1805 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the Galveston County Management District No. 1. The district is authorized to levy an assessment and, subject to voter approval, impose a property tax and issue bonds or other obligations to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

Senate Bill 1806
Effective: 6-17-05

Senate Author: Jackson, Mike
House Sponsor: Taylor

Senate Bill 1806 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the West Ranch Management District. Subject to voter approval, the district is authorized to impose a property tax and to issue bonds or similar obligations to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

Senate Bill 1813

Effective: 6-17-05

Senate Author: Ellis

House Sponsor: Dawson et al.

Senate Bill 1813 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the Pearland Municipal Management District No. 1. The district is authorized to levy assessments and, subject to voter approval, impose a sales and use tax and property 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 1820

Effective: 6-17-05

Senate Author: Armbrister

House Sponsor: Hegar

Senate Bill 1820 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the West Fort Bend Management District. The district is authorized to levy assessments, and, subject to voter approval, impose a property 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 1821

Effective: Vetoed

Senate Author: Fraser

House Sponsor: Hupp

Senate Bill 1821 provides for the creation, administration, powers, duties, operation, and financing of the Flatrock Springs Municipal Management District. The bill authorizes the district to issue bonds or other obligations and to levy, assess, and collect taxes, assessments, and impact fees 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.

Reason Given for Veto: "Senate Bill No. 1821 is being vetoed at the request of the author."

Senate Bill 1836

Effective: 6-17-05

Senate Author: Barrientos

House Sponsor: Strama

Senate Bill 1836 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the Pflugerville Municipal Management District No. 1. The district is authorized to impose an assessment or a property tax and, subject to approval by the City of Pflugerville, 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 1866

Effective: 6-17-05

Senate Author: Jackson, Mike

House Sponsor: Taylor

Senate Bill 1866 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the Dickinson Management District No. 1. The district is authorized, with the consent of the governing body of the City of Dickinson, to impose a 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.

Senate Bill 1867

Effective: Vetoed

Senate Author: Jackson, Mike

House Sponsor: Davis, John

Senate Bill 1867 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the NASA Area Management District. Subject to approval by the City of Nassau Bay, the district is authorized to levy an assessment, impose a sales and use tax, and issue bonds or other obligations to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

Reason Given for Veto: "Senate Bill No. 1867 would create the NASA Area Management District. A confirmation election would not be required to create the district. The district would have the power to levy assessments, issue bonds, and impose ad valorem, maintenance, and sales taxes without voter approval. The district would also have the power to impose an assessment on single-family residential property. This bill would also allow an appointed board to impose property taxes and assessments on single-family residential property without voter approval, which is contrary to the general law governing municipal management districts.

"Because the management district would encompass the exact same territory as the city, it effectively would represent double taxation for city residents without even the ability to vote on it.

"Finally, this bill represents a major departure from standard management districts."

Senate Bill 1892

Effective: 6-17-05

Senate Author: Madla

House Sponsor: Uresti

Senate Bill 1892 amends the Special District Local Laws Code to provide for the creation, administration, powers, duties, operation, and financing of the Espada Development District, located in Bexar County. The district is authorized to impose a property tax, but not a sales and use tax, and to issue bonds. The City of San Antonio must consent to the district's creation before a confirmation election may be held, and the city may place conditions on its consent. Without consent before January 1, 2007, or voter confirmation before September 1, 2009, the district is dissolved.

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

SB 466 - Local Government

SB 1137 - Alcoholic Beverages

SB 1199 - Taxes and Tax Administration

SB 1202 - Border Affairs

SB 1253 - Taxes and Tax Administration

SB 1413 - Environment

Elections

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

General

House Bill 56

Effective: 9-1-05

House Author: Denny et al.

Senate Sponsor: Ellis

House Bill 56 amends the Penal Code to make it a felony offense to tamper with a direct recording electronic voting machine or its related equipment or software and, as a result, to prevent a person from lawfully casting a vote, change such a vote or prevent its being counted, or cause a vote to be counted that was not lawfully cast, regardless of whether the affected votes are used to officially determine the election's outcome.

House Bill 57

Effective: 10-1-05

House Author: Denny et al.

Senate Sponsor: Jackson, Mike

House Bill 57 amends the Election Code to eliminate the first Saturday in February and the second Saturday in September as uniform election dates for general and special elections, to change the May uniform election date from the first Saturday to the second Saturday, and to require that any political subdivision holding its general election for officers on one of the eliminated dates before October 1, 2005, to change its uniform date no later than December 31, 2005. The bill removes an exemption from uniform election date requirements for a school or college district election to issue bonds or levy taxes; it also changes from December 31, 2004, to December 31, 2005, the deadline for the governing body of a political subdivision other than a county to change its uniform election date for a general election to another authorized date. The bill requires that the local canvass for an election held on the May uniform election date occur no later than 11 days after election day and no earlier than the later of the third day after election day, the date on which any provisional ballots have been verified and counted, or the date on which any timely received mail ballots cast from addresses outside the United States are counted. The bill also requires that the period for early voting by personal appearance for an election held on the May uniform election date begin 12 days before and end four days before election day.

House Bill 57 amends the Education and Water Codes to make conforming changes relating to the elimination of the February uniform election date.

House Bill 1209

Effective: 9-1-05

House Author: Gattis et al.

Senate Sponsor: Ogden

House Bill 1209 amends the Election Code to require a political subdivision that is not located in or adjacent to a county with a population of more than 3.3 million to use county election precincts for an election held on the November uniform election date. The bill also requires such a political subdivision to designate as its polling places for the election the regular county polling places in the county election precincts that contain territory from the political subdivision. Election officials are required to take reasonable measures to ensure that voters in election precincts that are not wholly within a political subdivision or district involved in an election do not vote in an election in which they are not entitled to vote.

House Bill 1414

Effective: 9-1-05

House Author: Rodriguez

Senate Sponsor: Ellis

House Bill 1414 amends the Election Code to extend the deadline for accepting marked ballots voted by mail and change the date for convening the early voting ballot board to count such ballots to the next regular business day if the deadline or date falls on a Saturday, Sunday, or legal state or national holiday.

House Bill 1580

Effective: 9-1-05

House Author: Bohac

Senate Sponsor: Lindsay

House Bill 1580 amends the Election Code to increase from 60 days to 22 months after election day the amount of time that precinct election records must be preserved by the authority to whom the records are distributed.

House Bill 2309

Effective: See below

House Author: Denny

Senate Sponsor: Jackson, Mike

House Bill 2309 amends a number of provisions of the Election Code relating to election processes and procedures. The bill requires the governing body of a political subdivision, other than a county, that orders an election to give notice of the election to the county clerk of each county in which the political subdivision is located no later than the 60th day before the election day. It requires the written certification of an unopposed candidate if, in an election held for that office, only the votes cast for that candidate would be counted. Previous law required the certification if the ballot would contain one candidate's name and the list of write-in candidates would contain no names. Under voter eligibility provisions, the bill stipulates that a person who resides on property located in more than one territory covered by an election must choose which territory includes the person's residence. The bill removes a requirement that certain nepotism information be included on a campaign treasurer designation form and prohibits a county election officer who has contracted with a political party's county election committee to perform primary election services from preventing the party's county chair or the chair's designee from supervising the conduct of the election, including the tabulation of results.

House Bill 2309 increases the maximum number of registered voters a county election precinct may contain from 2,000 to 5,000 and requires the secretary of state to prescribe procedures for determining the number of provisional ballots, rather than ballot stubs, to be provided to each election precinct prior to an election. The bill provides for the confidentiality of a social security number or state driver's license or personal identification card number that appears on a provisional ballot affidavit, requires the information tabulated for a local canvass to include for each precinct the total number of voters who cast a ballot in the election, requires that reports of county election precinct results be in an electronic format prescribed by the secretary, and for certain elections requires that the preparation and delivery of such a report be done by the presiding officer of the canvassing authority. The bill changes from February 1 of each odd numbered year to January 1 of each even-numbered year the deadline for appointing an elections advisory committee on the tabulation and reporting of election results.

In addition, House Bill 2309 establishes the authorized times for early voting by personal appearance at the main early voting polling place in an election ordered by a city; requires, rather than authorizes, an envelope containing an early voting ballot by mail to be placed in a separate container if the procedure for counting the early voting votes cast by personal appearance is different from that for counting votes cast by mail, and applies the same requirement for ballots that are to be counted at a central counting station; and specifies that a federal postcard application is considered submitted when received by the early voting clerk. The bill changes

the deadline for declaring a write-in candidacy in a special election to fill a vacancy in the legislature to 5 p.m. on the date an application for a place on the ballot must be filed, rather than on the fifth day after that date, and changes the deadline for a write-in candidate to withdraw in a general election for state and county officers to the 57th rather than the 46th day before the election. The bill requires the authority that appoints election judges for an election, rather than the authority holding the election, to make certain accommodations for Spanish-speaking voters. Finally, effective January 1, 2006, the bill revises certain statutory references, repeals obsolete provisions relating to mechanical voting machines and punch-card ballots, and makes conforming changes related to the repealed provisions. All other provisions of the bill take effect September 1, 2005.

House Bill 2465

Effective: 9-1-05

House Author: Denny

Senate Sponsor: Fraser

House Bill 2465 amends provisions of the Election Code relating to the approval of voting systems and equipment, including those that were previously approved but have a modified design or are being reexamined. The bill requires the secretary of state, after such a system or piece of equipment has been reviewed by examiners and before its approval, to conduct a public hearing that allows interested persons to express their views for or against such approval either orally, in writing, or both. The bill requires written notice of the hearing and requires that it be conducted according to rules adopted by the secretary.

Senate Bill 427

Effective: 9-1-05

Senate Author: Van de Putte

House Sponsor: Vo et al.

Senate Bill 427 amends the Election Code to require a political subdivision that changes its boundaries or the boundaries of districts used to elect members to the political subdivision's governing body to provide notification and a map of the change to the voter registrar of the county where the change is located no later than 30 days after the change is adopted. The bill requires a county clerk to give notice of a change of polling place no later than the earlier of 24 hours after the location is changed or 72 hours, rather than 24 hours, before the polls open on election day.

Senate Bill 895

Effective: 9-1-05

Senate Author: Carona

House Sponsor: Hartnett

Senate Bill 895 amends provisions of the Election Code relating to early voting ballots submitted by mail in an election conducted by an authority in a county with a population of at least 100,000 or conducted jointly with such a county. The bill allows the jacket envelopes containing such ballots to be delivered to the county's board of elections between the end of the ninth day before election day and the closing of the polls on election day, or as soon after that as practicable, and at a time specified by the board's presiding judge. The bill requires the county's early voting clerk to post notice of the expected delivery of the ballot materials according to certain specifications and, at least 24 hours before each delivery, to provide the delivery information to the county chairs of each political party with a nominee on the ballot. If a signature verification committee has more than 12 members, the bill authorizes the early voting clerk to designate two or more subcommittees of at least six members and requires that a signature determination by such a subcommittee be made by a majority of its members.

Candidate Filing Requirements

House Bill 964

Effective: 9-1-05

House Author: Gattis

Senate Sponsor: Ogden

House Bill 964 amends the Election Code to require a filing fee of \$2,500 for a candidate in the general primary election for chief justice or justice of a court of appeals district if that district includes all or part of a county with a population of more than 750,000, rather than a population of more than 850,000.

House Bill 1163

Effective: 9-1-05

House Author: Denny

Senate Sponsor: Harris

House Bill 1163 amends the Election Code to increase from \$750 to \$1,250 the filing fee for a candidate for district clerk in a general primary election in a county with a population of 200,000 or more.

House Bill 1509

Effective: 9-1-05

House Author: Denny

Senate Sponsor: Jackson, Mike

House Bill 1509 amends an Election Code provision relating to a petition filed in connection with a candidate's application for a place on the ballot. The bill establishes that a signature on such a petition is valid if, among other requirements, the petition includes either the signer's date of birth or the signer's voter registration number and, if applicable, county of registration. Under previous law, both the date of birth and the voter registration information were required.

House Bill 2339

Effective: 9-1-05

House Author: Corte et al.

Senate Sponsor: Jackson, Mike

House Bill 2339 amends the Election Code to require that balloting materials for a general election for state and county officers be mailed to an eligible voter outside the United States on or before the later of the 45th day before the election or the seventh day after the early voting clerk receives the application. The bill requires the clerk to notify the secretary of state within 24 hours if the materials cannot be mailed by the 45th day before the election and requires the secretary to monitor the situation and advise the clerk as needed. The bill also amends the Election, Education, Health and Safety, and Water Codes to adjust deadlines for certain other election procedures affected by the mailing deadline. In addition, it amends the Education Code to prohibit the board of trustees of an independent school district from using state or local funds or other district resources to electioneer for or against any candidate, measure, or political party.

Election Officials

House Bill 1614

Effective: 9-1-05

House Author: Denny et al.

Senate Sponsor: Duncan

House Bill 1614 amends the Election Code to prohibit a county election officer, in an election in which a political party has a contract with the county to perform election services in the party's general or runoff election, from preventing the party's county chair or the chair's designee from supervising the conduct of the primary election, including the tabulation of results.

House Bill 2069
Effective: 9-1-05

House Author: Anderson
Senate Sponsor: Averitt

House Bill 2069 amends the Election Code to provide that a county election officer who enters into a contract with the county executive committee of a political party to perform election services in the party's general primary election, runoff primary election, or both, must offer to contract on the same terms with the county executive committee of each political party holding a primary election in the county.

House Bill 2199
Effective: 6-18-05

House Author: Madden et al.
Senate Sponsor: Deuell

House Bill 2199 amends the Election Code to repeal a provision that prohibited the salary of a county elections administrator from exceeding the salary of the county clerk and that prohibited the salaries of the administrator's employees from exceeding the salaries of employees of the county clerk in comparable positions.

House Bill 2667
Effective: Vetoed

House Author: Dutton
Senate Sponsor: Gallegos

House Bill 2667 amends the Water Code to require the election official of a county in which a municipal utility district is located to administer an election for a director of the district and to require that the district pay the county for the services. If the district is located in more than one county, the bill requires the election official of the county in which the most inhabitants of the district reside to administer the election. The provisions of the bill do not apply to an election in a district that has 10 or fewer qualified voters at the time the election is called.

Reason Given for Veto: "House Bill No. 2667 would require Municipal Utility Districts (MUDs) to contract with county election officials to administer elections for directors of the district. Currently, MUDs may conduct their own elections.

"While House Bill No. 2667 is an attempt to bring uniformity to the election process for MUDs, it has not taken into consideration all of the ramifications on the county election process and the impact on taxpaying voters' access to polling locations. I am a strong believer in providing fair and unfettered access to citizens exercising their right to vote. I also believe that creating uniformity in the election process will be of great benefit to other special taxing districts other than MUDs.

"House Bill No. 2667 fails to take into consideration several unintended consequences, such as the tremendous increase in workload for county officials and the increased cost to the districts and taxpayers. I have instructed my office to work with MUDs, other special taxing districts and county election officials to create a system of uniform elections that will benefit all districts and county election offices."

Senate Bill 896
Effective: 9-1-05

Senate Author: Carona
House Sponsor: Hartnett

Senate Bill 896 amends Election Code provisions relating to the powers and duties and the appointment of certain election officers. The bill authorizes the county chair who submits a list of names of persons eligible for appointment as a county election judge to supplement the list until a specified time before the next general or special election. The bill requires a county election clerk to make a reasonable effort to consult with the appropriate party chair or chairs before providing the county commissioners court with a list of names of persons eligible for appointment as presiding or alternate presiding judge, requires a county's appointing authority to make a reasonable effort to consult with the appropriate party chair before filling a vacancy in one of those positions, and provides specific time periods immediately before an election during which the appointing authority may make an emergency appointment to fill a vacancy in one of those positions. In addition, the bill sets out procedures for appointing a county

election clerk if the presiding judge appointment has not been made by the deadline for the party chair to submit a list of names for the clerk's appointment; it also requires presiding judges to treat all election clerks at a polling place uniformly with regard to the clerks' work hours and assignment of duties.

Ethics, Reporting, and Disclosure

House Bill 350

Effective: 10-1-05

House Author: Hochberg

Senate Sponsor: Duncan

House Bill 350 amends provisions of the Election Code relating to telegram reports on political campaign contributions and expenditures made by certain candidates and committees within nine days of an election. The bill redesignates these reports as special reports, requires that such a report be received by, rather than filed with, the Texas Ethics Commission within the specified period of time, and exempts the report from requirements that it be accompanied by an affidavit and submitted on a prescribed form. A report filed with an authority other than the commission must be accompanied by the required affidavit unless the filer previously submitted an affidavit with another report in connection with the same election. The bill adds electronic filing as a method of delivery for special reports submitted by certain general-purpose committees.

House Bill 1071

Effective: 9-1-05

House Author: Uresti

Senate Sponsor: Van de Putte

House Bill 1071 amends the Election Code to require that certain reports of political contributions and expenditures that are filed by candidates and officeholders with the Texas Ethics Commission and that are not required to be filed electronically must be filed on a form that is prescribed by the commission.

House Bill 1647

Effective: 6-18-05

House Author: Hughes

Senate Sponsor: Fraser

House Bill 1647 amends the Election Code to increase from \$5,000 to \$25,000 the total amount of political contributions or political expenditures a political party's county executive committee may accept or make in a calendar year without filing a campaign treasurer appointment or certain reports required of a general-purpose committee.

House Bill 1664

Effective: 9-1-05

House Author: Harper-Brown et al.

Senate Sponsor: Shapiro

House Bill 1664 amends the Election Code to authorize alternate reporting requirements for a general-purpose committee if the committee has less than \$20,000 in its accounts as of the last day of the preceding reporting period for which the committee was required to file a report. The bill allows the campaign treasurer's report to use a \$100, rather than \$50, threshold in determining the level of detail required in reporting contributions and expenditures during that period. If the committee files monthly, the maximum amount of a contribution, expenditure, or loan that is not required to be individually reported is \$20, rather than \$10.

House Bill 1863

Effective: 6-17-05

House Author: Uresti

Senate Sponsor: Van de Putte

Under previous law the campaign treasurer appointment of an inactive candidate or political committee could be terminated only by the Texas Ethics Commission. House Bill 1863 amends

the Election Code to authorize the governing body of a political subdivision to adopt a process by which the political subdivision's clerk or secretary may terminate a campaign treasurer appointment that must be filed with that clerk or secretary. The governing body must consider the proposed termination in a regularly scheduled open meeting before it can be implemented.

House Bill 1945**Effective:** 6-18-05**House Author:** Hilderbran et al.**Senate Sponsor:** Madla

House Bill 1945 amends provisions of the Government Code relating to financial disclosure requirements for state officers and employees to clarify and update language applicable to state political party chairs.

Local Option Elections**House Bill 1799****Effective:** 9-1-05**House Author:** Denny**Senate Sponsor:** Fraser

House Bill 1799 transfers provisions relating to the conduct of local option elections on the sale of alcoholic beverages from the Alcoholic Beverage Code to the Election Code and makes other technical and nonsubstantive revisions.

Senate Bill 1246**Effective:** Vetoed**Senate Author:** Brimer**House Sponsor:** Woolley et al.

Senate Bill 1246 amends the Alcoholic Beverage Code to require that a local option election be held in certain political subdivisions on the issue of the sale of mixed beverages in restaurants by food and beverage certificate holders if the sale of such beverages is not legal in all or part of the political subdivision. The bill provides that if the issue fails to pass in a municipality located within a county that is subject to the election requirement, the election does not affect the municipality's wet or dry status. The bill authorizes the issuance of a mixed beverage permit to the holder of a private club registration permit with a food and beverage certificate if, before the second anniversary of a local option election, the mixed beverage permit application is approved by the club's members. The state and local fees for such a permit must be based on fees for original and renewal mixed beverage permits, and the security for the permit may not exceed the amount required for a private club permit.

Reason Given for Veto: "Senate Bill No. 1246 would require certain counties and cities that do not currently allow mixed drink sales in restaurants to hold elections to legalize such sales. This is a major departure from the state's long-time policy of allowing local residents to decide for themselves if they want a liquor election by filing a petition calling for one, rather than having the legislature dictate that an election be held.

"Under our traditional system, residents have the option of petitioning for an election if they want one or to refrain from petitioning if they are satisfied with their local wet or dry status. This bill requires every city or county which meets certain population criteria and which currently does not allow restaurants to sell mixed beverages to hold an election for the legalization of mixed drink sales in restaurants without a petition. This would deprive residents of areas affected by the bill of one of the two protections enjoyed by all other counties to ensure that their wishes for their neighborhood are respected.

"This bill would also affect counties which are not currently large enough to be covered by the bill, but which pass the bill's population limits in the future, since it requires an election as soon as the city or county passes the population threshold.

"Our current system allows local residents to decide if they want a liquor election. The dual process of petition and election is the best way to ensure that Texans can continue to be in charge of the destiny of their neighborhoods. We should not take this important tool of local control away from them."

Senate Bill 1626
Effective: 6-17-05

Senate Author: Whitmire
House Sponsor: Kuempel

Senate Bill 1626 amends the Alcoholic Beverage Code to change the required number of signatures on a petition for a local option election to legalize or prohibit the sale of alcoholic beverages in a political subdivision from 35 percent of the registered voters in the subdivision to 35 percent of the registered voters who voted in the most recent gubernatorial election. In addition, the bill authorizes the issuance of a wine only package store permit in an area in which wine sales have been legalized through a local option election.

Polling Place Requirements and Procedures

House Bill 535
Effective: 9-1-05

House Author: Madden et al.
Senate Sponsor: Williams

House Bill 535 amends the Election Code to add sound amplification devices to the types of equipment that may not be used for electioneering during a voting period within 1,000 feet of a building where a polling place is located.

House Bill 758
Effective: 9-1-05

House Author: Denny et al.
Senate Sponsor: Harris

House Bill 758 amends the Election Code to require the secretary of state to implement a pilot program to evaluate the use of countywide polling places for general elections for state and county officers as an alternative to the polling place located in each county election precinct. The commissioners court of a county that desires to participate in the program must hold a public hearing on such participation and submit a transcript or electronic recording of the public comments made at the hearing to the secretary of state, who may consider the comments when selecting counties for the pilot program. The bill requires the secretary during the course of the program to provide for an audit of direct recording electronic (DRE) voting units before and after the election, and during the election if practicable, and to select for the program one or more counties that have held a public hearing, have implemented a computerized voter registration list that allows an election officer at the polling place to verify that a voter has not otherwise voted in the election, use DRE voting machines, and have appropriate technological capabilities as determined by the secretary. The bill also requires the secretary, no later than January 1, 2007, to file a report with the legislature that includes the secretary's recommendations on the future use of countywide polling places and suggestions for permanent statutory authority regarding such polling places. The pilot program expires January 2, 2007.

House Bill 2759
Effective: 9-1-05

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

House Bill 2759 amends the Election Code to require that each election precinct of a county in which a voting system has been adopted for use in a general election for state and county officers contain a maximum of 5,000 registered voters. Under previous law, the maximum number was based on the county's population. The bill also requires the commissioners court of a county with a population of more than 175,000, when establishing election precincts, to consider the availability of buildings to use as polling places so that a voter in the precinct need not travel more than 25 miles from the voter's residence to the polling place and prohibits the commissioners court from designating as a polling place a location that does not meet that requirement.

Voter Rights, Voter Registration, and Voting Procedures

House Bill 178

Effective: 9-1-05

House Author: Denny

Senate Sponsor: Averitt

House Bill 178 amends the Election Code to authorize an election officer to access electronically readable information on a driver's license or a personal identification card when determining whether to accept a person for voting. The bill amends the Transportation Code to add an election officer establishing the identity of a voter to the list of individuals who are not prohibited from accessing, using, compiling, or maintaining a database of such information.

House Bill 345

Effective: 6-17-05

House Author: Solomons

Senate Sponsor: Seliger

House Bill 345 amends the Election Code to prohibit voter registrars or other county officials who have access to information furnished on voter registration applications from posting on a website a voter's telephone number, social security number, driver's license or personal identification card number, or date of birth.

House Bill 719

Effective: 9-1-05

House Author: Jones, Jesse et al.

Senate Sponsor: West, Royce

House Bill 719 amends the Election Code to require the secretary of state to adopt rules providing for publicizing voters' rights. A notice of those rights must be publicized through posting by an election officer in a prominent location at each polling place, on the secretary's Internet website, through material published by the secretary, or in another manner designed to give voters notice of those rights. The bill specifies the information to be included in the notice and requires the secretary to prescribe the notice's form and content and to revise the content as necessary to accurately reflect the laws that are in effect when the notice is publicized.

House Bill 1268

Effective: 1-1-06

House Author: Bohac

Senate Sponsor: Janek

House Bill 1268 amends the Election Code to require that a voter registration form include a space or box for indicating whether the applicant is interested in working as an election judge and to provide that such information is confidential and cannot be disclosed by the voter registrar. The bill also requires that the form include a warning that describes the penalties on conviction of making a false statement on the form. In addition, the bill provides for separate statements on the form relating to issuance of a driver's license or personal identification card or issuance of a social security number.

House Bill 1271

Effective: 9-1-05

House Author: Bohac et al.

Senate Sponsor: Janek

House Bill 1271 amends provisions of the Election Code and the Government Code to require the clerk of the court to maintain a list of the name and address of each person who is excused or disqualified from jury service because the person is not a resident of the county. Each month, the clerk of the court is required to send to the voter registrar of the county a copy of the list. The bill provides that notice must be given on the written summons for jury duty itself, that claiming nonresident status may lead to the removal of voting rights in that county. The notice must also state how the person may be restored to regular voter registration in the county.

House Bill 1382

Effective: 9-1-05

House Author: Jones, Jesse

Senate Sponsor: Ellis

House Bill 1382 amends the Election Code to require that a voter registrar's written notice of the cancellation of a voter's registration must be delivered to the voter no later than 30 days after the cancellation date.

House Bill 2059

Effective: 9-1-05

House Author: Madden et al.

Senate Sponsor: Jackson, Mike

House Bill 2059 amends the Election Code to allow a federal postcard application for voter registration that meets certain requirements to constitute registration for any election, rather than only an election for a federal office, that is held on or before the second general election for state and county officers that occurs after the date the application is submitted.

House Bill 2068

Effective: 9-1-05

House Author: Anderson

Senate Sponsor: Averitt

House Bill 2068 amends the Election Code to change the designation of certain state agencies as voter registration agencies to conform to the reorganization of health and human services agencies implemented under House Bill 2292, Acts of the 78th Legislature, Regular Session, 2003.

House Bill 2280

Effective: 1-1-06

House Author: Denny

Senate Sponsor: Fraser

House Bill 2280 amends the Election Code to require a voter registrar to approve an unchallenged voter registration application if the registrar verifies with the secretary of state the applicant's Texas driver's license or personal identification card number or the last four digits of the applicant's social security number unless the applicant has completed a statement attesting to the lack of such identification. The bill requires, rather than authorizes, the secretary of state to prescribe a uniform system for assigning voter registration numbers. The bill authorizes a voter who continues to reside in the same county to correct incorrect or outdated information on his or her voter registration card by digital transmission under a program administered by the secretary and the Department of Information Resources and requires, rather than authorizes, the secretary to adopt rules to approve technologies and any necessary procedures to implement such digital transmission.

House Bill 2280 requires the secretary to prescribe procedures to ensure that when a voter registers in another county the statewide computerized voter list is updated to reflect the registration in the new county. The bill makes other changes relating to the frequency and timing of periodic updates to voter registration data and to transmission of certain voter information to the appropriate registrar. The bill requires the Department of Public Safety (DPS) to electronically transmit to the secretary the electronic signatures of voter registration applicants who register in person at DPS. The secretary is required to prescribe procedures to implement such transmission, which may allow DPS to delay the implementation until January 1, 2008, if DPS determines that it lacks the proper equipment for the transmission. If a delay is granted, the bill allows applicants to register without an electronic signature if all other registration information is submitted electronically.

House Bill 2322
Effective: 9-1-05

House Author: Anchia et al.
Senate Sponsor: Ellis

House Bill 2322 amends the Election Code to require the secretary of state to establish and maintain an online electronic system for administering vouchers submitted by and warrants issued to voter registrars for voter registration transactions. Registrars must electronically submit vouchers to the secretary using the online system, and the system must provide for disbursements to be deposited directly into the registrars' accounts. The bill requires the secretary to establish the system no later than January 1, 2006.

House Bill 2454
Effective: 9-1-05

House Author: Jones, Jesse
Senate Sponsor: Ellis

House Bill 2454 amends the Election Code to add to the criteria that must be met before a person who has changed his or her county of residence may vote a limited ballot in the new county by personal appearance during the early voting period or by mail. The bill adds that the person must have been registered to vote in the former county at the time residence is changed. The bill requires the secretary of state to prescribe the form of the statement of voter eligibility a person must execute before voting a limited ballot, which may include space to disclose information needed for the person to register to vote.

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

- HB 192 - Health
- HB 2956 - Higher Education
- HB 3162 - Military Forces and Veterans
- HB 3195 - Taxes and Tax Administration

Emergency Response

This chapter covers legislation relating to emergency response, including homeland security, the statewide 9-1-1 system, emergency medical services providers, and emergency services districts. The chapter also includes legislation on the emergency succession of legislators who are unavailable due to an enemy attack. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 1126

Effective: 9-1-05

House Author: Uresti

Senate Sponsor: Madla

House Bill 1126 amends the Health and Safety Code to require the Department of State Health Services to organize the results of certain health-related information collected and vital statistics records according to specific geographic areas. House Bill 1126 also amends the Health and Safety Code and the Local Government Code relating to emergency medical services vehicles and personnel. The bill removes an exemption from certain licensing requirements under the Emergency Medical Services Act for a ground transfer vehicle and staff used to transport a patient that is medically necessary to be transported using a stretcher. The bill requires all emergency medical services providers to be qualified at the level of basic life-support provider and adds to the requirements for the qualification as a basic life-support provider the capability to provide emergency and nonemergency transportation. It further provides that an employee of a fire department whose primary duty is to provide emergency medical services for certain municipalities is entitled to civil service protection.

House Bill 1577

Effective: 6-17-05

House Author: Nixon et al.

Senate Sponsor: Janek

House Bill 1577 amends the Occupations Code to provide that, if there is no compensation or remuneration, a physician assistant may perform certain medical tasks during a disaster without the supervision of a physician as required under nonemergency circumstances or under the supervision of any physician who is also performing volunteer work during the disaster. The bill entitles the physician assistant to certain immunity from liability for performing the prescribed tasks. House Bill 1577 also authorizes a physician assistant employed by the U.S. government or licensed in another state to perform medical tasks in Texas in such emergency circumstances.

House Bill 1977

Effective: 6-18-05

House Author: Gallego

Senate Sponsor: Gallegos

House Bill 1977 amends the Government Code to require, rather than authorize, a Star of Texas award to be presented to each peace officer, firefighter, or emergency medical first responder who is seriously injured in the line of duty and to the surviving next of kin of each officer, firefighter, or responder who is killed or sustains a fatal injury in the line of duty. The bill specifies that the requirement applies to an officer, firefighter, or responder who is seriously injured or who is killed or sustains a fatal injury on or after September 1, 2003.

House Bill 3111

Effective: 6-9-05

House Author: Corte

Senate Sponsor: Janek

House Bill 3111 amends the Government Code to authorize a county judge or the mayor of a municipality to order the evacuation of an area stricken or threatened by a disaster and to control movement in, out, and within the area. The bill provides that, in the case of a conflict between decisions of a county judge and a mayor, the county judge's decision prevails.

Senate Bill 9

Effective: 6-18-05

Senate Author: Staples

House Sponsor: Corte

Senate Bill 9 amends provisions in several codes relating to homeland security in Texas. The bill renames the Critical Infrastructure Protection Council as the Homeland Security Council, adds representatives from 14 agencies to the council, replaces the Texas National Guard with the adjutant general's department as a member agency, and modifies the eligibility requirements for a member agency's representative. It also establishes the First Responder Advisory Council and the Private Sector Advisory Council to advise the governor on homeland security issues according to each membership's expertise and includes provisions relating to the councils' membership, eligibility for membership, duties, and compensation and reimbursement policies.

Senate Bill 9 abolishes the Public Safety Radio Communications Council and transfers responsibility for the interoperability of radio communications to the office of the governor. The bill provides that the governor must develop and administer a strategic plan for implementing a statewide integrated public safety radio communications system to promote interoperability within and between local, state, and federal agencies and first responders. The bill delineates additional related duties of the governor, including submitting an annual report on the status of the strategic plan implementation to the legislature. Furthermore, the bill requires the governor to develop a plan to help appropriate entities establish interoperable communication among computer systems used by local, state, and federal agencies and first responders, including providing a single point of entry to distribute information, applications, processes, and communications.

With regard to water system security, the bill requires an owner, agent, manager, operator, or other person in charge of a public water supply system or wastewater system that provides services for public or private use to notify the Texas Commission on Environmental Quality of certain events, such as an unauthorized entry, terrorism, or natural disaster, that could negatively impact the production or delivery of safe and adequate drinking water.

Senate Bill 9 requires the Texas Department of Agriculture and Texas Animal Health Commission to pursue a policy of ensuring that the borders of the state are secure from shipments of potentially dangerous pests and diseases carried by plants and animals by taking certain action related to the operation of checkpoints or performance of inspections of vehicles moving within the state to determine if a vehicle contains a plant, plant product, or other substance capable of introducing or disseminating an insect pest or plant disease dangerous to the interests of horticulture or agriculture in the state.

The bill enhances from a Class B misdemeanor to a Class A misdemeanor the penalty for trespass on or in a critical infrastructure facility. The penalty enhancement does not apply if a defendant can prove by a preponderance of the evidence that the defendant entered or remained on or in such a facility as part of a peaceful or lawful assembly.

Senate Bill 9 authorizes certain governmental entities to agree in writing to assign responsibility for civil liability arising under a contract to furnish or obtain the services of a fire department, such as training, fire suppression, fire fighting, ambulance services, hazardous materials response services, fire and rescue services, or paramedic services.

Senate Bill 9 extends the power of search, seizure, and arrest within the state accorded to special agents of the U.S. Secret Service to include misdemeanor offenses under state law and any criminal offense under federal law. The bill requires the governor to measure the effectiveness of federal and state homeland security grants and other funding and adds certain defense base development authorities to the list of entities eligible to receive such grants. Additionally, the bill requires the Railroad Commission to adopt and enforce safety standards and best practices related to the prevention of damage by a person to a facility under the commission's jurisdiction.

Senate Bill 11

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Delisi

Senate Bill 11 amends the Education Code to require school districts to adopt and implement a multihazard emergency operations plan with provisions for training, drills, interagency coordination, and security audits. The bill adds assisting school districts in developing such plans and developing security criteria for instructional facilities to the Texas School Safety Center's list of duties. The bill requires a school district to consider center security criteria for instructional facilities when building a new facility or conducting major renovation of an existing facility. The bill makes the center's provision of certain on-site technical assistance discretionary rather than mandatory.

Senate Bill 308

Effective: 9-1-05

Senate Author: Duncan

House Sponsor: Swinford

In 1983 the legislature passed the Emergency Interim Legislature Succession Act to provide for emergency interim successors to replace unavailable legislators in the event of enemy attack. Senate Bill 308 amends the act to eliminate the primary selection system, which gives first preference to former legislators from an unavailable legislator's district, and to rely solely on what, under prior law, was an alternate system for a district that has no former legislators available to serve. The amended system requires a legislator each term, on taking the oath of office, to designate and rank three to seven successors who meet age and residence requirements. The list of successors and the written acceptance of each designee are filed with the secretary of the senate or the chief clerk of the house, with copies forwarded to the secretary of state. A legislator's list must be reviewed at least annually and may be revised as the legislator considers appropriate. If the governor declares an emergency due to actual or threatened enemy attack, for each legislator that the lieutenant governor or speaker of the house—or the senate or the house if the lieutenant governor or speaker is absent—certifies to be unavailable, the list is used by the secretary of state to notify an emergency interim successor to assume that legislator's duties. The successor may exercise all powers relating to successor designation. The bill includes additional procedural provisions.

Senate Bill 521

Effective: 9-1-05

Senate Author: Madla et al.

House Sponsor: Uresti

Senate Bill 521 amends the Health and Safety Code to remove an exemption from certain licensing requirements under the Emergency Medical Services Act for a ground transfer vehicle and staff used to transport a patient when it is medically necessary that the patient be transported using a stretcher. The bill requires all emergency medical services providers to be qualified at the level of basic life-support provider and adds to the requirements for the qualification as a basic life-support provider the capability to provide emergency and nonemergency transportation.

Emergency Response

Senate Bill 523

Effective: 5-3-05

Senate Author: Deuell et al.

House Sponsor: McReynolds

Senate Bill 523 amends provisions of the Health and Safety Code relating to the regional emergency medical dispatch resource center pilot program. The bill requires the area health education center (center) at The University of Texas Medical Branch at Galveston (UTMB), rather than the Texas Department of Health, to establish the pilot program and transfers related authority, duties, and cooperative activities to the center. It authorizes UTMB, on behalf of the center, to receive funding from the 9-1-1 services fee and seek additional grant funding for the program. Senate Bill 523 also provides for selecting multiple public safety answering points as program participants or as regional emergency medical dispatch resource centers. The bill extends the pilot program until 2009 and revises reporting requirements to occur biennially and to include the governor and the Advisory Council on Emergency Medical Services as report recipients.

Emergency Services Districts

House Bill 1583

Effective: 9-1-05

House Author: Kolkhorst

Senate Sponsor: Armbrister

House Bill 1583 amends the Health and Safety Code to authorize the board of managers of certain emergency services districts to require a service supplier or business service user to provide certain information required by the board, so long as that information is readily available, to determine whether the provider or user is correctly billing and collecting the 9-1-1 emergency service fee and remitting the fee to the district. The bill also sets out confidentiality provisions and enforcement mechanisms.

House Bill 2235

Effective: 6-18-05

House Author: Baxter

Senate Sponsor: Barrientos

House Bill 2235 amends the Health and Safety Code to authorize two or more emergency services districts to merge into a single emergency services district. The bill includes provisions relating to the procedures by which a merger may occur, the composition of an initial board of directors, an election to approve the merger, the maximum tax rate that may be imposed, and the powers, rights, duties, assets, and liabilities of the newly created district.

House Bill 2619

Effective: 9-1-05

House Author: Hegar

Senate Sponsor: Zaffirini

House Bill 2619 amends the Government Code to require the Office of Rural Community Affairs to establish an emergency services district program to provide interested rural communities with information, training, and technical assistance on such districts and their establishment and implementation.

House Bill 2957

Effective: 9-1-05

House Author: Hamric

Senate Sponsor: Gallegos

House Bill 2957 amends the Health and Safety Code to expand the list of items exempted from the competitive bidding requirement for purchases by an emergency services district to include the purchase of vehicle fuel and firefighter bunker gear.

Senate Bill 171**Effective:** 9-1-05**Senate Author:** Harris**House Sponsor:** Geren

Senate Bill 171 amends a Health and Safety Code provision applicable to a county with a population of more than 860,000 in which an emergency communication district was created before 1988 under the Emergency Communication District Act as enacted in 1984 to raise a district's maximum 9-1-1 emergency service fee from three to six percent of the monthly base rate charged by the principal service supplier in a participating jurisdiction.

Senate Bill 314**Effective:** 9-1-05**Senate Author:** Gallegos**House Sponsor:** Hamric

Senate Bill 314 amends the Health and Safety Code to increase from three to six percent the rate cap on the emergency service fee that is charged for 9-1-1 service in certain emergency communication districts.

Senate Bill 621**Effective:** 9-1-05**Senate Author:** Janek**House Sponsor:** Hegar

Senate Bill 621 amends the Health and Safety Code to permit a public agency located wholly or partly in a county adjoining a county with a population over two million for which an emergency communication district was created and that has received 9-1-1 service through an interlocal agreement with the district for at least 10 years to become part of the district by resolution of the agency's governing body and approval by the board of managers of the district.

Senate Bill 718**Effective:** 5-17-05**Senate Author:** Eltife**House Sponsor:** Berman

Senate Bill 718 amends the Health and Safety Code to provide that in a petition to create an emergency services district, the requirement to define the proposed district's boundaries can be met by designating the existing boundaries of another political subdivision such as a county or a city and that such a designation would meet the standard of a sufficient legal description in lieu of a designation by metes and bounds.

Senate Bill 1435**Effective:** 9-1-05**Senate Author:** Madla**House Sponsor:** Hamric

Senate Bill 1435 amends the Health and Safety Code to permit the nonconsecutive numbering of emergency services districts.

Senate Bill 1436**Effective:** 9-1-05**Senate Author:** Madla**House Sponsor:** Hamric

Senate Bill 1436 amends the Health and Safety Code to subject emergency services districts that are located in multiple counties to audit requirements previously applicable only to emergency services districts located wholly in one county. The bill requires the county auditors in those counties containing any part of a multicounty emergency services district to adopt uniform rules for such audits and related reports, and it requires the county commissioners courts of those counties to designate by joint order which of the county auditors is to perform the audit and issue the report.

Emergency Response

Senate Bill 1437

Effective: 9-1-05

Senate Author: Madla

House Sponsor: Hamric

Senate Bill 1437 amends the Health and Safety Code to alter the beginning and end dates for the initial terms of office of commissioners on the board of an emergency services district located in more than one county and to provide for filling vacancies on such boards.

Senate Bill 1518

Effective: 6-18-05

Senate Author: Deuell

House Sponsor: Laubenberg

Senate Bill 1518 validates and confirms the creation of the Rockwall County Public Safety and Fire Assistance District and confirms the levy of a sales and use tax in the district, except in certain areas.

Senate Bill 1621

Effective: 9-1-05

Senate Author: Lindsay

House Sponsor: Hamric

Senate Bill 1621 amends the Health and Safety Code to repeal provisions that capped the tax rate for emergency services districts located wholly in a county with a population of more than 2.4 million at \$0.03 per \$100 of taxable property value. Repeal of these provisions allows the commissioners court of such a county to levy property taxes for the support of emergency services districts in that county at a rate not to exceed the cap of \$0.10 per \$100 valuation applicable to emergency services districts in every other county.

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

HB 162 - Health

HB 233 - Public Officials and Employees

HB 805 - Border Affairs

HB 2470 - Health

Energy Resources

This chapter covers legislation relating to oil and natural gas, derivative fuels, and coal mining and reclamation. Bills relating to electric power plants and gas utilities are in the **Utilities** chapter.

House Bill 380
Effective: 6-17-05

House Author: West, George “Buddy”
Senate Sponsor: Armbrister

House Bill 380 amends the Natural Resources Code to allow use of a well-specific plugging insurance policy that meets certain requirements to meet the required financial assurance relating to oil-field cleanup in lieu of an individual or blanket bond, letter of credit, or cash deposit. The bill requires that benefits paid to the state from such a policy be deposited in the oil-field cleanup fund.

House Bill 472
Effective: 9-1-05

House Author: West, George “Buddy”
Senate Sponsor: Armbrister

Previous law imposed an annual fee on a coal mining and reclamation operations permit holder for each acre of land in the permit area on which the permit holder actually conducted operations during the year. House Bill 472 amends the Natural Resources Code to add a permit fee and a fee based on the total acreage in the bonded permit area. The bill also specifies that the Railroad Commission is required to set the fee amounts and removes the minimum fee level.

House Bill 473
Effective: 9-1-05

House Author: West, George “Buddy”
Senate Sponsor: Armbrister

House Bill 473 amends the Natural Resources Code to authorize the Railroad Commission to contract with an outside testing service for the preparation, administration, and grading or review of liquefied petroleum gas license examinations.

House Bill 484
Effective: 9-1-05

House Author: West, George “Buddy”
Senate Sponsor: Armbrister

House Bill 484 amends the Natural Resources Code to change the deadline for filing a basic electric log run in conjunction with a drilling operation and a confidentiality request related to that log to not later than the 90th day after the operation is completed. Under previous law, the filings were due at the time a completion report or application to plug a well was filed. The bill also clarifies that the operator of a well is the person responsible for regulatory compliance of the well.

House Bill 760
Effective: 9-1-05

House Author: McReynolds
Senate Sponsor: Jackson, Mike

House Bill 760 amends the Agriculture Code to consolidate inspection fee requirements relating to pumps, scales, and bulk or liquefied petroleum gas metering devices, to add fee coverage of other measuring or dispensing devices, and to give the Texas Department of Agriculture rulemaking discretion to charge the owner or operator of such a device a fee to recover not only registration costs, but also inspection costs. The bill eliminates provisions that previously based the fee on the number and capacity of the scales, pumps, or devices. It also clarifies that a pump refers to a gasoline, kerosene, or diesel fuel measuring or dispensing device.

House Bill 951

Effective: 6-17-05

House Author: West, George “Buddy”

Senate Sponsor: Seliger

House Bill 951 amends the Health and Safety Code to limit the cost a person who undertakes certain construction on, across, over, or under an easement or right-of-way for a pipeline facility must pay for additional safety fortifications necessitated by such construction to what is reasonable, necessary, and documented. The bill provides for a constructor’s civil liability for violating guidelines regulating such construction and for injunctive relief to prevent or abate a violation.

House Bill 951 amends the Natural Resources Code and the Utilities Code to limit the charges a city may assess for certain construction activities related to a hazardous liquid, carbon dioxide, or gas pipeline facility on, along, or across a public way, to an annual charge that does not exceed a city’s regulatory costs related to the pipeline facility and charges to recover repair costs for damage to city-maintained public ways caused by pipeline construction activities. The bill provides for appealing and collecting the charge. The bill establishes the circumstances in which a city is required to pay to relocate such a pipeline facility and in which a pipeline facility owner or operator is required to pay.

House Bill 1161

Effective: 9-1-05

House Author: Farabee

Senate Sponsor: Armbrister

House Bill 1161 amends the Natural Resources Code to clarify that an oil and gas royalty owner may obtain production information that has been reported to the Railroad Commission for a property, well, or lease by providing to the commission the identification number of the lease and the county in which it is located.

House Bill 1162

Effective: 9-1-05

House Author: Farabee

Senate Sponsor: Armbrister

House Bill 1162 amends the Natural Resources Code to authorize, rather than require, the Railroad Commission to adopt training and seminar attendance requirements and to administer continuing education programs for compressed or liquefied natural gas applicants, licensees, and registrants.

House Bill 2161

Effective: See below

House Author: West, George “Buddy”

Senate Sponsor: Seliger

House Bill 2161 amends provisions of the Natural Resources, Tax, and Utilities Codes relating to pipeline safety standards, tax credits for certain oil leases and gas wells, and orphaned wells in Texas.

The bill requires the Railroad Commission to adopt rules governing safety standards for certain earth-moving activity in the vicinity of a carbon dioxide or gas pipeline facility to prevent damage to the pipeline and sets out timelines for rulemaking and parameters for the standards.

House Bill 2161 establishes tax credits for low producing gas wells or oil leases and for the installation and use of enhanced efficiency equipment on marginal oil wells. The bill provides for the application for and the calculation of the tax credits, and for limits on the amount and number of credits. The tax credit for a low producing gas well or oil lease expires September 1, 2007. House Bill 2161 also creates a tax exemption for oil and gas from reactivated orphaned wells and sets out parameters of the exemption. The bill also provides a penalty for fraudulent application for such a tax exemption.

The bill establishes a Railroad Commission program to reduce the number of orphaned wells in Texas, defining an orphaned well as a well with a Railroad Commission permit that has not reported oil or gas production for 12 months and whose operator's commission-approved organization report has lapsed and sets out parameters of the program.

The bill takes effect September 1, 2005, except for provisions relating to orphaned wells, which take effect January 1, 2006.

House Bill 2172**Effective:** 9-1-05**House Author:** West, George "Buddy"**Senate Sponsor:** Seliger

House Bill 2172 amends provisions of the Natural Resources Code relating to eligibility for a license or registration for an exemption to engage in liquefied petroleum gas-related activities. The bill authorizes the Railroad Commission of Texas to deny, refuse to renew, or revoke a license or registration for an exemption if the applicant has violated a safety-related statute, commission rule, order, license, permit, or certificate, or if an owner or person in control of the applicant company has committed such a violation during the previous seven years. The bill enumerates the instances in which the commission is required or authorized to approve a license application or exemption registration even if a violation has occurred.

House Bill 2440**Effective:** 6-18-05**House Author:** West, George "Buddy"**Senate Sponsor:** Armbrister

House Bill 2440 amends the Natural Resources Code to clarify that when the railroad commission has permitted production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas, the agency's regulatory authority includes regulating all activities under its jurisdiction and associated with such productions as if the accumulations were a single common reservoir.

Senate Bill 480**Effective:** 9-1-05**Senate Author:** Hinojosa et al.**House Sponsor:** West, George "Buddy"

Senate Bill 480 amends the Natural Resources Code and the Utilities Code relating to the authority of a city to assess charges for certain pipeline facilities. The bill limits the charges a city may assess a hazardous liquid or carbon dioxide pipeline facility or a gas pipeline facility on, along, or across a public way, to an annual charge that does not exceed a city's regulatory costs related to the pipeline facility and charges to recover repair costs for damage to city maintained public ways caused by pipeline activities. The bill provides for appealing a city charge and for collection of a charge. The bill establishes the circumstances in which a city is required to pay to relocate a gas pipeline facility and in which a gas pipeline facility owner or operator is required to pay.

Senate Bill 1130**Effective:** See below**Senate Author:** Hinojosa**House Sponsor:** Hilderbran

Senate Bill 1130 amends the Natural Resources Code to require a common carrier or owner or operator of a pipeline to file a report within 24 hours to the Railroad Commission of Texas and the landowner if any petroleum-based contamination is observed or detected while placing, replacing, repairing, or maintaining a pipeline. The bill sets out requirements for the report, including content, filing deadline, and method of transmission. The bill prohibits the commission from using the oil-field cleanup fund to implement the regulations.

Energy Resources

Senate Bill 1130 also provides that a common carrier or pipeline owner or operator that makes a contamination report is released from all liability for the contamination or the cleanup, except for any contamination caused by the reporting entity. The constitutional authority of the legislature to limit liability requires a three-fifths vote of the members of each house, and the bill did not receive this required vote, so the section on the release from liability is not effective. The remainder of the bill is effective September 1, 2005.

Senate Bill 1170

Effective: 6-17-05

Senate Author: Armbrister

House Sponsor: Crownover

Senate Bill 1170 amends the Natural Resources Code to change certain Railroad Commission duties relating to regulation of natural gas. It includes provisions concerning prorating the daily gas well production from a common reservoir and the commission's responsibility to determine the status of gas production from reservoirs.

Senate Bill 1175

Effective: 6-17-05

Senate Author: Armbrister

House Sponsor: Crownover

Senate Bill 1175 amends certain provisions of the Natural Resources Code relating to regulation of oil and gas production by the Railroad Commission of Texas. The bill authorizes, rather than requires, certain commission actions, including determining whether to expand application of a rule or order for a local area to other areas, determining the reasonable market demand of a pool to prevent discrimination in determining allotments, and determining whether waste or violation of state conservation laws and regulations is occurring. It makes certain other required or discretionary commission actions—determining the allowable production from a common supply of natural gas wells, apportioning or allocating production among various oil pools, or apportioning or allocating production among pool or well producers—dependent either on a complaint or on the commission's own initiative. The bill also makes the apportionment or allocation of allowable oil and gas production conditional on a commission finding that such action is necessary to prevent waste or to adjust the correlative rights and opportunities of each oil or gas owner in a common reservoir.

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.

General

House Bill 2096

Effective: 9-1-05

House Author: Bonnen

Senate Sponsor: Janek

House Bill 2096 amends the Natural Resources and Parks and Wildlife Codes to address removal and disposal of abandoned and derelict vessels and structures to prevent oil spills and other pollution hazards. The bill defines what is considered a structure and expands the prohibition against leaving, abandoning, or maintaining certain vessels or structures in or on coastal waters, on public or private land, or at a public or private port or dock, without the consent of the commissioner of the General Land Office. Violation of the prohibition is a misdemeanor. The bill provides for the removal and disposal or sale of vessels and structures that meet the code's criteria and for recovering the cost of the removal, disposal, or sale. The bill requires any recovered costs, proceeds from sales, donations, grants, or gifts to be deposited into the coastal protection fund.

House Bill 2201

Effective: 6-18-05

House Author: Hughes et al.

Senate Sponsor: Estes

House Bill 2201 amends the Government Code, Water Code, Health and Safety Code, and Tax Code to make various changes in the law to better position Texas to be selected for the U.S. Department of Energy's (DOE) proposed clean coal demonstration project for electric power plants, known as FutureGen. The bill authorizes the governor to allocate appropriations to the Texas Emerging Technology Fund, and certain proceeds deposited in that fund, to provide matching money for a FutureGen clean coal project, provided that the lieutenant governor and speaker of the house give prior approval. The bill adds to the energy demonstration program supervisory duties of the state energy conservation office (SECO), situated with the comptroller of public accounts, to assign it grant distribution responsibilities relating to FutureGen project components as well as gasification projects for coal and biomass mixtures and other low emission energy applications. Contingent on the selection of a FutureGen site in Texas, the bill directs SECO to distribute to the project managing entity an amount equal to 50 percent of private industry investment, up to a maximum cumulative distribution of \$20 million. The General Appropriations Act appropriates \$2 million from general revenue to SECO for a response to the DOE's request for proposals (RFP) on FutureGen.

The bill directs the Texas Water Development Board to provide for reasonable flexibility for regional and state water plan changes to facilitate planning for FutureGen water supplies. It assigns the Railroad Commission of Texas jurisdiction over associated carbon dioxide sequestration by injection into oil, gas, or geothermal reservoirs, and assigns the Texas Commission on Environmental Quality (TCEQ) jurisdiction over carbon dioxide sequestration injection into other formations below the base of usable quality water. The bill directs the TCEQ to implement reasonably streamlined processes for certain FutureGen air quality permitting, and provides that such processes are not subject to contested case requirements. It gives deference to

DOE specification, in the RFP or project contract request, of an emissions profile of allowable air contaminants for a FutureGen component. Absent such DOE specification, the bill sets maximum emissions for mercury, nitrogen oxides, particulates, and sulfur content. The bill allows a corporate franchise tax deduction for certain costs involving a FutureGen clean coal project in Texas and amends the Texas Economic Development Act to allow school district property tax incentives for such a project or for a gasification project for a coal and biomass mixture.

House Bill 2313

Effective: 9-1-05

House Author: Miller

Senate Sponsor: Madla

House Bill 2313 amends the Agriculture Code to include invasive plant species in a Texas Department of Agriculture listing of noxious plant species that pose an economic or ecological threat to the state and provides that it is a Class C misdemeanor offense to sell, distribute, or import noxious or invasive plant species into the state. The bill prohibits a political subdivision from adopting an ordinance or rule that restricts the planting, sale, or distribution of noxious or invasive plant species. The restriction, however, does not limit the preparation and distribution of educational materials relating to plants of local concern.

House Bill 2376

Effective: 9-1-05

House Author: Elkins

Senate Sponsor: Jackson, Mike

House Bill 2376 amends provisions of the Health and Safety Code relating to the dry cleaner environmental response program at the Texas Commission on Environmental Quality. The bill revises the definitions of “dry cleaning facility” and “dry cleaning drop station” to include references to the North American Industry Classification System and defines “chlorinated dry cleaning solvent” to include a certain solvent and its alternate chemical name. The bill adds secondary containment for all new or replaced dry cleaning units, regardless of the solvent used, to the performance standards that the commission must require by rule for new dry cleaning facilities. The bill also requires the commission by rule to require businesses operating on or before January 1, 2004, whose annual gross receipts are \$150,000 or less, to implement this and certain other performance standards relating to containment structures not later than January 1, 2015. It removes language authorizing the commission to exempt businesses whose annual gross receipts are \$200,000 or less from the performance standards on the basis of financial hardship.

The bill authorizes annual registration fees paid by dry cleaning facilities and drop stations to be divided into quarterly payments and billed on dates established by the commission and removes language exempting a facility that uses carbon dioxide as a dry cleaning solvent from paying the fee. It sets the annual registration fee at \$250 for a dry cleaning facility with gross annual receipts of \$150,000 or less, rather than \$100,000 or less, and at \$2,500 for a facility with gross annual receipts of more than \$150,000, rather than more than \$100,000. It prescribes a new fee for a dry cleaning facility that depends entirely on revenue collected from an associated dry cleaning drop station or stations. The bill sets the fee for a drop station at \$250 or \$750, depending on gross annual receipts, rather than at \$1,000 or \$250, depending on ownership of the station. It establishes an annual registration fee of \$125 for a drop station that files an option with the commission not to participate in benefits from the dry cleaning facility release fund and retains the \$250 fee amount for a nonparticipating dry cleaning facility. The bill requires the commission, for each registration application, to request the comptroller to verify the owner’s standing with the state and whether the owner’s gross annual receipts information agrees with the comptroller’s information. It authorizes the commission, if a registration fee is not paid on or before the 30th day after the fee is due, to assess a penalty not to exceed \$50 per day for each

day the fee is not paid. The commission is also authorized to assess this penalty for each day that a registration application is not filed for an operating dry cleaning facility or drop station. The bill requires a person who distributes dry cleaning solvent to register as a distributor with the commission and authorizes the distributor to withhold for administrative expenses one percent of the per-gallon fee imposed on the purchase of dry cleaning solvent.

The bill adds dry cleaning drop stations to provisions relating to nonparticipating dry cleaning facilities. It requires the option not to participate in benefits from the dry cleaning facility release fund to be filed on or before February 28, 2006, rather than before January 1, 2004, and prohibits an owner from filing the option after September 1, 2005, unless the owner was the owner of the facility or drop station on January 1, 2004, and was eligible to file but inadvertently failed to file. The bill requires the commission to designate a dry cleaning facility or drop station as nonparticipating if the owner meets certain requirements, including obtaining the written consent of the person who owns the real property on which the dry cleaning facility or drop station is located. It requires the owner of a dry cleaning facility that filed an option not to participate before the effective date of this act to comply with the consent requirement to maintain nonparticipating status. Regarding response to release and corrective action, the bill prohibits a person from knowingly, rather than intentionally, allowing a release, and it requires a person who knows of a release of certain specified amounts of solvent to immediately contain and control the release and to notify the commission of the release before the expiration of 24, rather than 48, hours after the person learns of the release.

House Bill 2376 also amends provisions relating to the advisory committee established to assist the commission in ranking contaminated sites, developing rules, and preparing a biennial report about the program. The bill strikes certain provisions relating to criteria that the commission must consider in determining whether a corrective action is complete and to administrative and start-up expenses of the commission. It authorizes the commission, or the attorney general at the request of the commission, to bring a civil action to recover the costs of corrective action attributable to the owner of a contaminated site. The bill provides that if the state prevails in an appeal of an administrative order, the state is entitled to recover reasonable expenses incurred in obtaining the judgment. The bill amends the Water Code to increase from \$1,000 to \$10,000 the cap on the penalty amount for knowingly making any false material statement or representation in a document filed, maintained, or used for the purpose of compliance with the requirements of this program.

House Bill 2410

Effective: 9-1-05

House Author: Bonnen

Senate Sponsor: Jackson, Mike

House Bill 2410 amends the law to reduce from 12 to 11 the maximum number of members on the board of directors of the Texas Environmental Education Partnership Fund. The bill also lengthens board member terms of service from two years to six years and establishes staggered terms.

Senate Bill 444

Effective: 6-17-05

Senate Author: Staples

House Sponsor: Hopson et al.

Senate Bill 444 amends the Health and Safety Code to require an option not to participate in dry cleaning facility release fund benefits to be filed on or before February 28, 2006, rather than before January 1, 2004, and to prohibit an owner of a dry cleaning facility from filing such an option unless the owner met certain eligibility requirements on or before January 1, 2004. The bill provides that the owner of an eligible nonparticipating dry cleaning facility, as of the new deadline, who paid registration fees as a participating facility in 2004 or 2005 that

exceeded the amount due is entitled to a credit against future registration fees. The bill requires the Texas Commission on Environmental Quality to adopt rules relating to these provisions not later than February 28, 2006.

Senate Bill 471

Effective: 6-17-05

Senate Author: Hinojosa

House Sponsor: Luna

Senate Bill 471 amends the Natural Resources Code to establish the Texas Coastal Ocean Observation Network as a cooperative project of Texas A&M University—Corpus Christi, Lamar University, the Texas Water Development Board, and the General Land Office. The bill requires the network to collect data on natural processes affecting the coast for use in studying, planning for, and managing human uses of the coast as they are affected by those processes.

Senate Bill 517

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Eiland

Senate Bill 517 amends the Natural Resources Code to expand the issues the General Land Office must address in its coastal erosion management studies and projects to include structural shoreline protection projects that use innovative technologies designed or engineered to minimize beach scour. The bill also sets out construction and funding allowances for certain hard structure projects on or landward of a public beach.

Senate Bill 517 authorizes the commissioner to fund erosion response demonstration projects each biennium, within certain funding constraints. The bill also provides for cost sharing with project partners for removal or relocation of debris or structures from a public beach and prohibits money from being used to purchase real property or to reimburse a property owner for real property.

Senate Bill 1044

Effective: 6-17-05

Senate Author: Janek

House Sponsor: Eiland

Senate Bill 1044 creates the coastal protection and improvement fund administered by the commissioner of the General Land Office in the Natural Resources Code for use by counties to finance coastal improvement and protection projects. The bill requires each coastal county to create and administer a county coastal protection and improvement fund. The bill sets out provisions relating to the use of the coastal protection and improvement fund, projects that qualify for funding, agreements between the land office and a county relating to a project and payment of its costs, the general powers of a coastal county, the authority to contract, funds available for qualified projects, and bond eligibility for purchase by the Texas Water Development Board. Provisions of the bill that are applicable to a coastal county also apply to certain municipalities. The bill also requires private landowners to restore certain bay-front erosion sites using private resources.

Senate Bill 1413

Effective: 9-1-05

Senate Author: Shapleigh et al.

House Sponsor: Smith, Wayne

Senate Bill 1413 amends the Health and Safety Code to authorize the county commissioners court in a county with a population of 250,000 or more to create a county brownfield cleanup and economic redevelopment program and a county brownfield cleanup and economic redevelopment fund. The bill includes provisions relating to environmental assessment, tax abatement agreement incentives, contracts for site remediation or inspection, grants and loans, a liaison to the Environmental Protection Agency, a liaison to the Texas Commission on Environmental Quality, limitations on liability, failure to pass inspection, and commission assistance.

Air Quality

House Bill 965

Effective: 9-1-05

House Author: Haggerty

Senate Sponsor: Jackson, Mike

House Bill 965 amends provisions of the Health and Safety Code to require the Texas Commission on Environmental Quality's executive director to complete a study by December 31, 2005, regarding the technical and economic feasibility of regulating residential water heaters. If it is found that the regulation of water heaters is not feasible, the executive director is required to recommend to the commission that the rules regarding water heaters be repealed. The bill requires the commission to propose emission reductions to offset the loss of state implementation plan credits from the rules. Any emissions reductions related to residential gas water heaters that the commission does not adopt are to be replaced by a requirement that will obtain emission reductions from the same category.

House Bill 1540

Effective: 9-1-05

House Author: Bonnen

Senate Sponsor: Williams

House Bill 1540 amends the Health and Safety Code to prohibit the Texas Commission on Environmental Quality from limiting engine idling when it is necessary to heat or cool a vehicle while the driver is using the vehicle's sleeper berth for a government-mandated rest period. The bill prohibits such idling in a school zone or within 1,000 feet of a public school during school hours and establishes a fine for violating the prohibition. The bill provisions expire September 1, 2007.

House Bill 1611

Effective: 6-18-05

House Author: Chisum et al.

Senate Sponsor: Armbrister et al.

House Bill 1611 amends the Health and Safety Code to include fees from certain vehicle emissions inspection and maintenance programs as a funding stream for the low-income repair assistance, retrofit, and accelerated vehicle retirement system program and establishes that authorized costs include certain administrative expenses, education, outreach, and advertising. The bill expands the pool of vehicles eligible for the program and provides for regional collection of fees for certain counties. The bill also requires fees collected from the inspection and maintenance programs that are not used for the low-income repair assistance, retrofit, and accelerated vehicle retirement system program to be used to support programs in certain counties to improve air quality. The bill sets out the distribution of funds and rules and standards that govern a grant award. The bill enumerates the types of air quality improvement programs authorized for such a grant and requires continued participation in the vehicle emissions inspection and maintenance program for certain counties regardless of air quality attainment status.

House Bill 2129

Effective: 9-1-05

House Author: Bonnen

Senate Sponsor: Armbrister

House Bill 2129 amends provisions of the Health and Safety Code, the Government Code, and the Utilities Code related to reducing emission of air contaminants.

The bill requires the Energy Systems Laboratory at the Texas Engineering Experiment Station (TEES) of The Texas A&M University System to develop at least three alternative methods for achieving a 15 percent greater potential energy savings in residential, commercial, and industrial construction than the potential energy savings of certain energy-efficient construction. It also requires the State Energy Conservation Office to determine the feasibility and cost-benefit to

consumers of setting appliance standards for appliances that are not currently regulated for energy efficiency in this state, if the office determines that the new standards would reduce the emission of air contaminants.

House Bill 2129 defines “regulated entity” and redefines “emissions event” to mean an event that comes from a common cause resulting in the unauthorized emissions of air contaminants from one or more emissions points at a regulated industry. The bill allows operators of pipelines, gathering lines, and flow lines to treat all such facilities under common ownership or control in a particular county as a single regulated entity for the purpose of assessment and regulation of emissions events. The bill provides additional Texas Emissions Reduction Program funding to TEES from the Texas Environmental Research Consortium funds and provides for securing emission reduction credits for the Houston-Galveston nonattainment area through energy efficiencies in connection with the eight-hour State Improvement Plan.

House Bill 2129 requires certain electric utility providers to consider establishing certain consumer-option programs that encourage the reduction of air contaminant emissions. The bill clarifies that regulated electric distribution utilities have the responsibility for metering services for residential and small commercial customers and requires the Public Utility Commission (PUC) to develop a plan for deployment of smart meter-data networks that includes a surcharge to recover net costs associated with the deployment of such networks. The PUC must conduct a biennial study on the efforts of electric utilities to benefit from the use of advanced metering and metering information networks and must present the study to the legislature.

House Bill 2481

Effective: 9-1-05

House Author: Bonnen et al.

Senate Sponsor: Harris

House Bill 2481 amends the Health and Safety Code, Tax Code, and Transportation Code to extend the Texas Emissions Reduction Program (TERP) for two years until 2010. The bill changes the allocation of TERP funding, beginning September 1, 2008, to increase from 9.5 percent to 33 percent the portion of TERP funds used for the research and development of new emissions-reducing technologies and to reduce the portion used for the diesel emissions reduction program from 87.5 percent to 64 percent. The bill further specifies uses of the funds in certain non-attainment areas. It also provides for rebate grants in order to streamline the Texas Commission on Environmental Quality’s (TCEQ) emissions reduction incentive program.

House Bill 2481 abolishes the Texas Council on Environmental Technology and replaces its representative on the TERP advisory board with a representative of a certain Houston-based nonprofit organization conducting air quality research. The bill requires the Energy Systems Laboratory at Texas A&M to quantify emissions reductions in its annual report to TCEQ and to assist TCEQ and affected political subdivisions in quantifying credits for emissions reductions attributable to energy efficiency programs, including renewable energy programs.

Current law provides that funds obtained through automobile title transfer fees go to the TERP fund until FY08, when they are to be deposited in the Texas Mobility Fund. House Bill 2481 provides that, during fiscal years 2008-2010, \$5 of each fee goes to the TERP fund and the rest to the Texas Mobility Fund to increase the Texas Department of Transportation’s (TxDOT) bonding capacity. TxDOT will repay the TERP fund the entire amount of funds it receives from title transfer fees during this two-year period. Beginning in 2010, all money from the fees flows directly to TxDOT and is not to be repaid to TERP. To repay the TERP fund, TxDOT cannot use money from the federal congestion mitigation and air quality improvement funds or money from the state highway fund that is required to be used for constitutionally dedicated purposes. The bill also prohibits TxDOT from using any funds obtained from any TERP funding sources to finance toll projects.

Finally, House Bill 2481 requires TCEQ to adopt by reference the interstate rule and the clean air mercury rule of the federal Clean Air Act and to adopt a state implementation plan in accordance with those rules. It also requires TCEQ to conduct a study on the availability of mercury control technology, the timeline for implementing reductions under federal rules, and the fiscal impact to the state of higher mercury emissions and to report its findings by September 1, 2006.

House Bill 2949**Effective:** 9-1-05**House Author:** Geren**Senate Sponsor:** Lucio

House Bill 2949 amends the Water Code to expand the authority of the Texas Commission on Environmental Quality to issue, in the event of a catastrophe, emergency orders authorizing certain actions and the resulting emission of air contaminants. New actions it may authorize include the repair or replacement of roads, bridges, or other infrastructure improvements affected by the catastrophe.

House Bill 3469**Effective:** 6-17-05**House Author:** Hochberg**Senate Sponsor:** Barrientos

House Bill 3469 amends the Health and Safety Code to establish the clean school bus program, designed to reduce the exposure of schoolchildren to diesel exhaust in and around diesel-fueled school buses and administered by the Texas Commission on Environmental Quality. The bill sets out provisions relating to grants, eligibility of projects for grants, and restriction on use of grants. The program expires on August 31, 2013.

Senate Bill 784**Effective:** 9-1-05**Senate Author:** Shapleigh**House Sponsor:** Haggerty

Previous law required that two conditions be met before the Texas Natural Resource Conservation Commission could authorize substitution of emissions reductions under a Clean Air Act implementation plan for an international border area. Senate Bill 784 amends the Health and Safety Code to require that one of the conditions, rather than both, be met.

Senate Bill 1032**Effective:** 9-1-05**Senate Author:** Ellis**House Sponsor:** Swinford

Senate Bill 1032 amends the Health and Safety and Transportation Codes to repeal alternative fuel and alternative fuel use programs.

Senate Bill 1710**Effective:** 9-1-05**Senate Author:** Staples**House Sponsor:** Bonnen

Senate Bill 1710 amends the Health and Safety Code to limit the Texas Commission on Environmental Quality's authority to prohibit the burning of certain waste. The bill requires the commission to authorize by rule outdoor burning of waste provided the waste consists of certain foliage in an area that meets the national ambient air quality standards and does not contain any part of a city that does not meet national ambient air quality standards, is burned on the property on which it was generated, and is burned by the owner of the property or a person authorized by the owner. The bill prohibits rules from requiring prior approval of the burning or allowing the burning only when no practical alternative to burning exists and enumerates circumstances under which the commission is prohibited from controlling or prohibiting outdoor burning of waste. The bill provides for supervision of burns by a fire department employee, who will notify the commission of burnings, and requires the commission to provide such an employee with information on practical alternatives to burning.

Senate Bill 1740

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Bonnen

Previous law required a person to obtain a Texas Commission on Environmental Quality permit for modification of an existing facility before starting construction. Senate Bill 1740 amends the Health and Safety Code to authorize a person who has applied for such a permit to begin construction before the permit is issued. The bill prohibits the commission from considering pre-permit construction in determining whether to grant the permit. The bill also requires the determination of whether a standard permit's requirement for a distance, setback, or buffer from other property or structures is satisfied to be made based on conditions existing at the earlier of the date the new work begins or the date any application or notice of intent is first filed with the commission.

Waste Disposal

House Bill 39

Effective: 9-1-05

House Author: Eissler

Senate Sponsor: Staples

House Bill 39 amends the Health and Safety Code to establish that it is a Class C misdemeanor, in certain unincorporated areas of a county that is adjacent to a county with a population of 3.3 million or more, to burn household refuse on a lot that is in a neighborhood or that is smaller than five acres. The bill specifies penalties for the offense.

House Bill 1053

Effective: 6-18-05

House Author: Hope

Senate Sponsor: Staples

House Bill 1053 amends the Health and Safety Code to prohibit certain new and conversion landfill permits in a county located adjacent to a county with a population of more than 3.3 million and within the boundaries of a national forest. The bill prohibits issuance of permits for a new standard municipal solid waste landfill, for a new landfill for brush or construction and demolition waste, or for a conversion from a brush or construction and demolition waste landfill to a standard municipal solid waste landfill. The provisions of the bill do not apply to an areal expansion of an existing standard municipal solid waste landfill.

House Bill 1609

Effective: 9-1-05

House Author: Chisum

Senate Sponsor: Seliger

House Bill 1609 amends the Health and Safety Code to modify requirements for public meetings related to landfills and to add exemptions from groundwater protection regulations for certain landfills in arid areas. Previous law required the Texas Commission on Environmental Quality to hold public meetings on applications for new solid or hazardous waste facilities or major modifications to existing facilities. House Bill 1609 amends the law to make the public meetings optional. The bill authorizes the commission to exempt small municipal solid waste landfills in arid areas from requirements for groundwater protection design, operation, monitoring, and corrective action if there is no evidence of contamination. The bill also authorizes such a landfill to dispose of less than 20 tons of construction or demolition waste in addition to the municipal solid waste normally received by the unit.

House Bill 1609 authorizes a public meeting, rather than requiring a permit hearing, on a permit application for the development of land over a closed municipal solid waste landfill. However, the bill requires the commission to hold a public meeting if it is requested by a

member of the legislature who represents the general area for the proposed development or if the commission's executive director determines that there is substantial public interest in the proposed development.

House Bill 1705

Effective: 6-17-05

House Author: Bonnen

Senate Sponsor: Armbrister

House Bill 1705 amends the Health and Safety Code to specify a port authority's or navigation district's responsibility in a release of hazardous waste related to certain waterway construction or maintenance activities. The bill provides that a port authority or navigation district is not considered a person responsible for release of hazardous waste, under the state's Solid Waste Disposal Act, when constructing or maintaining waterways if the activity is by virtue of the entity's function as sovereign and the entity requires dredged materials to be sampled, analyzed, and determined not to be hazardous waste before storage or placement on land or submerged land. The bill provides that a port authority or navigation district retains liability if the entity causes or contributes to the generation of hazardous waste.

House Bill 2131

Effective: 5-24-05

House Author: Phillips et al.

Senate Sponsor: Estes

House Bill 2131 amends the Health and Safety Code to allow a local government corporation operating a municipal solid waste facility to demonstrate financial assurance in relation to closure, postclosure, and corrective action by passing a financial test specified by the Texas Commission on Environmental Quality and demonstrating that its outstanding bonds meet certain bond ratings.

House Bill 2510

Effective: See below

House Author: Bonnen

Senate Sponsor: Jackson, Mike

House Bill 2510 amends provisions of the Health and Safety Code relating to permitting a single-family residence on-site sewage disposal system that uses aerobic treatment. The bill requires the Texas Commission on Environmental Quality to adopt rules governing the maintenance of such a disposal system by an owner who elects to maintain the system directly and governing the training required of the owner. The bill sets out provisions relating to minimum training hours, training program content, verification that an owner has received training, and certification of trainers. House Bill 2510 subjects such a disposal system to certain applicable inspection and reporting requirements. The bill requires licensure for a person who maintains or services such a system and sets out administrative enforcement mechanisms to ensure proper maintenance of the system by the owner or by a maintenance company employed by the owner.

House Bill 2510 amends the Water Code to make it a Class C misdemeanor to knowingly violate certain orders or resolutions adopted by the commission relating to maintenance of certain on-site sewage disposal systems.

The bill takes effect September 1, 2005, except for the licensing requirement for persons maintaining or servicing disposal systems, which takes effect September 1, 2006.

House Bill 2651

Effective: 6-17-05

House Author: Krusee

Senate Sponsor: Ogden

House Bill 2651 creates the Subsurface Area Drip Dispersal System Act in the Water Code to maintain water quality and promote beneficial reuse of commercial, industrial, and municipal

Environment

waste to reduce fresh water demand. The Texas Commission on Environmental Quality is required to implement the Act. The bill includes provisions relating to a permit to operate a system and information required for an application for a permit; inspection of a proposed dispersion area, recommendations on aspects of an application from other persons, and a hearing on a permit application; issuance of a permit; filing a copy of a permit with local health authorities; the opportunity to comment on proposed rules; and commission powers to enter property and to examine records.

House Bill 2793

Effective: 8-29-05

House Author: Bonnen

Senate Sponsor: Jackson, Mike

House Bill 2793 creates the convenience switch recovery program, administered by the Texas Commission on Environmental Quality, in the Health and Safety Code to reduce the state's mercury pollution by removing mercury-containing switches from end-of-life vehicles prior to destroying or recycling the vehicles. The bill includes provisions relating to a manufacturer's program components, costs for packaging, shipping, recycling, and preparation of educational materials, and provision of storage containers; removal, management, and handling of convenience switches; and annual commission and manufacturers' implementation reports. The program expires on August 31, 2015.

Senate Bill 1281

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Bonnen

Senate Bill 1281 amends the Health and Safety Code to prohibit a commercial industrial solid waste facility from receiving industrial solid waste for discharge into publicly owned treatment works without first obtaining a Texas Commission on Environmental Quality permit for water quality control. The bill provides that no permit is required for discharging into publicly owned treatment works liquid wastes that are incidental to handling, processing, storing, or disposing of industrial solid waste at a municipal solid waste facility or commercial industrial solid waste landfill facility.

Senate Bill 1298

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Talton

Previous law prohibited the sale or transfer of a fuel tank to a metal recycling entity. Senate Bill 1298 provides an exception to this prohibition for a fuel tank that has been completely drained and rendered unusable in accordance with Texas Commission on Environmental Quality rules, regardless of whether it is attached to a motor vehicle or not. The bill also revises the notice required at a metal recycling facility to reflect that exception. The change in law applies to fuel tanks sold or transferred on or after January 1, 2006.

Senate Bill 1299

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Talton

Previous law prohibited mixing or commingling used oil with solid waste that is to be disposed of in landfills, unless the mixing and commingling is incidental to the mechanical shredding of motor vehicles, appliances, or other items of scrap, used, or obsolete metals. Senate Bill 1299 amends the Water Code to include in the exception the dismantling of these items.

Water Quality

House Bill 1987

Effective: 9-1-05

House Author: Bonnen

Senate Sponsor: Armbrister

House Bill 1987 amends provisions of the Water Code relating to regulating petroleum storage tanks (PST).

Although it remains an offense for the owner or operator of an underground PST to have a regulated substance delivered into a PST that has not been validly registered with the Texas Commission on Environmental Quality (TCEQ), the bill provides that it is no longer an offense for the person who physically delivers the substance.

House Bill 1987 requires a site closure request to be submitted to the executive director of TCEQ no later than September 1, 2007, for sites requiring a corrective action plan or groundwater monitoring that have met deadlines and submitted progress reports as were required by the original September 1, 2005, site closure request deadline. The bill requires the executive director to grant an extension for corrective action reimbursement to a statutorily eligible owner or operator of a PST and allows the petroleum storage tank remediation account to be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2007. The bill allows a person granted an extension to apply before July 1, 2007, to have a site placed in the State-Lead Program and requires the eligible owner or operator to agree to allow site access to state personnel as a condition of being granted placement into the State-Lead Program. On receiving an application, the executive director must place the site in the State-Lead Program until corrective action has been completed to TCEQ's satisfaction. Additionally, the bill provides that an eligible owner or operator thusly placed into the State-Lead Program is not liable for any costs related to corrective action.

House Bill 1987 changes the date after which no further reimbursements can be made from the petroleum storage tank remediation account from March 1, 2006, to March 1, 2008, and the expiration date of the petroleum storage tank reimbursement program from September 1, 2006, to September 1, 2008. The bill also eliminates the cap on the amount of money from the petroleum storage tank remediation account that can be used by TCEQ to pay for expenses associated with the administration of the program.

Senate Bill 343

Effective: 9-1-05

Senate Author: Brimer

House Sponsor: Geren

Senate Bill 343 amends the Local Government Code to authorize the commissioners court of a county with a population of 1.4 million or more to regulate private water well placement in unincorporated areas to prevent drilling of a domestic well into a contaminated groundwater plume or aquifer, prevent well contamination from an on-site sewage disposal system, and prevent a preexisting on-site sewage disposal system from being rendered legally noncompliant because of the well placement. The bill establishes related county rulemaking requirements pertaining to drilling notice and approval, authorizes the county to impose on the well driller a placement review fee up to \$50, grants the county well-site inspection authority, and includes compliance and misdemeanor penalty provisions. The bill also amends the Occupations Code to provide that the Texas Electrical Safety and Licensing Act does not apply to the installation, maintenance, alteration, or repair of well pumps and equipment in accordance with requirements applicable to water well pump installers and does not apply to electric work performed on a building, structure, or equipment in agricultural use other than commodity processing.

Senate Bill 485

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Bonnen

Senate Bill 485 amends provisions of the Water Code relating to regulating petroleum storage tanks (PST).

Although it remains an offense for the owner or operator of an underground PST to have a regulated substance delivered into a PST that has not been validly registered with the Texas Commission on Environmental Quality (TCEQ), the bill provides that it is no longer an offense for the person who physically delivers the substance.

Senate Bill 485 requires a site closure request to be submitted to the executive director of TCEQ no later than September 1, 2007, for sites requiring a corrective action plan or groundwater monitoring that have met deadlines and submitted progress reports as were required by the original September 1, 2005, site closure request deadline. The bill requires the executive director to grant an extension for corrective action reimbursement to a statutorily eligible owner or operator of a PST and allows the petroleum storage tank remediation account to be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2007. The bill allows a person granted an extension to apply before July 1, 2007, to have a site placed in the State-Lead Program and requires the eligible owner or operator to agree to allow site access to state personnel as a condition of being granted placement into the State-Lead Program. On receiving an application, the executive director must place the site in the State-Lead Program until corrective action has been completed to TCEQ's satisfaction. Additionally, the bill provides that an eligible owner or operator thusly placed into the State-Lead Program is not liable for any costs related to corrective action. The bill authorizes TCEQ to postpone considering, processing, or paying a claim that is filed with the commission before January 1, 2005, for reimbursement for corrective action begun without prior commission approval after September 1, 1993.

Senate Bill 485 changes the date after which no further reimbursements can be made from the petroleum storage tank remediation account from March 1, 2006, to March 1, 2008, and the expiration date of the petroleum storage tank reimbursement program from September 1, 2006, to September 1, 2008. The bill also eliminates the cap on the amount of money from the petroleum storage tank remediation account that can be used by TCEQ to pay for expenses associated with the administration of the program.

Senate Bill 739

Effective: 9-1-05

Senate Author: Lucio

House Sponsor: Chisum

Senate Bill 739 amends the Water Code to allow the Texas Commission on Environmental Quality to authorize installment payments for certain administrative penalties assessed after a hearing on a violation.

Senate Bill 1297

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Talton

Senate Bill 1297 amends the Water Code to provide exceptions to offenses relating to unauthorized discharge of a waste or pollutant and handling of used oil. The bill allows the discharge of used oil into any water in the state or a drainage system if the concentration of used oil in the waste stream resulting from the discharge as it enters water is less than 15 parts per million following the discharge and if the person is authorized to discharge storm water under a specified permit.

Senate Bill 1354
Effective: 6-17-05**Senate Author:** Estes
House Sponsor: Keffer, Jim

Senate Bill 1354 amends the Water Code to establish a 20-year pilot water quality protection program, administered by the Texas Commission on Environmental Quality, for the John Graves Scenic Riverway in the Brazos River Basin. The bill sets out provisions relating to regulation of quarries within the water quality protection area, financial responsibility for discharges of certain wastes within the area, inspections of and sampling of water in the John Graves Scenic Riverway, unauthorized discharges of certain wastes in the area, enforcement, emergency orders, recovery of costs for unauthorized discharges, a reclamation and restoration fund account, cooperation with other state agencies, and reports.

Senate Bill 1707
Effective: 9-1-05**Senate Author:** Staples
House Sponsor: McReynolds

Senate Bill 1707 amends the Water Code to define “liquid waste handling system” and to provide that procedures applicable to permits for concentrated animal feeding operations do not apply to a poultry operation that does not use a liquid waste handling system. The bill authorizes the State Soil and Water Conservation Board to certify a water quality management plan for a poultry facility that does not use a liquid waste handling system and that is required to obtain a permit or other authorization from the Texas Commission on Environmental Quality (TCEQ). The bill provides that the board’s ability to certify a water quality management plan does not affect the TCEQ’s authority to investigate and take action against an unauthorized waste discharge.

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

- HB 380 - Energy Resources
- HB 580 - Local Government
- HB 2466 - State Government
- SB 1130 - Energy Resources
- SB 1290 - Occupational Regulation

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 county juvenile board membership. Bills relating to the Department of Family and Protective Services' response to reports of child abuse and neglect are in the **Human Services** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 202

Effective: 9-1-05

House Author: Goodman

Senate Sponsor: Harris

House Bill 202 amends the Family Code to clarify that certain postmarital agreements may provide that future earnings and income arising from property transferred to a spouse are also the separate property of the owning spouse and to provide that such agreements are enforceable without consideration. The bill also establishes procedures for an informal settlement conference and written settlement agreement in a suit for dissolution of a marriage.

House Bill 203

Effective: 9-1-05

House Author: Goodman

Senate Sponsor: Harris

House Bill 203 amends the Family Code to authorize a court to consider issues related to the taxation of a specific asset in ordering the division of property in a suit for dissolution of a marriage.

House Bill 209

Effective: 9-1-05

House Author: Goodman

Senate Sponsor: Averitt

House Bill 209 amends the Family Code to change the starting point for the four-year time period by which a proceeding to challenge an acknowledgement or denial of paternity must commence if the signatory to the acknowledgement or denial was a minor on the date the acknowledgement or denial was executed.

House Bill 248

Effective: 6-17-05

House Author: Goodman

Senate Sponsor: Harris

House Bill 248 amends the Family Code to provide that a court that renders a qualified domestic relations order retains continuing, exclusive jurisdiction to amend the order to correct it or to clarify its terms. The bill also requires the amended order to be submitted to a plan administrator for a determination of whether the amended order satisfies the requirements of a qualified domestic relations order.

House Bill 252

Effective: 9-1-05

House Author: Goodman

Senate Sponsor: Harris

House Bill 252 amends the Family Code to require a temporary order that establishes a conservatorship or a final order in a suit affecting the parent-child relationship to incorporate a parenting plan that sets out the rights and duties of the parents, including provisions relating to conservatorship, possession of and access to a child, child support, and a dispute resolution process to minimize future disputes. House Bill 252 sets out elements required to be included in a parenting plan and procedures for objection to and modification of the plan. The bill also

authorizes the court to appoint a parenting coordinator to assist parties in resolving certain issues related to a suit affecting the parent-child relationship and provides for the authority, qualifications, removal, and compensation of the coordinator. The bill also provides for an exception to the requirements of the bill for certain Title IV-D proceedings.

House Bill 260
Effective: 6-18-05

House Author: Goodman
Senate Sponsor: Averitt

House Bill 260 amends provisions of the Family Code relating to suits affecting the parent-child relationship, protective orders, and collaborative law. The bill updates terminology to reflect current practice and case law and includes provisions relating to the confidentiality of alternative dispute resolution procedures, appeals of certain protective orders, the rendering of judgment on a mediated settlement agreement, procedures for an interview of a child age 12 or older in chambers, limited possession and modification of orders relating to military deployment, filing of a motion to transfer, and modification of an order for child support.

House Bill 261
Effective: 9-1-05

House Author: Goodman
Senate Sponsor: Wentworth

House Bill 261 amends the Family Code to bring certain provisions relating to possession of or access to a grandchild into compliance with recent Supreme Court rulings. The bill includes provisions that authorize the appointment of a parent, sister, or brother of a deceased parent as managing conservator of a child, authorize suit for possession of a child by a grandparent, and clarify certain legal presumptions that must be overcome and conditions that must be satisfied for a court to order reasonable possession of or access to a grandchild by a grandparent.

House Bill 270
Effective: 9-1-05

House Author: Farrar et al.
Senate Sponsor: Zaffirini

House Bill 270 amends the Family Code to permit a sibling of a child who is separated from the child because of an action taken by the Department of Family and Protective Services to file suit for visitation of the child.

House Bill 307
Effective: 9-1-05

House Author: Goodman et al.
Senate Sponsor: Harris

House Bill 307 amends provisions of the Family Code to clarify the powers and duties of guardians ad litem, attorneys ad litem, amicus attorneys, and volunteer advocates in suits affecting the parent-child relationship.

House Bill 383
Effective: 9-1-05

House Author: Dutton et al.
Senate Sponsor: Hinojosa

House Bill 383 amends the Family Code to clarify that only a parent, a grandparent, and a stepparent or guardian who has the duty of control and reasonable discipline of a child are permitted to use corporal punishment for the reasonable discipline of a child.

House Bill 410
Effective: 9-1-05

House Author: Goodman
Senate Sponsor: Harris

House Bill 410 amends the Family Code to clarify the characterization and computation of a defined benefit retirement plan, a defined contribution retirement plan, an employer-provided stock option or restricted stock plan, or certain insurance proceeds arising from a casualty loss, disability, or workers' compensation for purposes of determining community property in a suit for the dissolution of marriage.

House Bill 418

Effective: 6-18-05

House Author: Turner

Senate Sponsor: Whitmire

House Bill 418 amends the Family Code to add an exception to the 72-hour waiting period for a marriage ceremony after the issuance of a marriage license for an applicant who performs work for the United States Department of Defense as a department employee or under a contract with the department but is not a member of the armed forces.

House Bill 723

Effective: 5-27-05

House Author: Van Arsdale

Senate Sponsor: Lindsay

House Bill 723 amends the Health and Safety Code to direct the district clerk to complete certain information required to be included in the monthly divorces and annulments of marriage report filed by the clerk with the bureau of vital statistics.

House Bill 798

Effective: 6-17-05

House Author: Uresti

Senate Sponsor: Van De Putte

House Bill 798 amends the Family Code to specify the persons to whom a law enforcement officer or juvenile probation officer is authorized to release a child that the officer has taken into protective custody.

House Bill 858

Effective: 9-1-05

House Author: Kolkhorst et al.

Senate Sponsor: Armbrister

House Bill 858 amends the Family Code to prohibit a county clerk from issuing a marriage license for applicants who are both absent unless the agent applying on behalf of each absent party submits an affidavit of the applicant declaring that the applicant is on active duty with the U.S. armed forces or state military forces or is confined in a correctional facility.

House Bill 1174

Effective: 9-1-05

House Author: Dutton

Senate Sponsor: Wentworth

House Bill 1174 amends the Family Code to authorize, in certain circumstances, the enforcement of an order to pay attorney's fees and costs in a proceeding to enforce an order for the possession of or access to a child by any means that is also available for the enforcement of child support, including contempt, but not including income withholding.

House Bill 1179

Effective: 9-1-05

House Author: Dutton

Senate Sponsor: Harris

House Bill 1179 amends the Family Code to authorize an associate judge to render and sign temporary orders in certain family law cases.

House Joint Resolution 6

For Election: 11-8-05

House Author: Chisum et al.

Senate Sponsor: Staples et al.

House Joint Resolution 6 proposes a state constitutional amendment to provide that marriage in Texas shall consist only of the union of one man and one woman. The amendment prohibits the state or a political subdivision from creating or recognizing any legal status identical or similar to marriage. The joint resolution also includes a statement, which does not become part of the Texas Constitution, recognizing that, through the designation of guardians, the appointment of agents, and the use of private contracts, individuals may adequately provide for guardianship and rights relating to hospital visitation, property, and entitlement to life insurance proceeds without the existence of any legal status identical or similar to marriage.

Adoption and Foster Care

House Bill 240

Effective: 9-1-05

House Author: Goolsby

Senate Sponsor: Lucio

House Bill 240 amends the Health and Safety Code to grant an adult adoptee who knows the identities of each parent access to a noncertified copy of the adoptee's original birth certificate.

House Bill 409

Effective: 9-1-05

House Author: Goodman

Senate Sponsor: Nelson

House Bill 409 amends the Family Code to prohibit an appellate court, in an appeal of a final order placing a child in the care of the Department of Family and Protective Services, from considering any issue not specifically presented to the trial court in a statement of the points on which the party intends to appeal or in a statement combined with a motion for a new trial. The bill also specifies that a claim that a judicial decision is contrary to the evidence or that the evidence is factually or legally insufficient is not specific enough to preserve an issue for appeal.

House Bill 614

Effective: 5-27-05

House Author: Puente

Senate Sponsor: Zaffirini

House Bill 614 amends the Family Code to require the Department of Family and Protective Services to continue paying the cost of foster care, including medical care, for certain children under the care of the department until the later of the date the child attains the age of 18 or the date the child graduates from high school or ceases to be enrolled in a secondary school in a program leading toward a high school diploma. The bill also transfers rulemaking authority from the Board of Protective and Regulatory Services to the executive commissioner of the Health and Human Services Commission as it relates to the payment of foster care after the child becomes 18 years of age if the child is attending an institution of higher education.

House Bill 1181

Effective: 9-1-05

House Author: Dutton et al.

Senate Sponsor: Wentworth

House Bill 1181 amends the Government Code to provide that a domestic relations office that has been appointed guardian ad litem for a child or ordered to conduct a social study is entitled to obtain criminal history record information that relates to a person who is a party to any proceeding involving that appointment or the study.

House Bill 1999

Effective: 9-1-05

House Author: Van Arsdale et al.

Senate Sponsor: Lindsay

House Bill 1999 amends provisions of the Family Code to require a parent who relinquishes a child for adoption, either voluntarily or as the result of a suit for termination, to provide certain medical history information about the parent and the parent's ancestors. The bill requires the Department of Family and Protective Services, in cooperation with the Department of State Health Services, to adopt a form to be used by a parent to provide the prescribed information and requires the information to be made available to prospective adoptive parents.

Child Support and Spousal Maintenance

House Bill 81

Effective: 5-27-05

House Author: Riddle

Senate Sponsor: Janek

House Bill 81 amends the Property Code to authorize the comptroller to approve a claim for child support arrearages owed by the reported owner of abandoned property and reflected in a child support lien notice. The bill authorizes the lienholder or the attorney general to submit the claim.

House Bill 201

Effective: 9-1-05

House Author: Goodman et al.

Senate Sponsor: Van de Putte

House Bill 201 amends the Family Code to clarify that the provisions of law requiring that a spouse seeking maintenance exercise diligence in seeking employment or developing skills to become self-supporting do not apply to a spouse who is the custodian of a child of the marriage of any age who requires substantial care because of a physical or mental disability. The bill also clarifies that a court authorized to periodically review an order for maintenance may do so to determine whether a child's disability continues to render the spouse unable to support himself or herself through appropriate employment.

House Bill 401

Effective: 9-1-05

House Author: Villarreal

Senate Sponsor: Averitt

House Bill 401 amends the Family Code to require the Title IV-D agency to publicize the services of certain volunteer income tax assistance programs and to cooperate with the programs in informing obligors of the availability of the programs in order to maximize the amount of any tax refund to which an obligor may be entitled and which may be applied to child support and medical support obligations. The bill also amends the Government Code to require the Health and Human Services Commission to provide enrollees of certain health and human services programs information relating to the federal earned income tax credit, including Internal Revenue Service publications and tax forms.

House Bill 678

Effective: 5-27-05

House Author: Goodman et al.

Senate Sponsor: Harris

House Bill 678 amends the Family Code to clarify the rate at which interest accrues on certain overdue child support.

House Bill 1182

Effective: 9-1-05

House Author: Dutton

Senate Sponsor: Wentworth

House Bill 1182 amends the Family Code to authorize a domestic relations office to issue an administrative writ of withholding in a proceeding in which the office is providing child support enforcement services. The bill also authorizes the office to assess and collect a fee related to filing the writ.

House Bill 1238

Effective: 9-1-05

House Author: Paxton et al.

Senate Sponsor: Wentworth

House Bill 1238 amends the Family Code to provide that the signature on an order affecting the parent-child relationship that designates an individual or entity for the disbursement of child support, constitutes adequate written consent for the Office of the Attorney General's state disbursement unit to make payments directly to the designated individual or entity. The bill

further provides that if the state disbursement unit is notified by the federal oversight agency that the terms of this bill would cause the state case registry and state disbursement unit to be out of compliance with federal requirements, the provision would be void and the agency would be required to publish in the Texas Register a notice to that effect.

House Bill 2231
Effective: 5-30-05

House Author: Reyna
Senate Sponsor: Deuell et al.

House Bill 2231 amends the Family Code to require, rather than authorize, a court to modify an order providing for the support of a child to provide that a person having physical possession of a child for at least six months has the right to receive, hold, and disburse payments of support for the benefit of the child in cases in which primary care and possession of the child were relinquished voluntarily.

House Bill 2408
Effective: 9-1-05

House Author: Bonnen
Senate Sponsor: Wentworth

House Bill 2408 amends the Family Code to authorize the clerk of a court to deliver an order or writ for withholding from an employee's earnings for child support to the employer by electronic mail or facsimile transmission in addition to the use of first class or certified mail. The bill requires the clerk to request acknowledgment of receipt from the employer or to use an electronic mail system with a read receipt capability, if the delivery is accomplished by electronic mail. If the delivery is accomplished by facsimile transmission, the machine must create a delivery confirmation report.

House Bill 2668
Effective: 6-17-05

House Author: Dutton
Senate Sponsor: Wentworth

House Bill 2668 amends the Family Code to authorize a private entity to perform the duties and functions of a local child support registry.

Senate Bill 1151
Effective: 6-17-05

Senate Author: Harris
House Sponsor: Goodman

Senate Bill 1151 amends the Family Code to bring certain provisions relating to a voluntary acknowledgement of paternity into compliance with the requirements of the federal Uniform Interstate Family Support Act.

Domestic Violence; Child Abuse and Neglect

House Bill 657
Effective: 9-1-05

House Author: Bonnen et al.
Senate Sponsor: Averitt

House Bill 657 amends the Family Code to authorize a court to terminate the parent-child relationship of a parent who has been convicted of the murder of the other parent of the child under certain state, federal, international, or military law.

House Bill 1059
Effective: 6-17-05

House Author: Naishtat
Senate Sponsor: Wentworth

House Bill 1059 amends the Family Code to provide that protective orders relating to family violence are enforceable civilly or criminally.

House Bill 1685

Effective: 6-17-05

House Author: Dukes et al.

Senate Sponsor: Ellis

House Bill 1685 amends the Family Code to establish the Interagency Coordinating Council for Building Healthy Families, to exist until September 1, 2007. The council is charged with facilitating communication and collaboration concerning policies for the prevention of and early intervention in child abuse and neglect among certain state agencies. The bill provides for the council's composition and requires the council to meet at least quarterly. The council is required to submit to the legislature and legislative leadership, not later than June 1, 2006, an inventory of the child abuse and neglect prevention and early intervention policies, programs, and activities of each agency represented on the council and, not later than December 1, 2006, a report of the council's recommendations for improving coordination and collaboration of child abuse and neglect prevention and early intervention programs among state agencies.

House Bill 1970

Effective: 9-1-05

House Author: Raymond

Senate Sponsor: Zaffirini

House Bill 1970 amends the Family Code to require that reports of suspected child abuse and neglect are to be made to the Department of Family and Protective Services whether or not the abuse involves a person responsible for the care, custody, or welfare of the child. The bill also adds the superintendent of a school district to the list of persons the department is required to provide with a written report of an investigation of child abuse and neglect alleged to have occurred in a public or private school under the jurisdiction of the Texas Education Agency.

House Bill 2331

Effective: 9-1-05

House Author: Morrison

Senate Sponsor: Nelson

House Bill 2331 amends the Family Code to provide for the confidentiality of certain information, documents, records, hearings, and proceedings relating to the emergency possession by the Department of Family and Protective Services of certain abandoned children. The bill establishes procedures relating to the presumption of identity as the parent of a child for a person who delivers a child to a designated emergency infant care provider and to the termination of parental rights by the department. House Bill 2331 also creates a Class B misdemeanor offense for a person who knowingly violates the confidentiality and disclosure provisions.

Senate Bill 1275

Effective: 6-17-05

Senate Author: Jackson, Mike

House Sponsor: Davis, John

Senate Bill 1275 amends provisions of the Code of Criminal Procedure and the Family Code relating to court orders to protect victims of family violence. The bill extends the effective time to up to the 91st day but not less than 61 days for an order for emergency protection issued in circumstances in which the subject of the order is arrested for an assault that involves the use or exhibition of a deadly weapon. The bill requires the court to inform a party of the party's right to apply for a protective order if the court, at any time during a dissolution of a marriage suit or a child custody suit, believes that a party to the suit or a member of the party's family or household may be a victim of family violence.

Juvenile Justice

House Bill 224

Effective: 5-17-05

House Author: Corte

Senate Sponsor: Shapiro

House Bill 224 amends the Health and Safety Code to require an inpatient mental health facility, on receipt of a written request for discharge from a patient younger than 18 years of age who was admitted voluntarily, to consult with the patient's parent, managing conservator, or guardian regarding the discharge and to continue treatment if the parent, managing conservator, or guardian objects in writing to the patient's discharge. The bill also authorizes the administration of psychoactive medication to certain patients who are younger than 18 years of age if the patient's parent, managing conservator, or guardian consents to the administration.

House Bill 706

Effective: See below

House Author: Haggerty

Senate Sponsor: Whitmire

House Bill 706 amends the Family Code to ratify the Interstate Compact for Juveniles. The compact allows for the management, monitoring, and supervision of certain juvenile offenders and probationers. Article 1 of the bill takes effect September 1, 2005. The remainder of the bill takes effect on the day on which the Interstate Compact for Juveniles takes effect, which according to the terms of the compact is the later of July 1, 2004, or the day on which the compact is enacted into law by the 35th state, as defined by the compact.

House Bill 956

Effective: 6-17-05

House Author: Dunnam

Senate Sponsor: Ogden

House Bill 956 amends the Human Resources Code to add the county judge and judges of the 87th Judicial District to the membership of the juvenile board of Leon County.

House Bill 1575

Effective: 9-1-05

House Author: Dutton et al.

Senate Sponsor: West, Royce

House Bill 1575 amends provisions of the Family Code, Alcoholic Beverage Code, Code of Criminal Procedure, Education Code, Government Code, Human Resources Code, Penal Code, and Transportation Code relating to the handling of cases in the juvenile justice system and the operations of juvenile programs. The bill provides procedures for the transfer of juvenile probation supervision between counties and for the referral of certain juveniles on probation to local mental health authorities. House Bill 1575 amends provisions relating to restricted access orders for records held by the Texas Juvenile Probation Commission (TJPC), criteria for the release of information maintained by TJPC for statistical and research purposes, requirements for a local juvenile justice information system, the issuance of a bench warrant for a witness in the custody of the Texas Youth Commission (TYC), the disposition of contraband money in the possession of a child committed to the TYC, minimum eligibility standards for certain detention officers, and the release by the TYC without court approval of a child committed under a determinate sentence before the child's discharge. The bill also authorizes the creation by municipal ordinance of juvenile case manager funds for the employment of juvenile justice case managers to assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases. In addition, the bill makes it a felony of the third degree for a person to provide an alcoholic beverage, a controlled substance, a deadly weapon, a cellular telephone, or tobacco product to a person in the custody of a secure correctional or detention facility for juveniles.

House Bill 1687

Effective: 6-18-05

House Bill 1687 amends the Education Code to prohibit a juvenile justice alternative education program from charging a fee to a student or the parent or guardian of a student for participating in the program.

House Author: Dutton

Senate Sponsor: West, Royce

House Bill 3010

Effective: 9-1-05

House Bill 3010 amends the Family Code to prohibit a juvenile court from refusing to accept the transfer of a failure to attend school case for certain repeat offenders if a prosecuting attorney determines that the case is legally sufficient for adjudication in juvenile court.

House Author: Grusendorf

Senate Sponsor: Harris

House Bill 3045

Effective: 6-18-05

House Bill 3045 amends the Human Resources Code to increase the minimum amount of additional annual compensation to be paid members of the juvenile boards of Grimes, Leon, Madison, and Walker Counties. The bill also changes the composition of the juvenile board of Leon County to include the district judges in Leon County rather than specifically the judges of the 12th and 278th Judicial Districts.

House Author: Kolkhorst et al.

Senate Sponsor: Ogden

House Bill 3098

Effective: 6-17-05

House Bill 3098 amends the Human Resources Code to provide that the Rockwall County Juvenile Board includes the judge of the County Court at Law of Rockwall County rather than the county judge.

House Author: Laubenberg

Senate Sponsor: Deuell

House Bill 3515

Effective: 6-18-05

House Bill 3515 amends the Human Resources Code to expand the composition of the Comal County Juvenile Board by replacing the local administrative statutory county judge with the judge of each county court at law in the county.

House Author: Casteel

Senate Sponsor: Wentworth

Senate Bill 672

Effective: 9-1-05

Senate Bill 672 amends the Human Resources Code to remove the cap on the salary for members of the Randall County Juvenile Board and to clarify that the board is subject to certain statutory requirements relating to board duties, personnel, meetings, and compensation.

Senate Author: Seliger

House Sponsor: Smithee

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

HB 877 - Human Services

SB 6 - Human Services

SB 990 - Human Services

SB 1147 - Courts

SB 1377 - State Government

Financial Institutions

This chapter covers legislation relating to banks, savings associations, credit unions, cemetery trusts, 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 607

Effective: 6-1-06

House Author: Giddings et al.

Senate Sponsor: Ellis

House Bill 607 adds a new Business & Commerce Code section to regulate the delivery of blank check forms. The bill requires an entity that makes arrangements for courier delivery of check forms to provide the person to whom the check forms are sent the option to require that a signature of the person, or the person's representative, be obtained on delivery. The bill specifies how the option to require such a signature may be provided, and it requires the entity to notify the courier if a signature is required. If the person suffers a pecuniary loss through the use of check forms stolen at the time of delivery, the bill authorizes a civil penalty of up to \$1,000 per delivery to be levied on the entity that failed either to provide the option or to notify the courier of the requirement to obtain a signature or on the courier who was notified but failed to obtain the signature. The bill authorizes the attorney general to bring suit to recover the civil penalty and to recover court costs and other reasonable expenses.

House Bill 628

Effective: 9-1-05

House Author: Giddings et al.

Senate Sponsor: Ellis

House Bill 628 amends the Finance Code to prohibit a debt collector from collecting or attempting to collect an obligation under a check, draft, or debit or credit card payment if the instrument was dishonored or the payment was refused because the person initiating the transaction was not authorized to use the applicable account, the debt collector received written notice of the unauthorized use from a person authorized to use the account, and the authorized person filed a report with a law enforcement agency concerning the unauthorized use and provided a copy of the report to the debt collector. The bill does not prohibit a debt collector from collecting or attempting to collect the obligation or payment if the debt collector has credible evidence, including a document, a video recording, or a witness statement, that the report is fraudulent and the instrument or payment was authorized.

House Bill 955

Effective: See below

House Author: Solomons

Senate Sponsor: Averitt

House Bill 955 amends provisions of the Finance Code relating to the regulation of financial businesses and practices. The bill exempts commercial loans from maximum interest rate limits if a specified amount is primarily secured by real property, contingent on the adoption of a constitutional amendment. It allows loans for personal, family, or household purposes to be regulated either as consumer loans or with interest rate ceilings, provides 60 days for a creditor to correct a violation of usurious interest, allows creditors and obligors to include additional classes of penalties for prepayment of a loan, and prohibits such penalties from being calculated as interest. The bill specifies that regulations for revolving credit accounts apply only to consumer loans, excludes commercial loans from regulation of credit transactions for manufactured housing, allows a loan for a towable recreational vehicle to be regulated either as a motor vehicle installment sale or as a sale of consumer goods and services, and authorizes surcharges for loans with large cash advances.

Financial Institutions

House Bill 955 increases the maximum aggregate amount of administrative penalties that may be assessed against a creditor and allows a stay of a penalty while the order is under judicial review. It allows the commissioner to accept assurance of voluntary compliance from a person who has committed a violation and requires the consideration of any restitution paid when assessing penalties or further recovery. The bill prohibits a creditor from using false, misleading, or deceptive advertising of credit transactions or terms, prohibits multiple actions against a creditor for a violation of federal consumer credit laws, authorizes civil penalties for discriminatory lending practices, and requires unlicensed lenders to comply with federal fair trade practices laws.

Under provisions of House Bill 955, the Savings and Loan Department is renamed the Department of Savings and Mortgage Lending and the savings and loan commissioner is renamed the savings and mortgage lending commissioner. The bill increases the maximum administrative penalty for a rule violation by a savings bank from \$1,000 to \$10,000 for each day the violation occurs after notice is given and requires the department's commissioner to conduct a study on developing alternative thrift charters. The bill establishes a lender's liability pertaining to the construction of a foreclosed home, sets out requirements for organizing a limited savings bank, and provides transitional rules under which such a bank is governed. It authorizes a savings bank to handle reorganizations and mergers, authorizes the department to make rules establishing the amount and form of a surety bond and the sufficiency of the surety, allows a savings bank to meet the thrift lender test by maintaining 50 percent of its portfolio assets in qualified thrift assets for a specified period, and prohibits the board of a savings bank from declaring a cash dividend that the commissioner determines is unsafe or has a negative retained income. The bill allows a savings bank to reorganize, merge, or consolidate with a corporation or another entity. It allows a savings bank to own property or offer products or services that are permissible within the United States for a depository institution organized under federal or state laws, subject to certain limitations, and authorizes the formation of mutual holding companies and establishes requirements for such a designation.

In addition, House Bill 955 amends the Mortgage Broker License Act. It prohibits license fees from being applied to other fees or debts and includes other provisions concerning suspension and denial of licenses. The bill prohibits a person whose license is revoked from engaging in mortgage loans, allows the commissioner to order restitution for a license violation and to charge an administrative penalty of up to \$1,000 per day against a person engaging in unlicensed activity, and prohibits payments from the mortgage broker recovery fund to certain lenders.

House Bill 955 specifies that the postjudgment interest rate is the prime rate as published by the board of governors of the Federal Reserve System, rather than the Federal Reserve Bank of New York. The bill repeals provisions relating to the publication of a savings bank's statement of financial position, the filing of affidavits of market rates, and the licensing of coin-operated machines.

The bill takes effect September 1, 2005, except for provisions removing interest rate ceilings for commercial loans, which take effect contingent on voter approval of the constitutional amendment proposed by Senate Joint Resolution 21.

House Bill 1088
Effective: 9-1-05

House Author: Thompson
Senate Sponsor: Harris

House Bill 1088 amends the Finance Code to allow regulated lenders to sell automobile club memberships and to finance the cost of such memberships in connection with certain consumer loans. The bill prohibits a lender from making the purchase of a membership a condition of the

loan and requires that the lender give the borrower written notice to that effect when the loan is made. The notice must also state that the borrower is entitled to cancel the transaction and receive a full refund of the purchase price of the membership before the 31st day after the date of the loan. The bill requires that the borrower provide the lender with written acknowledgement of the intent to purchase the membership and that the lender's charge for the membership be reasonable. The bill requires the consumer credit commissioner to adopt a rule that provides for disclosure in Spanish of the lender's written notice and to establish a form for the notice that meets plain language and readability requirements for loan contracts under state law.

House Bill 1234**Effective:** 9-1-05**House Author:** Paxton**Senate Sponsor:** Harris

House Bill 1234 amends the Property Code to authorize a mortgagee to appoint or authorize a mortgage servicer to appoint a substitute trustee or trustees, rather than one perpetual substitute trustee, and provides that such trustees would succeed to all title, powers, and duties of the original trustee. The bill allows such an appointment or authorization to be made by corporate resolution and removes a requirement that the mortgagee's power of attorney or written instrument be signed by the mortgagee's representative, acknowledged, and sworn to with a jurat. The bill allows a mortgage servicer to authorize an attorney to appoint a substitute trustee or trustees on behalf of the mortgagee and requires that the name and street address for a trustee or substitute trustee be disclosed on the required notice for the sale of the property.

House Bill 1235**Effective:** 9-1-05**House Author:** Paxton**Senate Sponsor:** Harris

House Bill 1235 amends the Property Code to make changes in the notice required of mortgage servicers in administration of foreclosures.

House Bill 1547**Effective:** 9-1-05**House Author:** Pickett et al.**Senate Sponsor:** Van de Putte

House Bill 1547 amends the Finance Code to require that if the terms of certain consumer loans are negotiated in Spanish the debtor must receive a summary of the loan terms and other pertinent information in Spanish in a form identical to disclosures required for closed-end transactions under federal truth-in-lending regulations.

House Bill 1582**Effective:** 6-18-05**House Author:** Chavez et al.**Senate Sponsor:** Ellis

House Bill 1582 amends the Government Code to require the Texas Department of Housing and Community Affairs to conduct a study to examine residential mortgage foreclosure rates in Bexar, Cameron, Dallas, El Paso, Harris, and Travis Counties. The study is to address the extent to which the terms of mortgages are related to the foreclosure rate and whether the terms could be offered in a manner to reduce the likelihood of foreclosures; the socioeconomic and geographic elements characterizing foreclosures; the securitization of mortgages in the secondary market and its effect on foreclosures; consumer education efforts to prevent foreclosures; and recommendations to reduce foreclosures and the foreclosure rate across the state. The bill provides for the confidentiality of certain information obtained for the production of any public reports.

House Bill 1901

Effective: 6-17-05

House Author: Smith, Wayne

Senate Sponsor: Williams

House Bill 1901 amends the Government Code to increase from \$25 million to \$50 million the maximum annual reservation that the Bond Review Board may grant to Texas governments or nonprofit corporations acting on their behalf that require an allocation for issuing private activity bonds for an individual general project.

House Bill 2218

Effective: 9-1-05

House Author: McCall

Senate Sponsor: Brimer

House Bill 2218 repeals Chapters 152 and 153, Finance Code, which regulate check selling and currency exchange, transportation, and transmission, respectively, and enacts the Money Services Act, which consolidates and updates the provisions from the repealed chapters. In addition to administrative provisions, the bill includes general qualifications and provisions applicable to money services licenses, subchapters on money transmission licenses and currency exchange licenses, requirements relating to examinations, reports, and records, and enforcement provisions, including criminal penalties.

House Bill 2223

Effective: 9-1-05

House Author: Giddings et al.

Senate Sponsor: Ellis

House Bill 2223 amends the Business & Commerce Code to define “victim of identity theft” as a person who has filed with an appropriate law enforcement agency a criminal complaint alleging the fraudulent use of identification and to provide that if such a person closes an account at a financial institution as a result of the identity theft, notifies the financial institution that the theft is the reason for the closure, provides the financial institution with a copy of the criminal complaint, and requests that the financial institution return checks with the notation “forgery,” the financial institution must process as forgeries the checks received after the customer takes those actions, in accordance with the financial institution’s customary procedures. The bill prohibits the requester from asserting that the financial institution is liable for wrongfully dishonoring a check that is subsequently returned and holds the financial institution harmless for acting in accordance with the request.

House Bill 2581

Effective: 9-1-05

House Author: Solomons

Senate Sponsor: Armbrister

House Bill 2581 amends the Health and Safety Code to allow a corporation that operates one or more perpetual care cemeteries to sell undeveloped mausoleum space. It requires the corporation to either establish a preconstruction trust in which it deposits at least 40 percent of the sales proceeds for reserve funding of the construction or to submit a performance bond payable to the banking commissioner in an amount based on 120 percent of the actual or estimated construction costs. It includes provisions concerning the administration of the trusts and the related responsibilities of the corporations and the Texas Department of Banking.

House Bill 3428

Effective: 9-1-05

House Author: Elkins

Senate Sponsor: Seliger

House Bill 3428 amends the Finance Code to authorize a court to enter a default judgment against a financial institution that fails to timely file an answer to a writ of garnishment issued by the court before or after the court renders a judgment as to the existence of liability in a case but not as to the amount of damages. The bill establishes that the financial institution is not deemed to possess or have knowledge of sufficient debts, assets, or personal effects of the debtor to satisfy the debtor’s obligations to the garnishor and that, after the judgment is entered, the garnishor has

the burden of establishing the amount of actual damages caused by the default. The bill authorizes the court to award damages to the garnishor in the determined amount if the garnishor shows good cause of reasonable attorney's fees incurred to establish the damages and prohibits the Supreme Court of Texas from amending or adopting rules that conflict with these provisions.

In addition, House Bill 3428 authorizes an obligor to use the proceeds of an extension of credit made by a financial institution for business, commercial, investment, or similar purposes to establish collateral for the credit by making deposits, purchasing certificates of deposit, or establishing other accounts at the financial institution.

Senate Bill 757

Effective: Vetoed

Senate Author: Armbrister

House Sponsor: Solomons

Senate Bill 757 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. The bill 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: "Senate Bill No. 757 is fundamentally the same as House Bill No. 1839 from the Seventy-Eighth Legislative Session which I vetoed. The bill would reduce local control by mandating the use of private third-party providers in gathering information about pawnbroker transactions. The bill also would limit the type and extent of pawn transaction information available to local law enforcement.

"For example, the bill would require pawn transaction information to be submitted electronically if the pawnbroker generates computerized tickets. According to information collected by the Office of Consumer Credit Commissioner, approximately 90 percent of the pawn shops in Texas produce computerized tickets; therefore all of the pawn transaction information would be submitted electronically. Under the bill, local law enforcement would receive restricted transaction information, while a third-party provider would receive all transaction information. In order to continue receiving all transaction data, as they now do, law enforcement would have to purchase the information from a third-party provider.

"With this veto message, I hope to discourage legislators from further attempts to reduce law enforcement's access to pawn transaction information."

Senate Bill 1112

Effective: 9-1-05

Senate Author: Eltife

House Sponsor: McCall

Senate Bill 1112 amends the Finance Code to regulate the activities of debt management services providers. Effective January 1, 2006, the bill requires that any person providing debt management services to a consumer in Texas be registered with the consumer credit commissioner and annually renew the registration. It requires the provider to deposit a surety bond or proof of insurance that meets certain criteria unless the commissioner authorizes another arrangement. It prohibits a provider from enrolling a consumer in a debt management plan unless the provider is a tax-exempt nonprofit organization; provides the consumer in writing through the services of a certified counselor with individualized debt management information, analysis, and recommendations, among other required actions; and conducts the discussion relating to the information in the consumer's primary language. The bill authorizes the commissioner to impose certain sanctions for violations, including an administrative penalty of up to \$1,000, and it repeals provisions relating to debtor assistance provided by the commissioner or through a debt-pooling contract.

Senate Bill 1173

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Solomons

Senate Bill 1173 amends the Health and Safety Code to allow a corporation that operates one or more perpetual care cemeteries to sell undeveloped mausoleum space. Before selling or offering to sell the mausoleum space, the corporation must either establish a preconstruction trust in which it deposits at least 40 percent of the sales proceeds for reserve funding of the construction or submit a performance bond payable to the banking commissioner in an amount based on 120 percent of the actual or estimated construction costs. The bill includes provisions concerning the administration of the trusts and the related responsibilities of the corporations and the Texas Department of Banking.

In addition, the bill specifies that provisions giving the person in charge of a cemetery the same powers, duties, and immunities as a police officer in the municipality in which the cemetery is located or a constable or sheriff of the county in which the cemetery is located apply only to a cemetery in a municipality with a population of at least 40,000 or in a county with a population of at least 290,000.

Senate Joint Resolution 7

For Election: 11-8-05

Senate Author: Carona

House Sponsor: Hochberg

Senate Joint Resolution 7 proposes an amendment to the state constitution to provide additional methods by which a homeowner who obtains a reverse mortgage can draw line-of-credit advances from the loan. The current provision includes authorized advances of set amounts at regular intervals or advances at regular intervals at a reduced amount if requested by the borrower. The proposed amendment revises those two methods to provide that the initial advance may be made at any time and future advances at regular intervals, and authorizes two additional methods: the first allows an initial advance at any time with future advances at times and in amounts requested by the borrower until the established credit limit is reached, and the second allows an initial advance at any time, future advances at times and in amounts as requested until the established credit limit is reached, and subsequent advances at times and in amounts as requested by the borrower to the extent that the outstanding balance is repaid.

Senate Joint Resolution 21 also requires a reverse mortgage to provide that the borrower not use a credit card, debit card, preprinted solicitation check, or similar device to obtain an advance, and prohibits a reverse mortgage lender from collecting a transaction fee from the borrower solely for a debit or advance or from unilaterally amending the loan agreement.

Senate Joint Resolution 21

For Election: 11-8-05

Senate Author: Averitt

House Sponsor: Flynn

Senate Joint Resolution 21 proposes an amendment to the state constitution to authorize the legislature to create exemptions from the maximum rates of interest for commercial loans, which are defined as loans made primarily for business, commercial, investment, agricultural, or similar purposes, and not primarily for personal, family, or household purposes.

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

HB 256 - State Government

HB 607 - Business and Commerce

SB 1479 - Military Forces and Veterans

Government Purchasing

This chapter includes legislation relating to the procurement of goods and services by state and local government entities, including contracting, leasing, and public works projects. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 773

Effective: 9-1-05

House Author: West, George “Buddy”

Senate Sponsor: Armbrister

House Bill 773 amends the Government Code and the Natural Resources Code to delegate all purchasing functions related to abandoned wells and the oil-field cleanup fund to the Railroad Commission. The bill allows the Railroad Commission to continue to utilize the procurement services of the Texas Building and Procurement Commission and removes certain exemptions from purchasing procedures related to historically underutilized businesses.

House Bill 880

Effective: 9-1-05

House Author: Delisi

Senate Sponsor: Zaffirini

House Bill 880 amends the Government Code to require the office of the attorney general to review the form and terms of certain contracts of the Health and Human Services Commission or a state agency under the jurisdiction of the commission, the Employees Retirement System of Texas, and the Teacher Retirement System of Texas. Before being entered into by an agency or retirement system, a contract of \$250 million or more under which a person provides certain health care-related goods, services, coverage, or benefits is required to be reviewed by the office of the attorney general. House Bill 880 sets out provisions prescribing attorney general notification during the contracting process and the role of the office of the attorney general in that process, including authorizing interagency agreements or obtaining outside legal services under certain circumstances.

House Bill 908

Effective: 9-1-05

House Author: Turner

Senate Sponsor: Estes

House Bill 908 amends the Government Code to require the Texas Building and Procurement Commission to set a goal of obtaining at least 20 percent of the dollar value of goods or services it purchases through the reverse auction procedure. The commission must use the procedure whenever it provides the best value to the state or whenever all purchasing methods provide equal value. The bill requires the commission to offer historically underutilized businesses assistance and training relating to the reverse auction procedure and to advise them on contracts available using it. A temporary provision requires the commission, on or before December 1, 2006, to submit to the governor and specified legislative officers a report on the effectiveness of using the reverse auction procedure.

House Bill 914

Effective: 6-18-05

House Author: Woolley et al.

Senate Sponsor: Williams

House Bill 914 amends the Local Government Code to require certain officers of local government entities and those who contract with local government entities or are considering doing business with such an entity to make certain financial and business disclosures relating to business relationships and gifts received. The bill describes the required content of the disclosure statement. The bill provides that it is a Class C misdemeanor for a local government officer to knowingly fail to make the required disclosures. The bill provides that it is a Class C misdemeanor for a business entity to fail to make the required disclosures.

House Bill 1232

Effective: 6-17-05

House Author: Castro

Senate Sponsor: Van de Putte

House Bill 1232 amends the Local Government Code to allow a county to allocate work that is directly attributable under generally accepted accounting principles to the costs of the project and that is performed by employees of the issuer of certificates of obligation to the capital costs of a project. The bill also specifies items for which the proceeds may be used.

House Bill 1331

Effective: 6-17-05

House Author: Chavez

Senate Sponsor: Zaffirini

The Interagency Cooperation Act, in the Government Code, authorizes a state agency, university or college, or local workforce development board to agree or contract with another such agency for the provision of necessary and authorized services and resources. House Bill 1331 amends the act to include junior college districts.

House Bill 1516

Effective: 9-1-05

House Author: Isett et al.

Senate Sponsor: Duncan

House Bill 1516 amends Government Code provisions relating to management of state electronic services by the Department of Information Resources (DIR).

The bill authorizes DIR to include terms in a procurement contract that allow the contract to be used by another state agency, political subdivision of the state, or a governmental entity of another state and provides that use of such a contract satisfies any requirement for a political subdivision to seek competitive bids. DIR is also authorized to approve a joint information resources manager for two or more state agencies who may consolidate operating plans of the agencies.

Provisions for the department to perform commodity procurement for a state agency are included in the bill. Each state agency, except an institution of higher education, must use department-specified state commodity hardware configurations, provide a planned procurement schedule to DIR, and inform the department, the Legislative Budget Board, and the state auditor's office of any substantive change to the schedule.

The bill establishes the Texas project delivery framework for major information resources projects of state agencies. It includes provisions for a business case justification and statewide impact analysis, a project plan, a procurement plan, a method for monitoring contract changes, and a post-implementation review.

DIR is authorized by the bill to operate statewide technology centers to consolidate the provision of information resources services to state agencies and may assess fees to cover the costs of the services. State agencies are required to use the centers for data center services or disaster recovery services, with some exceptions.

The term "commodity items," as it relates to items DIR is responsible for providing, is expanded beyond software to include hardware and technology services, other than telecommunications services, for which a reasonable demand exists in two or more state agencies and to include seat management, through which an agency transfers equipment and service responsibilities to a private vendor to manage the personal computing needs for each desktop in the agency.

The bill requires DIR to maximize vendor competition and make good faith efforts to provide contract opportunities for and increase contract awards to historically underutilized businesses and persons with disabilities when contracting in relation to statewide technology centers or commodity items.

House Bill 1516 also provides for acquisition of telecommunications services from certain entities without a competitive bid during an emergency and transfers certain telecommunications services duties from the telecommunications planning and oversight council to DIR's executive director.

House Bill 1940**Effective:** 9-1-05**House Author:** Ritter**Senate Sponsor:** Wentworth

House Bill 1940 amends Government Code provisions relating to contractor claims against the state government. It increases the amount recoverable by a contractor to include any delay or labor-related expense the contractor incurs as a result of an action or inaction by the state or a party supervised by the state. The bill reduces from 90 to 60 days the time the state has to assert a counterclaim on receiving notice from the contractor of a claim of breach of contract. It revises other deadlines to provide that in all cases the state must begin negotiation with the contractor by the 120th day after receiving the claim, and to provide that before the 120th day the parties may agree to mediation. The bill relaxes a provision that a decision in a contested case hearing of a claim cannot be appealed, to allow appeal for abuse of discretion. The bill clarifies the cap on claim payment by the state and also clarifies the right of a contractor who is sued by the state to assert a counterclaim or right of offset.

House Bill 2377**Effective:** 5-27-05**House Author:** Swinford**Senate Sponsor:** Ellis

House Bill 2377 amends the Government Code to authorize the Texas Building and Procurement Commission to establish a system of charges and billings to recover the costs of contracting with a private brokerage or real estate firm for assistance in obtaining state agency office space.

House Bill 2525**Effective:** Vetoed**House Author:** Callegari**Senate Sponsor:** Lindsay

House Bill 2525 amends several codes to consolidate contracting and delivery procedures for certain governmental entities into one chapter in the Government Code. The bill exempts the Texas Department of Transportation from its provisions. The bill enumerates criteria to be considered when awarding a contract and authorizes a governmental entity to use a procurement method for contracting construction services, other than competitive bidding, that offers the best value for the entity. The bill includes procedures for the competitive bidding method, the competitive sealed proposal method, the construction manager-agent method, the construction manager-at-risk method, the design-build method, and the job order method. The bill provides for notice requirements for a contract entered into by a defense base development authority, municipality, river authority, or county. The bill prohibits using a reverse auction procedure to obtain services related to a public work contract for which a performance and payment bond is required.

Reason given for Veto: "House Bill No. 2525 would discourage competition in public sector capital project development by limiting how government may contract for design and construction services. The limitations and extra contracting requirements contained in this bill would likely result in increased costs and project delays for taxpayers.

"The bill requires government entities to contract independently for construction materials engineering, testing, and inspection services, which will drive up costs for a number of public projects such as school construction.

"Restricting the ability to use 'turnkey' contracts and requiring certain procurement processes serves to benefit segments of private industry over the public interest. Capital improvement projects funded by tax dollars should benefit from the same free market competition as the private sector."

House Bill 2661

Effective: 9-1-05

House Author: Krusee

Senate Sponsor: Ogden

House Bill 2661 amends the Local Government Code to provide an exception to the requirement for certain municipal construction projects to be awarded to the lowest responsible bidder by allowing certain construction projects that require an expenditure of \$1.5 million or less to be awarded using alternative bidding procedures.

House Bill 2694

Effective: 9-1-05

House Author: Anchia

Senate Sponsor: Carona

House Bill 2694 amends the Local Government Code to allow counties with a population of one million or more, rather than 2.4 million or more, to use the competitive proposal purchasing method for the purchase of insurance or high technology items.

House Bill 2695

Effective: 9-1-05

House Author: Anchia

Senate Sponsor: West, Royce

House Bill 2695 amends the Local Government Code to authorize a commissioners court to give preference to a bidder who provides and requires its subcontractors to provide health insurance coverage to its employees comparable to the health insurance benefits provided for employees of the county, if the bid is within five percent of the lowest bid price received. The bill does not prohibit a county from rejecting all bids.

House Bill 2932

Effective: 9-1-05

House Author: Delisi et al.

Senate Sponsor: Zaffrini

House Bill 2932 amends the Government Code to require that, before a state agency awards to a business entity a contract with a value of at least \$1 million for the purchase of goods and services, each of the agency's purchasing personnel working on the contract must disclose in writing to the agency's administrative head any known family relationship with an employee, partner, major stockholder, other owner, or in certain cases a paid consultant of the entity that is related within the third degree by consanguinity or the second degree by affinity. The reporting requirement applies to institutions of higher education and to highway construction or highway engineering contracts of the Texas Department of Transportation. It does not apply to the legislative or judicial branches or to the governor's office, the lieutenant governor's office, or committees whose primary function is to advise state agencies.

House Bill 3047

Effective: 6-18-05

House Author: Veasey

Senate Sponsor: Eltife

House Bill 3047 amends the Government Code to authorize a board member or employee of a communication or emergency communication district to participate in the Texas Building and Procurement Commission's contract for travel services to obtain reduced airline fares and travel agent fees for district business. The bill authorizes the commission to charge a participation fee and requires periodic fee revision to ensure cost recovery.

House Bill 3147

Effective: 6-18-05

House Author: Turner et al.

Senate Sponsor: Van de Putte

House Bill 3147 adds temporary provisions to the Government Code, expiring September 2, 2008, and relating to certain state agency space occupied under one of seven lease with an option to purchase agreements entered into by the state before December 1994. The provisions authorize the Texas Building and Procurement Commission, if it is advantageous to the State of

Texas, to request the Texas Public Finance Authority to issue revenue obligations to finance the purchase of any or all of the space or to seek a more favorable lease with an option to purchase agreement.

Senate Bill 581**Effective:** 9-1-05**Senate Author:** Van de Putte**House Sponsor:** Cortez

Senate Bill 581 amends the Government Code to delegate all purchasing functions related to veterans homes and veterans cemeteries to the Veterans' Land Board (VLB). The VLB is authorized to use the services of the Texas Building and Procurement Commission (TBPC) to procure any related goods and services, and TBPC must perform the requested services. The bill requires the VLB to use the procurement method that provides the best value to the VLB, giving consideration to best value standards listed in the Government Code. It further exempts projects constructed by and for the VLB from provisions of the building construction and acquisition chapter of the Government Code. Senate Bill 581 also amends the Natural Resources Code provision that defines who is considered a veteran for purposes of VLB programs to remove from the required minimum 90 days of service a stipulation that the days be served consecutively.

Senate Bill 982**Effective:** 6-17-05**Senate Author:** Van de Putte**House Sponsor:** Puente

Senate Bill 982 amends the Government Code to add certification that construction complies with certain alternative energy and energy-efficient architectural and engineering design evaluation requirements and provision of certain written evaluations or detailed economic feasibility studies to the list of requirements a state agency must fulfill before beginning construction or major renovation on a state building. The bill sets out provisions to implement the added requirements.

Senate Bill 1139**Effective:** 9-1-05**Senate Author:** Eltife**House Sponsor:** Frost

Senate Bill 1139 amends the Government Code to require a state agency to coordinate its transfer of surplus or salvage property with the Texas Building and Procurement Commission so that the commission can monitor the agency's activities to ensure an ethical and legal transfer that is in the best economic interest of the state. The bill requires an agency to submit a report on transferred property to the commission and if, based on the report, the commission determines a state law or rule has been violated, requires the commission to report such an infraction to the Legislative Budget Board.

Senate Bill 1663**Effective:** 6-17-05**Senate Author:** Eltife**House Sponsor:** Veasey

Senate Bill 1663 amends the Government Code to authorize a board member or employee of a communication or emergency communication district to participate in the Texas Building and Procurement Commission's contract for travel services to obtain reduced airline fares and travel agent fees for district business. The bill authorizes the commission to charge a participation fee and requires periodic fee revision to ensure cost recovery.

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

HB 26 - State Government

HB 976 - Open Government and Privacy

SB 1569 - State Government

SB 1786 - Transportation

Health

This chapter covers legislation relating to health and safety, including diseases and medical conditions, organ donation, immunizations, health code enforcement, indigent health care, and trauma care. The chapter also includes legislation relating to health care facilities, hospital districts and municipal hospital authorities, 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. Bills relating to emergency medical services providers are in the **Emergency Response** chapter. Bills relating to medical professions are in the **Health and Medical Occupations** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 120

Effective: See below

House Author: Dawson et al.

Senate Sponsor: Zaffirini

House Bill 120 amends provisions of the Transportation Code and the Health and Safety Code to create an organ donor education, awareness, and registry program and to establish the Texas Organ, Tissue, and Eye Donor Council and specify the composition, leadership, and responsibilities and duties of the council. The bill includes provisions relating to issuance by the Department of Public Safety of a driver's license or personal identification card with organ donor designation, the establishment and maintenance of a statewide Internet-based registry of organ, tissue, and eye donors, and fees assessed to fund the program. Provisions of the bill relating to educational materials to be provided by the Department of Public Safety and to a fee assessed for the registration or renewal of registration of a motor vehicle to pay the costs of the donor education, awareness, and registry program are effective September 1, 2005; all other provisions of the bill are effective June 17, 2005.

House Bill 162

Effective: 9-1-05

House Author: McCall

Senate Sponsor: Carona

House Bill 162 amends the Health and Safety Code to add detention officers and county jailers to the list of providers of emergency care required to be notified by local health authorities of possible exposure to certain reportable diseases. The bill also authorizes hospitals or local health authorities to give notice of a possible exposure to any person who demonstrates that the person was exposed to the reportable disease while providing emergency care. House Bill 162 also requires a hospital to take reasonable steps to test a deceased person for communicable diseases and to report the test results to the Department of State Health Services or the local health authority in the event of accidental exposure to the blood or other body fluids of the person at the scene of an emergency or during transport to the hospital.

House Bill 894

Effective: 5-27-05

House Author: Hodge et al.

Senate Sponsor: West, Royce

House Bill 894 amends the Health and Safety Code to permit consumer sampling of produce at municipally owned farmers' markets and lists sanitary conditions required to be met before samples may be distributed.

Health

House Bill 916

Effective: 6-18-05

House Author: Woolley et al.

Senate Sponsor: Nelson

House Bill 916 amends the Health and Safety Code to create an interagency Texas Health Policy Council. The bill requires the council to identify health care system gaps, flaws, inefficiencies, or problems that create systemic or substantial negative impacts, and to identify possible solutions. Following each regular session of the legislature, the presiding officers of the senate and house may submit health care related issues to the governor for referral to the council for research and analysis. The bill requires the council to ensure effective state agency collaboration in purchasing health care products or services, to facilitate and promote the use of technology in the health care system, to establish an informational clearinghouse to assist communities in assessing local health care system needs, and to monitor, research, and promote initiatives relating to patient safety and the use of telemedicine and telehealth.

House Bill 916 also creates the Texas Health Workforce Planning Partnership as a standing subcommittee of the council and requires the partnership to monitor Texas health care workforce needs, undertake and implement health care workforce planning, and research and identify ways to increase health care funding. A temporary provision expiring September 1, 2007, requires the statewide health coordinating council, in conjunction with area health education centers, to study the health care delivery system in five geographically diverse medically underserved communities. The bill assigns related duties to the Department of State Health Services, including a report of study results.

House Bill 1544

Effective: 9-1-05

House Author: Dawson et al.

Senate Sponsor: Ellis

House Bill 1544 amends the Health and Safety Code to provide for a civil penalty for the removal of or acceptance of a gift of corneal tissue by a person who knows that a gift authorizing the removal has not been made and provides that the removal of corneal tissue for transplantation is subject to the same provisions of law as the removal of a visceral organ, including provisions relating to immunity and consent. The bill also repeals provisions relating to a requirement that an organ or tissue procurement organization determine whether or not a deceased person is a declared donor and authorizing a medical examiner to remove visceral organs or tissue without consent to maintain the viability of the organ.

House Bill 1752

Effective: 9-1-05

House Author: Davis, John

Senate Sponsor: Estes

House Bill 1752 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission, rather than the Texas Board of Health, to adopt rules relating to permits issued for the germicidal treatment of certain bedding, materials, and upholstered items. The bill sets out minimum sanitary standards for a germicidal treatment permit holder's place of business. The bill authorizes the executive commissioner to establish additional sanitation requirements for a permit holder's place of business, but exempts from additional requirements a permit holder who treats not more than 10 items at the permit holder's place of business each week.

House Bill 2180

Effective: 9-1-05

House Author: Anderson et al.

Senate Sponsor: Averitt

House Bill 2180 amends the Health and Safety Code to add to the list of persons who may become donees of anatomical gifts for education or research a forensic science program at a general academic teaching institution or a private or independent institution of higher education.

The bill requires a forensic science program that receives an anatomical donation to submit a quarterly report to the Anatomical Board of the State of Texas relating to the number of donations and the method of use of the donations for education or research.

House Bill 2476
Effective: 6-18-05

House Author: Delisi
Senate Sponsor: Nelson

House Bill 2476 amends the Civil Practice and Remedies Code to permit the Texas Medical Disclosure Panel to hold meetings by telecommunication methods, including by use of telephone conference call or videoconferencing. The bill sets out requirements for such meetings, including that the meeting must be audible to the public at the location specified in the notice.

House Bill 2507
Effective: 9-1-05

House Author: Bohac et al.
Senate Sponsor: Ellis

House Bill 2507 amends the Health and Safety Code to require a municipality with a population of at least 1.5 million and a county with a population of at least 3.4 million to enforce state laws and rules regarding mobile food units and roadside food vendors in the same manner as the municipality or county enforces other health and safety regulations relating to food service.

House Bill 2594
Effective: 9-1-05

House Author: Coleman
Senate Sponsor: Nelson

House Bill 2594 amends the Health and Safety Code to require the health disparities task force to submit a biennial, rather than annual, report on the progress of the Texas Department of State Health Services in accomplishing certain goals related to eliminating health and health access disparities in Texas among multicultural, disadvantaged, and regional populations.

House Bill 2765
Effective: 9-1-05

House Author: Truitt
Senate Sponsor: Nelson

House Bill 2765 amends the Health and Safety Code to change the definition of a legally authorized representative under the Texas Hospital Licensing Law to include a person authorized to consent to medical treatment on behalf of a patient under the Consent to Medical Treatment Act or an heir of a patient and to include a person exercising a power granted to the person as an agent of a patient by a statutory durable power of attorney.

Senate Bill 44
Effective: 9-1-05

Senate Author: Nelson
House Sponsor: Delisi

Senate Bill 44 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission to establish the Indigent Health Care Advisory Committee to advise the commission concerning indigent health care services. The bill requires the committee to conduct a feasibility study and develop recommendations regarding the implementation of a pilot program for the regionalization of county indigent health care services and hospital district services and to review and propose recommendations for legislation updating indigent health care and treatment, which are to be reported by November 1, 2006. The committee is established until September 1, 2007.

Senate Bill 45
Effective: 9-1-05

Senate Author: Nelson
House Sponsor: Delisi

Senate Bill 45 amends the Health and Safety Code to require the statewide health coordinating council to form an advisory committee on health care information technology to develop a

Health

long-range plan that includes certain methods of incorporating information technology in pursuit of greater cost-effectiveness and better patient outcomes. The bill adds the requirement that the state health plan propose strategies for incorporating information technology in the service delivery system.

Senate Bill 66

Effective: 6-15-05

Senate Author: Nelson

House Sponsor: Driver

Senate Bill 66 amends the Health and Safety Code to create programs and initiatives to prevent the manufacture and use of methamphetamine. The bill creates a methamphetamine watch program to be implemented by the Department of State Health Services (DSHS) to inform retailers of certain problems associated with the illicit manufacture of methamphetamine and to encourage retailers to limit access to certain products used in the manufacture of methamphetamine, including pseudoephedrine products. The bill sets out provisions relating to retailer participation, good faith reporting, and limitation on liability. The bill also makes it a Class C misdemeanor offense to knowingly make a false report or cause a false report to be made to law enforcement of a theft, suspicious purchase, or other transaction involving a product used to manufacture methamphetamine. Senate Bill 66 requires DSHS to create prevention and education programs designed to help students and to provide anhydrous ammonia education. The bill also requires DSHS to create a drug-endangered child initiative aimed at protecting children who are exposed to methamphetamine or to chemicals and other hazardous materials associated with the illicit manufacture of methamphetamine. The bill requires the Department of Public Safety and each local law enforcement agency to report to the Department of Family and Protective Services (DFPS) on discovering the presence of a child in a location where methamphetamine is manufactured and requires DFPS to maintain records of such a report and include in the report actions taken by DFPS to ensure the child's safety and well-being.

Senate Bill 330

Effective: 9-1-05

Senate Author: Deuell et al.

House Sponsor: McReynolds

Senate Bill 330 amends the Health and Safety Code to require the emergency medical services advisory council to establish a stroke committee to assist the advisory council in the development of a statewide stroke emergency transport plan and stroke facility criteria. The bill provides for the composition and duties of the committee, elements and protocols required to be included in the statewide stroke emergency transport plan, and certain national guidelines to be consulted by the committee in developing the plan and stroke facility criteria.

Senate Bill 350

Effective: 9-1-05

Senate Author: Lindsay

House Sponsor: Woolley

Senate Bill 350 amends the Health and Safety Code to exclude the establishment and use of a columbarium by an organized religious society or sect from restrictions relating to the establishment and operation of a cemetery if the columbarium meets certain conditions. The bill specifies that exclusions from the restrictions apply to a religious society or sect that is exempt from income taxation under certain federal law.

Senate Bill 910

Effective: 6-17-05

Senate Author: Whitmire

House Sponsor: Keel

Senate Bill 910 amends the Health and Safety Code to conform to the repeal of certain obsolete laws defining and regulating nitrous oxide as a volatile chemical.

Senate Bill 995**Effective:** 9-1-05**Senate Author:** Averitt**House Sponsor:** Anderson

Senate Bill 995 amends the Health and Safety Code to add to the list of those who may become donees of anatomical gifts a forensic science program at a general academic teaching institution or a private or independent institution of higher education for education or research. The bill requires a forensic science program that receives an anatomical donation to submit a quarterly report to the Anatomical Board of the State of Texas relating to the number of donations and the method of use of the donations for education or research.

Senate Bill 1238**Effective:** 9-1-05**Senate Author:** Madla**House Sponsor:** Menendez

Senate Bill 1238 amends the Health and Safety Code to provide that the filling or blocking of a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement constitutes a public nuisance.

Diseases and Medical Conditions**House Bill 790****Effective:** 9-1-05**House Author:** Crownover et al.**Senate Sponsor:** Nelson

House Bill 790 amends the Health and Safety Code to require the Department of State Health Services to conduct a study to determine the most cost-effective method of conducting newborn screening, to obtain proposals or information necessary to determine the costs of the department performing the screening services as compared to the costs of outsourcing the screening, and to implement an expanded newborn screening program using the methods determined to be most cost effective. The department is required to report the results of the study to the governor not later than March 1, 2006, and to implement the program not later than November 1, 2006. House Bill 790 also requires the department to review and study the National Newborn Screening and Genetics Resources Center's assessment of the state's screening program and includes provisions relating to periodic review of the revised program, certain disorders required to be included in the screening tests, and the fee amounts for newborn screenings.

House Bill 1677**Effective:** 9-1-05**House Author:** Dukes et al.**Senate Sponsor:** Zaffirini

House Bill 1677 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission to establish a sentinel surveillance program to identify respiratory syncytial virus infection in children and maintain a database of confirmed cases for use in investigating incidence, prevalence, and trends of the virus. The bill sets out provisions relating to data collection procedures, the limitation of liability for providing information, and the confidentiality of information provided to the department under the program.

House Bill 2344**Effective:** 9-1-05**House Author:** Luna**Senate Sponsor:** West, Royce

House Bill 2344 amends provisions of the Health and Safety Code relating to the Council on Cardiovascular Disease and Stroke. The bill changes the composition of the council to include 11 public members appointed by the governor with the advice and consent of the senate,

Health

rather than by the board of health, specifies the qualifications required of the members, and requires the governor to attempt to appoint female members and members of different minority groups. House Bill 2344 requires the council to establish appropriate programs to educate the public regarding the impact of heart disease and stroke on women's health and includes provisions relating to reimbursement for council member travel expenses, restrictions on council appointment, membership, or employment, appointment of the presiding officer by the governor, and grounds for the removal of a council member. The bill requires the council to report to the governor, lieutenant governor, and speaker of the house of representatives annually, establishes the heart disease and stroke resource fund as a dedicated account in the general revenue fund, and requires the council to advise the legislature and collaborate with certain entities regarding certain cardiovascular disease and stroke issues.

House Bill 2475

Effective: 9-1-05

House Author: Delisi

Senate Sponsor: Nelson

House Bill 2475 requires the Department of State Health Services to develop a strategic plan to eliminate mortality from cervical cancer by the year 2015. The bill requires the department to collaborate with the Texas Cancer Council, authorizes the department to convene workgroups, and sets out requirements related to the development of the plan. House Bill 2475 requires the department to deliver the plan to the governor and members of the legislature not later than December 31, 2006.

Senate Bill 665

Effective: 9-1-05

Senate Author: Barrientos

House Sponsor: Naishtat

Senate Bill 665 amends the Health and Safety Code to authorize an employee, contractor, or volunteer who performs a service in certain correctional facilities or a detention facility to request that the Department of State Health Services or a health authority order testing of another person who may have exposed the person to a reportable disease.

Senate Bill 691

Effective: 9-1-05

Senate Author: Madla et al.

House Sponsor: Wong

Senate Bill 691 amends the Health and Safety Code to require the Department of State Health Services, to the extent that money has been appropriated or is otherwise available, to develop and implement an arthritis control and prevention program. The bill requires the department to work with public and private organizations to conduct a needs assessment of the current status of arthritis and raise public awareness of certain arthritis-related issues. Senate Bill 691 also requires the department to establish and coordinate the Arthritis Advisory Committee to advise the department on developing and implementing the program.

Senate Bill 1211

Effective: 9-1-05

Senate Author: Deuell

House Sponsor: Dukes

Senate Bill 1211 amends the Health and Safety Code to require the Department of State Health Services to include information relating to respiratory syncytial virus as part of certain continuing education courses for health care providers and statewide immunization education programs.

Health Care Facilities

House Bill 677

Effective: 9-1-05

House Author: Thompson et al.

Senate Sponsor: Wentworth

House Bill 677 amends the Health and Safety Code to require certain health care facilities to submit to the Department of State Health Services a plan for providing emergency services to sexual assault survivors who arrive for treatment at the emergency department of the health care facility. The bill includes provisions relating to department review and approval of the plan, minimum standards of care for sexual assault survivors, information required to be included in a standard information form for sexual assault survivors developed by the department, and exceptions to required distribution of the form by certain health care facility employees for ethical or religious reasons.

House Bill 2470

Effective: 9-1-05

House Author: Delisi

Senate Sponsor: Nelson

House Bill 2470 amends provisions of the Health and Safety Code and Transportation Code relating to the financing of emergency medical services and trauma facility care and to continuing the driver responsibility program. The bill continues current financing provisions relating to emergency medical services and trauma facilities that were scheduled to expire in 2007. It requires the commissioner of the Department of State Health Services to reserve in each fiscal year \$500,000 of the money appropriated to the designated trauma facility and emergency medical services account for extraordinary emergencies, rather than maintaining a total reserve in that amount. Money appropriated to the account but not spent in one fiscal year is required to be transferred to the reserve for use during the following fiscal year. House Bill 2470 provides that certain unexpended funds disbursed during a fiscal year to a trauma service area regional advisory council for the operation of the 22 trauma service areas and for distribution to local emergency medical services may be retained for use in the following fiscal year and requires unexpended funds at the end of the second fiscal year to be returned to the Department of State Health Services. The bill changes requirements relating to an undesignated facility's pursuit of designation and qualification for funds to offset uncompensated trauma care administered by the facility.

House Bill 2470 requires that a citation issued for an offense under a traffic law of this state include a notice of a potential surcharge under the driver responsibility program and extends the period of time over which a surcharge may be paid in installments.

House Bill 2471

Effective: 9-1-05

House Author: Delisi

Senate Sponsor: Nelson

House Bill 2471 amends the Health and Safety Code to authorize the Department of State Health Services to issue a single license for multiple hospitals. The bill lists the conditions that must be met to qualify for the issuance of the license and provides for the waiver of requirements relating to compliance with certain emergency services standards.

House Bill 3357

Effective: 9-1-05

House Author: Delisi

Senate Sponsor: Nelson

House Bill 3357 amends the Health and Safety Code to require an application for an original or renewal hospital license to include the name and social security number of the applicant or applicants. The bill requires the Department of State Health Services to post a list of all the individuals named in an application on the department's website.

Senate Bill 316

Effective: 9-1-05

Senate Author: Lucio

House Sponsor: Solis

Senate Bill 316 amends the Health and Safety Code to expand the information relating to childbirth and parenting that is required to be provided to mothers of newborn children to include postpartum depression, shaken baby syndrome, immunizations, and newborn screening. It specifies that the information must also be provided to the father or can be provided to another adult caregiver and sets out additional duties of the Department of State Health Services relating to making the information available.

Senate Bill 815

Effective: 8-29-05

Senate Author: Lucio

House Sponsor: Solis

Senate Bill 815 amends the law relating to the construction of the South Texas Hospital as enacted by Chapter 1106, Acts of the 76th Legislature, Regular Session, 1999. The bill deletes language restricting construction to an initial facility at a site in Harlingen to require the Department of State Health Services to contract for the construction of at least one facility out of funds appropriated to the department. The bill authorizes one facility to be located in Hidalgo County and another facility to be located in Cameron County and specifies that the facilities are to provide outpatient health care services, including outpatient tuberculosis services.

Senate Bill 872

Effective: 9-1-05

Senate Author: Nelson

House Sponsor: Delisi

Senate Bill 872 amends provisions of the Occupations Code and Health and Safety Code relating to the regulation and study of niche hospitals and to a study on the reporting of certain infection rates and process measures. The bill requires a physician to notify the Department of State Health Services of an ownership interest in a niche hospital, includes provisions relating to unprofessional conduct by a health care provider who refers a patient to niche hospitals, and requires the Department of State Health Services to conduct a study regarding the impact of niche hospitals on the financial viability of other general hospitals. Senate Bill 872 also requires the commissioner of state health services to establish an advisory panel on health care associated infections to study and make recommendations relating to infection rates and process measures.

Senate Bill 1378

Effective: 6-17-05

Senate Author: Staples

House Sponsor: Woolley

Senate Bill 1378 amends the Health and Safety Code relating to the process for certification of certain nonprofit hospitals and hospital systems for limited liability. The bill changes the date by which certain hospitals or hospital systems are required to submit the annual request for certification from April 30 to May 31, the date by which the Department of State Health Services is required to determine eligibility for certification from May 31 to December 31 of the year in which the request is received, and the date on which certification takes effect from May 31 to December 31. The bill also modifies provisions relating to the information to be used by the department to determine eligibility for certification.

Hospital Districts

House Bill 192

Effective: 6-17-05

House Author: Eissler

Senate Sponsor: Williams

House Bill 192 provides that a petition to require an election to reduce the Montgomery County Hospital District's tax rate to the rollback tax rate or to request an election to dissolve

the district must be submitted to the Montgomery County elections administrator rather than to the district's board of directors, as required under previous law. The bill requires the elections administrator, no later than the 20th day after receiving a petition for a tax rate rollback or the 30th day after receiving a petition to dissolve the district, to determine the petition's validity and to certify that determination to the district's board. If the elections administrator does not act within the required time, the petition is treated as valid. The bill requires the board, upon receipt of a valid petition, to order an election and requires the district to reimburse the elections administrator for duties performed in the petition process.

House Bill 1455**Effective:** 6-18-05**House Author:** King, Tracy**Senate Sponsor:** Madla

House Bill 1455 amends the law to authorize the Maverick County Hospital District to make annual determinations about the type and extent of hospital and medical care services to be provided to needy residents of the district, based on the estimated amount of available revenue.

House Bill 1475**Effective:** 9-1-05**House Author:** Eiland**Senate Sponsor:** Williams

House Bill 1475 repeals Chapter 528, Acts of the 72nd Legislature, Regular Session, 1991, to remove obsolete provisions relating to certain taxing and financing authority of the Chambers County Hospital District.

House Bill 1648**Effective:** 6-18-05**House Author:** Hughes**Senate Sponsor:** Eltife

House Bill 1648 amends the law to allow for the expansion of the Wood County Central Hospital District of Wood County to include territory within the boundaries of the Mineola Independent School District. The bill provides for an election to approve the annexation and for a new board of directors.

House Bill 2584**Effective:** 6-17-05**House Author:** Hilderbran**Senate Sponsor:** Fraser

House Bill 2584 amends the law relating to the Kimble Hospital District of Kimble County. The bill includes provisions relating to the election date for the district's board of directors, the compensation paid to the assessor and collector of taxes, and the entities with which the board may contract to provide health care or related services outside the district. The bill also requires the board to send a billing statement to any person ordered to pay for a patient's care.

House Bill 2587**Effective:** 6-17-05**House Author:** Hilderbran**Senate Sponsor:** Duncan

House Bill 2587 amends the law to allow the Schleicher County Hospital District to provide, on approval of the district board, medical services to areas outside the boundaries of the district, as long as the services provided serve the purpose of the district. The bill also includes provisions relating to board composition, board election, and terms of board members.

House Bill 2814**Effective:** 5-27-05**House Author:** Bonnen**Senate Sponsor:** Janek

House Bill 2814 amends the law relating to the Sweeny Hospital District. The bill modifies provisions relating to the composition of the district's board of directors, the election of the

Health

board, and the board's powers and duties. The bill revises procedures relating to levying taxes, issuing bonds, recruiting staff, creating a nonprofit corporation, and exercising the power of eminent domain, and puts procedures in place for the dissolution of the district.

House Bill 3486

Effective: 6-17-05

House Author: Hardcastle

Senate Sponsor: Estes

House Bill 3486 amends the law relating to the Nocona Hospital District. The bill modifies provisions relating to the election of the board of directors and the board's powers and duties. The bill revises certain procedures relating to the issuance of bonds, competitive bidding for certain construction contracts, the power of eminent domain, the imposition of taxes, and indigent care, and establishes procedures for the dissolution of the district.

House Bill 3537

Effective: 6-18-05

House Author: Keffer, Jim

Senate Sponsor: Estes

House Bill 3537 amends the law to prohibit an individual with an ownership or investment interest in a health care facility located in Palo Pinto County or in an entity that provides certain health-care-related goods or services similar to those provided by the district from serving on the board of directors of the Palo Pinto Hospital District.

Senate Bill 264

Effective: 6-17-05

Senate Author: Williams

House Sponsor: Eissler

Senate Bill 264 amends provisions of law to allow the Montgomery County Hospital District to issue revenue bonds or certificates of obligation, or to incur or assume any other debt, except refunding bonds or debt incurred solely to refinance an existing debt, if authorized by a majority of the voters of the district voting in an election held for that purpose.

Senate Bill 468

Effective: 9-1-05

Senate Author: Deuell

House Sponsor: Flynn

Senate Bill 468 amends the law to provide that the designated depository bank of the Hunt Memorial Hospital District serves for a term of five, rather than two, years.

Senate Bill 668

Effective: 6-17-05

Senate Author: Seliger

House Sponsor: Smithee

Senate Bill 668 amends the law to authorize the South Randall County Hospital District to invest district money in funds and securities as prescribed by the Public Funds Investment Act.

Senate Bill 1026

Effective: 6-18-05

Senate Author: Madla

House Sponsor: King, Tracy

Senate Bill 1026 amends the law to authorize the Maverick County Hospital District to make annual determinations about the type and extent of hospital and medical care services to be provided to needy residents of the district, based on the estimated amount of available revenue.

Senate Bill 1027
Effective: 5-27-05

Senate Author: Madla
House Sponsor: King, Tracy

Senate Bill 1027 amends the law relating to the Maverick County Hospital District to allow the board of directors to employ physicians, dentists, or other health care providers for the efficient operation of the district. The bill expressly provides that it does not authorize the board of directors to supervise or control the practice of medicine or to permit the unauthorized practice of medicine.

Senate Bill 1302
Effective: 5-24-05

Senate Author: Seliger
House Sponsor: West, George “Buddy”

Senate Bill 1302 amends the law relating to the Ector County Hospital District to allow each board member, in lieu of executing a bond, to purchase an insurance policy that names the district as its sole beneficiary. The bill requires the board to determine the appropriate type and value of the bond or insurance policy required of each director. The bill also raises the threshold for the value of construction contracts that require competitive bidding from \$10,000 to the amount provided by Section 271.024, Local Government Code, currently set at \$25,000. The bill clarifies that none of the provisions in the law governing the creation and administration of the hospital district constitutes a waiver of the board’s sovereign or governmental immunity.

Senate Bill 1754
Effective: 9-1-05

Senate Author: Duncan
House Sponsor: Chisum

Senate Bill 1754 amends the law relating to the Childress County Hospital District. The bill modifies provisions relating to the election of the board of directors and the board’s powers and duties, including its authority to determine the facilities, services, and equipment required in the district. The bill revises procedures relating to the management, control, and administration of the district, the issuance of bonds, and the imposition of taxes, and establishes procedures for the dissolution of the district.

Senate Bill 1769
Effective: 6-17-05

Senate Author: Harris
House Sponsor: Truitt

Senate Bill 1769 amends the Health and Safety Code to provide that a hospital district administrator of a district in a county with a population of at least 190,000 serves for a term of four, rather than two, years.

Senate Bill 1846
Effective: 6-17-05

Senate Author: Zaffirini
House Sponsor: Gonzalez Toureilles

Senate Bill 1846 amends state law relating to the Karnes County Hospital District. The bill updates provisions relating to the election of directors and clarifies the board’s powers and duties relating to the setting of the fiscal year, the issuance of bonds, contracting for construction or purchases, the collection of taxes, and the provision of indigent health care. The bill also authorizes the district to create and sponsor a nonprofit corporation under the Business Organizations Code, adds a process for the dissolution of the district, and updates the legislation to conform with current laws.

Immunizations

House Bill 1316

Effective: 9-1-05

House Author: Zedler

Senate Sponsor: Deuell

House Bill 1316 amends the Human Resources Code to add to the immunization requirements for children in regulated child-care facilities immunization against invasive pneumococcal disease and hepatitis A.

House Bill 2100

Effective: 9-1-05

House Author: Delisi

Senate Sponsor: Nelson

House Bill 2100 amends the Health and Safety Code to require the Department of State Health Services to promote the sale of heirloom wedding anniversary certificates and to deposit the proceeds from issuance of the certificates to the credit of the childhood immunization account.

House Bill 2101

Effective: 9-1-05

House Author: Delisi

Senate Sponsor: Nelson

House Bill 2101 amends the Health and Safety Code to require, rather than authorize, the Department of State Health Services to promote the sale of heirloom birth certificates for an individual born in Texas. The bill includes provisions relating to certificate design and size, changes the maximum fee for issuance of a certificate to \$50, and requires that 50 percent of the proceeds from the sale of the certificates be deposited to the credit of the childhood immunization account and the other 50 percent to the undedicated portion of the general revenue fund.

Senate Bill 1330

Effective: 9-1-05

Senate Author: Nelson

House Sponsor: Coleman

Senate Bill 1330 amends the Health and Safety Code to direct the executive commissioner of the Health and Human Services Commission and the Texas State Board of Medical Examiners to adopt rules that require certain health care facilities to inform elderly persons who are admitted to or receive care at the facility of the availability of the pneumococcal and influenza vaccines and to make available the opportunity to receive the vaccines if certain health care providers determine that the vaccine is in the person's best interest. The bill also requires the Department of State Health Services and the Texas State Board of Medical Examiners to make available to the facilities materials concerning vaccination against influenza virus and pneumococcal disease.

Medical Records and Personal Health Information

House Bill 1604

Effective: 5-17-05

House Author: Keffer, Bill et al.

Senate Sponsor: Shapiro

House Bill 1604 amends the Health and Safety Code to provide an exception to the filing deadline for a birth certificate or report of a birth. The bill permits a parent, based on the parent's religious beliefs, to request a delay in the filing of the certificate or making of the report until the child is named. House Bill 1604 requires the parent to contact the person required to file the certificate or make the report as soon as the child is named, and the certificate or report is required to be filed or made not later than the 15th day after the date of the birth of the child.

Senate Bill 239**Effective:** 5-3-05**Senate Author:** Janek**House Sponsor:** Talton

Senate Bill 239 amends the Health and Safety Code to require the state registrar to issue, without a fee, a copy of a birth or death record that is not certified on the request of a child fatality review team or child fatality review team committee.

Senate Bill 271**Effective:** 9-1-05**Senate Author:** Zaffirini et al.**House Sponsor:** Burnam

Senate Bill 271 amends the Health and Safety Code to provide procedures for issuance of a certificate of birth resulting in stillbirth on request of a parent. The bill requires the bureau of vital statistics to prescribe the form and content of the certificate not later than the 60th day following the effective date of the act, specifies certain information required to be included in the certificate, and clarifies that a parent may request the preparation and issuance of a certificate without regard to whether the death occurred on, before, or after the effective date of the act.

Senate Bill 1113**Effective:** 9-1-05**Senate Author:** Gallegos**House Sponsor:** Dawson

Senate Bill 1113 amends the Health and Safety Code to permit a hospital to release health care information to emergency medical services providers without written notification if the disclosure is for treatment, payment, or certain health care operations purposes to the same extent permitted under the federal Health Insurance Portability and Accountability Act of 1996.

Senate Bill 1524**Effective:** 9-1-05**Senate Author:** Zaffirini**House Sponsor:** Uresti

Senate Bill 1524 amends the Health and Safety Code to authorize county clerks to charge a fee for issuing a certified copy of a birth or death certificate and for the preservation of vital statistics records, including a record issued through a Remote Birth Access site.

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

HB 43 - Corrections
 HB 880 - Government Purchasing
 HB 984 - Public Education
 HB 1126 - Emergency Response
 HB 1924 - Border Affairs
 HB 1999 - Family Law and Juvenile Justice
 HB 2195 - Corrections
 HB 2618 - Local Government
 HB 3426 - Border Affairs
 HB 3563 - Public Education
 SB 42 - Public Education
 SB 325 - Human Services
 SB 521 - Emergency Response
 SB 568 - Occupational Regulation

Health and Medical Occupations

This chapter covers legislation relating to health and medical occupations, including occupational regulations, licensing and registration requirements, and continuing education requirements. The chapter also includes legislation relating to dog and cat sterilization and the compounding and distribution of certain prescription drugs. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 102**Effective:** 5-27-05**House Author:** Van Arsdale**Senate Sponsor:** Lindsay

House Bill 102 amends the Occupations Code to require biennial renewal of a respiratory care practitioner certificate and increases continuing education requirements for each renewal period.

House Bill 836**Effective:** 9-1-05**House Author:** Gattis et al.**Senate Sponsor:** Ogden

House Bill 836 amends provisions of the Occupations Code relating to the disclosure of certain prescription drug price information by a pharmacist. The bill requires a pharmacist to offer a patient the option of paying the lower of the price of a drug prescribed to the patient or the cost of the patient's insurance copayment. The bill also requires a pharmacist, before filling a prescription, to inform a patient that a less expensive generically equivalent drug is available as a substitute for a brand prescribed and to ask the patient to choose between the generic and the branded drug. House Bill 836 provides for certain exceptions to the disclosure requirements and for compliance by a pharmacy that supplies a prescription by mail.

House Bill 1767**Effective:** 9-1-05**House Author:** Cook, Robby**Senate Sponsor:** Armbrister

House Bill 1767 amends the Occupations Code to make changes to the Veterinary Licensing Act. The bill prohibits the practice of veterinary medicine unless a veterinarian-client-patient relationship exists and provides that such a relationship may not be established solely by telephone or electronic means. However, it allows a veterinarian, without establishing a relationship, to dispense a drug other than a controlled substance if another veterinarian has prescribed the drug and informed the dispenser that it is appropriate and necessary and certain other conditions are met. The bill provides that a veterinarian who in good faith and in the normal course of business reports to authorities a suspected incident of animal cruelty has immunity from civil and criminal liability with respect to that reporting. It provides also that a veterinarian does not violate confidentiality restrictions by supplying a client's name to specified authorities who are obtaining information for rabies vaccination verification or other treatment involving a life-threatening situation. The bill reduces the period after notification during which a client may retrieve an animal left with a veterinarian before it is considered abandoned. For the offense of practicing veterinary medicine without a license, the bill establishes Travis County or the county where the offense occurred as the venue for prosecution.

House Bill 2680

Effective: 6-18-05

House Author: Branch

Senate Sponsor: Nelson

House Bill 2680 amends the Occupations Code and the Insurance Code to require certain licensing entities to provide for reduced fees and continuing education requirements for retired health care practitioners performing volunteer charity work and to require the Texas Medical Liability Underwriting Association and certain self-insurance trusts to offer medical liability insurance for those practitioners.

House Bill 2696

Effective: 9-1-05

House Author: Anchia et al.

Senate Sponsor: West, Royce

House Bill 2696 amends the Occupations Code to require massage establishments, massage therapy instructors, and massage therapists to have licenses, rather than certificates of registration, and transfers certain rulemaking authority from the Texas Board of Health to the executive commissioner of the Health and Human Services Commission. House Bill 2696 adds provisions relating to an annual registry, criminal background checks, minimum age requirements for licensure, and prohibited conduct, establishes criminal offenses for certain violations related to performing a service or operating an establishment without a license, and raises civil penalties.

Senate Bill 248

Effective: 5-27-05

Senate Author: West, Royce

House Sponsor: McReynolds

Senate Bill 248 amends Health and Safety Code provisions relating to dog and cat sterilization to authorize a licensed veterinarian to use certain nonsurgical methods and technologies approved by the U.S. Food and Drug Administration or the U.S. Department of Agriculture for use by veterinarians to humanely and permanently sterilize an animal. Such nonsurgical sterilization may be performed only by a veterinarian or a full-time student of an accredited college of veterinary medicine. The bill directs the State Board of Veterinary Examiners to adopt rules by 2006 requiring identification markers for sterilized animals and to develop information sheets on sterilization to be distributed to new owners by public or private animal pounds, shelters, or humane organizations. The bill prohibits anyone associated with such an entity from interfering with the independent professional judgment of a veterinarian employed by or under contract with the entity.

Senate Bill 407

Effective: 9-1-05

Senate Author: Jackson, Mike

House Sponsor: Cook, Byron

Senate Bill 407 amends the Occupations Code to continue the State Board of Veterinary Medical Examiners until September 1, 2017. It revises complaint procedures to require that complaints be prioritized to resolve the most serious first. Complaints that require medical expertise to review must be reviewed by two or more veterinarian board members, while those not requiring medical expertise may be delegated to a committee of board staff. The bill adds provisions regarding the handling of informal proceedings under the Administrative Procedure Act. The bill clarifies the board's administrative penalty powers, increases the maximum penalty to \$5,000 per violation per day, and directs the board to set penalty amounts based on the seriousness of the offense in the case of licensees with controlled substance, dangerous drug, or certain chemical abuse felony convictions. The legislation authorizes the board to issue cease-and-desist orders. Other provisions relate to compliance with continuing education requirements, restitutionary settlement of certain complaints, licensing examination, license renewal, and enforcement matters.

Senate Bill 492**Effective:** 9-1-05**Senate Author:** Van de Putte**House Sponsor:** Delisi

Senate Bill 492 amends provisions of the Occupations Code and the Health and Safety Code relating to drug compounding and distribution of compounded and prepackaged drugs. The bill revises the definition of “compounding” to specify that the term means the preparation, mixing, assembling, packaging, or labeling of a drug or device as a result of a prescription drug order based on the practitioner-patient-pharmacist relationship in the course of professional practice, for administration to a patient by a practitioner, or for distribution between pharmacies under common ownership. Senate Bill 492 defines “office use” and “reasonable quantity” and authorizes a pharmacy, after fulfilling certain requirements, to dispense and deliver a reasonable quantity of a compounded drug to a practitioner for office use. The bill also defines “prepackaging” and authorizes a Class A pharmacy to distribute a prepackaged or compounded drug to a Class C pharmacy under common ownership. The bill adds components used in compounding and related items to the list of items the Texas State Board of Pharmacy is authorized to inspect when conducting an inspection of a pharmacy.

Agency Functions, Powers, and Duties**House Bill 972****Effective:** 9-1-05**House Author:** Solomons et al.**Senate Sponsor:** Nelson

House Bill 972 amends the Occupations Code to continue the Texas Board of Chiropractic Examiners until September 1, 2017. In addition to across-the-board sunset provisions, the bill includes provisions relating to the clarification of certain definitions, the scope of practice of chiropractic, fraud enforcement, and malpractice settlement procedures. House Bill 972 also increases the number of undergraduate semester hours required for a person to be licensed as a chiropractor, limits the number of times an applicant may take the exam for a license to practice chiropractic, and adds the offense of providing chiropractic treatment while intoxicated.

House Bill 1015**Effective:** 9-1-05**House Author:** Truitt et al.**Senate Sponsor:** Jackson, Mike

House Bill 1015 amends the Occupations Code to continue the Texas State Board of Examiners of Psychologists until September 1, 2017. In addition to including across-the-board sunset provisions, the bill modifies the board’s oral examination requirements and examination evaluation procedures and requires the presence of a public member in certain informal disciplinary settlement proceedings. It amends the Code of Criminal Procedure to add the board to the list of health professional entities required to participate in quarterly criminal history checks for its members that are conducted by the Department of Public Safety. It also abolishes the Psychological Associate Advisory Committee.

House Bill 1025**Effective:** See below**House Author:** Solomons**Senate Sponsor:** Shapleigh

House Bill 1025 amends provisions of the Occupations Code to continue the Texas Optometry Board until September 1, 2017. In addition to across-the-board sunset provisions, the bill includes provisions relating to informal settlement conferences to resolve complaints, temporary license suspension and restriction, and license renewal fees. The bill transfers certain authority over the board from the Texas Board of Health to the executive commissioner of the Health and Human Services Commission or the Department of State Health Services. It permits verification of a contact lens prescription by telephone, facsimile, or electronic mail,

Health and Medical Occupations

provides that a prescription is verified if the prescribing physician, optometrist, or therapeutic optometrist fails to respond to a verification request within eight business hours, and removes the requirement that a prescription for disposable contact lenses include the total number of lenses authorized to be issued and the recommended replacement interval.

House Bill 1025 includes dates by which rules must be adopted, a three-member disciplinary board must be appointed, and complaint procedures and prescription verification procedures must be fully operational. Otherwise, the bill takes effect September 1, 2005.

House Bill 1155
Effective: 9-1-05

House Author: Truitt et al.
Senate Sponsor: Shapleigh

House Bill 1155 amends the Occupations Code to continue the Texas State Board of Examiners of Dietitians until September 1, 2017. In addition to including across-the-board sunset provisions, the bill requires the board to develop and administer a jurisprudence examination at least twice each calendar year.

House Bill 1283
Effective: 9-1-05

House Author: Truitt et al.
Senate Sponsor: Carona

House Bill 1283 amends the Occupations Code to continue the Texas State Board of Examiners of Professional Counselors until September 1, 2017. The bill includes across-the-board sunset provisions, modifies educational requirements for a license to practice as a professional counselor, and repeals a provision permitting a counselor intern pursuing a course of study in an art therapy program to use the designation “art therapy intern.”

House Bill 1413
Effective: 9-1-05

House Author: Truitt et al.
Senate Sponsor: Whitmire

House Bill 1413 amends the Occupations Code to continue the Texas State Board of Examiners of Marriage and Family Therapists until September 1, 2017. The bill includes across-the-board sunset provisions relating to the board’s licensing and regulatory functions.

House Bill 1535
Effective: 9-1-05

House Author: Truitt et al.
Senate Sponsor: Shapleigh

House Bill 1535 amends the Occupations Code to continue the Texas Midwifery Board until September 1, 2017. In addition to including across-the-board sunset provisions, the bill provides for licensing, rather than “documentation,” for midwives and increases midwife representation on the board.

Senate Bill 402
Effective: 9-1-05

Senate Author: Nelson
House Sponsor: Hamric

Senate Bill 402 amends the Occupations Code to continue the Texas State Board of Podiatric Medical Examiners until September 1, 2017. In addition to across-the-board sunset provisions, the bill sets out provisions restricting board member eligibility to serve on certain advisory committees and requires the board to adopt rules relating to conviction for offenses that would constitute grounds for board action. Senate Bill 402 raises the cap on the amount of an administrative penalty from \$2,500 to \$5,000 and requires the board to develop a standardized penalty schedule for violations.

Senate Bill 403

Effective: 9-1-05

Senate Author: Nelson

House Sponsor: Truitt

Senate Bill 403 amends provisions of the Occupations Code to abolish the Texas State Board of Examiners of Perfusionists, appointed by the governor, and replaces it with the Texas State Perfusionist Advisory Committee, to be appointed by the executive commissioner of the Health and Human Services Commission. The committee is to advise the executive commissioner on perfusion rules and the Department of State Health Services on administrative processes. The bill continues the committee until September 1, 2017, and includes across-the-board sunset provisions.

Senate Bill 410

Effective: See below

Senate Author: Whitmire

House Sponsor: Truitt

Senate Bill 410 amends the Occupations Code to continue the Texas State Board of Pharmacy until September 1, 2017. In addition to including across-the-board sunset provisions, the bill abolishes the state pharmacy account, requires the board to provide information on its website relating to internet pharmacies licensed by the board, broadens the definition of “preceptor” to include a health care professional other than a pharmacist who meets certain requirements to supervise a pharmacist-intern, changes provisions relating to certain requirements for a Class E pharmacy, expands the authority of the board to discipline a pharmacist with an expired license in addition to current license holders, and requires registration with the board as a pharmacy technician trainee. Senate Bill 410 also includes provisions requiring the board to authorize certain Canadian pharmacies to dispense prescription drugs to Texas residents on a limited basis.

Provisions of Senate Bill 410 that modify procedures required of a physician who prescribes certain controlled substances by facsimile take effect June 18, 2005, and provisions requiring the designation of a Canadian pharmacy to dispense prescription drugs in Texas take effect March 1, 2006. All other provisions of Senate Bill 410 take effect September 1, 2005.

Senate Bill 419

Effective: 9-1-05

Senate Author: Nelson

House Sponsor: Solomons

Senate Bill 419 amends the Occupations Code to continue the Texas State Board of Medical Examiners, the Texas State Board of Physician Assistant Examiners, and the Texas State Board of Acupuncture Examiners until September 1, 2017.

In addition to including across-the-board sunset provisions, Senate Bill 419 changes the name of the medical examiners board to the Texas Medical Board, authorizes the board to issue a faculty temporary license, directs the board to consider whether a violation relates to patient care in determining certain disciplinary action, requires the board to notify a physician of the reasons for rejecting a recommendation for settlement or dismissal of a complaint from an informal hearing panel, and requires the legislature to conduct a joint interim study of the medical peer review process in hospitals and other health care entities in the state. The bill prohibits a physician from performing an abortion in the third trimester of a pregnancy, except under certain circumstances, and requires parental consent before an abortion can be performed on certain minors.

The bill also includes provisions relating to the regulation of surgical assistants and changes the name of the Texas State Board of Physician Assistant Examiners to the Texas Physician Assistant Board.

Physicians, Dentists, and Nurses

House Bill 1366

Effective: 9-1-05

House Author: Allen, Ray

Senate Sponsor: Janek

House Bill 1366 amends the Occupations Code relating to the regulation of nursing. The bill continues the Nurse Licensure Compact, authorizes the Board of Nurse Examiners to establish a criminal investigations unit and to assist law enforcement, and directs the board to suspend, revoke, or refuse to issue a license on the initial conviction of certain offenses. The bill also adds placement on deferred adjudication, deferred adjudication community supervision, or deferred disposition for a felony or misdemeanor involving moral turpitude as grounds for denial of a license or disciplinary action and provides procedures for temporary license restriction.

House Bill 1718

Effective: 9-1-05

House Author: Zedler

Senate Sponsor: Nelson

House Bill 1718 amends provisions of the Occupations Code and Health and Safety Code relating to the regulation of certain nurses who assist in the performance of surgery. The bill changes provisions relating to nurse first assistants, authorizes a nurse who is not a nurse first assistant and who meets certain conditions to assist a physician, podiatrist, or dentist in the performance of surgery, and clarifies that circulating duties in the operating room must be performed by a qualified registered nurse except that a licensed vocational nurse and a surgical technologist are authorized to assist in circulating duties under the direct supervision of a qualified registered nurse.

House Bill 2158

Effective: 9-1-05

House Author: Delisi

Senate Sponsor: Nelson

House Bill 2158 amends the Occupations Code to exempt a retired physician whose only practice is voluntary medical care for a disaster relief organization from the registration permit fee required by the Texas State Board of Medical Examiners.

Senate Bill 39

Effective: 9-1-05

Senate Author: Zaffirini

House Sponsor: Goolsby

Senate Bill 39 amends the Occupations Code to allow a physician who is applying for a license renewal and whose practice includes treating patients in an emergency room to complete two hours of continuing medical education relating to forensic evidence collection. The bill also requires a nurse who works in an emergency room and who is subject to continuing education requirements as a condition of license renewal to complete at least two hours of continuing education relating to forensic evidence collection not later than September 1, 2008, or the second anniversary of the initial license issue.

Senate Bill 132

Effective: See below

Senate Author: Nelson

House Sponsor: Morrison

Senate Bill 132 amends provisions of the Education Code, Government Code, and Health and Safety Code relating to professional nursing education programs, students, and faculty.

The bill requires the governing board of an institution of higher education to exempt children of certain professional nursing faculty or staff from tuition at the institution at which the parent works and sets out exemption limitations. The bill also requires such a governing board to provide a \$500 tuition exemption for a student who is either a registered nurse and serving as a clinical preceptor for nursing students or the child of such nurse/preceptor, and

sets out exemption limitations. It establishes the professional nursing program faculty member home loan program and allocates \$5 million each year out of the state ceiling on private activity bonds to be made available to the Texas State Affordable Housing Corporation exclusively for the program. Additionally, the bill adds certain retirees employed as faculty members in certain professional nursing programs between the beginning of the 2005 fall semester and the end of the 2015 spring semester to the list of persons who cannot have benefit payments withheld under the Teacher Retirement System.

Senate Bill 132 allows the expenditure of a grant from the professional nursing shortage reduction program on costs related to identifying, developing, or implementing innovative methods to make the most effective use of limited professional nursing program faculty, instructional or clinical space, and certain other resources. The bill allows the coordinating board to award nursing faculty enhancement grants under the professional nursing shortage reduction program to assist professional nursing programs in the education, recruitment, and retention of faculty needed to enroll a sufficient number of students to meet the state's need for registered nurses.

The bill requires the statewide health coordinating council, in consultation with the Texas Higher Education Coordinating Board, to perform an analysis to determine a yearly target number of graduates from nursing programs based on the state's projected unmet need and the levels of funding needed to achieve the goal, and requires a report to the legislature on the results by January 1, 2007. It also requires the board to identify, develop, and study strategies for increasing graduation rates from professional nursing programs in the state, determine which are likely to be effective, and report to the legislature on the findings by January 1, 2007.

Senate Bill 132 takes effect June 17, 2005, except for those provisions relating to tuition exemptions, which take effect beginning with the 2006 fall semester. The bill requires the coordinating board to adopt rules and forms relating to those tuition exemptions not later than January 1, 2006.

Senate Bill 423

Effective: 9-1-05

Senate Author: Carona

House Sponsor: Delisi

Senate Bill 423 amends the Occupations Code to provide procedures for the issuance of a limited license to practice medicine to an applicant by virtue of the applicant's conceded eminence and authority in the applicant's specialty. The bill specifies eligibility requirements, including education, examination, and training requirements. Senate Bill 423 authorizes the Texas State Board of Medical Examiners to require a limited license holder to serve a six-month probationary period during which the services provided by the license holder are to be supervised by another licensed physician and to determine the extent to which the scope of a license holder's practice is to be limited.

Senate Bill 424

Effective: 5-17-05

Senate Author: Carona

House Sponsor: Branch

Senate Bill 424 amends the Occupations Code to extend the time by which certain applicants for a license to practice medicine are required to pass the appropriate medical licensing examination. The bill extends the deadline for an applicant who is a graduate of a joint degree program for both a doctor of philosophy degree and a doctor of medicine or doctor of osteopathy degree and for an applicant who is specialty board certified by certain specialty boards or who has been issued a faculty temporary license and who satisfies certain related criteria.

Senate Bill 610

Effective: 9-1-05

Senate Author: Nelson

House Sponsor: Laubenberg

Senate Bill 610 amends the Occupations Code relating to the regulation of the practice of dentistry. The bill amends provisions relating to the examining body designated to administer the clinical examinations required for a dentist and dental hygienist and removes a provision authorizing procedures by which a board employee is permitted to expunge certain records relating to a dismissed complaint. Senate Bill 610 permits a retired dentist to perform voluntary charity care and requires the State Board of Dental Examiners to adopt rules to prescribe the scope of practice and other requirements related to charity care by a retired dentist. The bill includes provisions relating to certification requirements for a dental assistant, offenses that lead to the suspension of a license, and the date by which a hearing must be held in cases involving the suspension of a license or permit for certain drug offenses. The bill also repeals provisions relating to the dismissal of certain complaints.

Senate Bill 1000

Effective: 5-20-05

Senate Author: Madla

House Sponsor: McReynolds

Senate Bill 1000 amends provisions of the Health and Safety Code and the Occupations Code to make conforming changes relating to legislation passed by the 78th Legislature that combined the boards and licensing statutes for registered nurses and licensed vocational nurses and other changes relating to the regulation of the practice of nursing. The bill changes the definition of “professional nursing,” expands the definition of “vocational nursing,” provides for a surcharge for vocational nurse license renewal and for the disposition of the surcharge, clarifies the confidentiality of certain information collected by the nursing resource section of the health professions data center, requires supervision of licensed vocational nurses, and removes language exempting certain anesthesia services provided in an outpatient setting from applicable minimum standards. The bill also includes provisions relating to a nurse’s conduct that is reportable to the board of nurse examiners, nursing peer review of a nurse’s refusal to engage in certain conduct, and the disclosure of information related to reportable conduct. The bill repeals the provision in the Occupations Code that had set an expiration date of December 31, 2005, for the Nursing Licensure Compact.

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

HB 1544 - Health

HB 1577 - Emergency Response

SB 1525 - Human Services

Higher Education

This chapter includes legislation affecting the governance of the state's public colleges and universities and junior and community college districts in general; the mission, operation, and funding of specific institutions; and the admission and continued enrollment of students at such institutions. The chapter also includes legislation affecting tuition, fees, student financial aid, and other higher education funding issues. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 1172

Effective: 6-18-05

House Author: Brown, Fred

Senate Sponsor: Zaffirini

House Bill 1172 amends Education Code provisions to encourage the timely graduation of students at the state's colleges and universities. The bill allows a public college or university to charge a resident undergraduate student tuition at a higher rate than it otherwise charges for a course if (1) the student has earned course credit that exceeds by at least 30, rather than 45, hours the number of semester credit hours required for completion of the student's degree program, or (2) the student is taking a course that is the same as or substantially identical to a course the student has already taken. The higher tuition charge may not be greater than the nonresident undergraduate tuition rate.

The bill allows a college or university to establish a work-study student mentorship program under which eligible students in their junior or senior years may be employed by the school to mentor students on academic probation. An institution that has established such a program may require students on academic probation to be matched with a student mentor in the program.

The bill amends the eligibility period and the continued eligibility requirements for a TEXAS grant award so that a student's eligibility ends on the fifth anniversary of the initial award if the person is enrolled in a degree or certificate program of four years or less, or on the sixth anniversary of the initial award if the student is enrolled in a degree program of more than four years. It also requires the student to complete at least 24 semester credit hours in each academic year after the student's first academic year. These provisions apply to a student who is initially awarded a TEXAS grant during or after the 2002 fall semester.

The bill limits the amount of a financial grant that a student at a private or independent college or university may receive from a TEXAS grant in a state fiscal year to the maximum amount that the student is eligible to receive in tuition equalization and prohibits a student from receiving both a TEXAS grant and a tuition equalization grant during the same semester or term.

The bill excludes certain credits from the limit on the number of hours that a student is allowed to take to be eligible for loan forgiveness under the Texas B-On-time student loan program.

The bill prohibits a college or university from requiring a student to complete more than the minimum number of semester credit hours required for the student's bachelor's degree program by the Southern Association of Colleges and Schools or its successor unless the school determines there is a compelling academic reason for doing so.

The bill also excludes a student's semester credit hours above the extra 30-hour limit from the contact hours used to determine a college's or university's formula funding, and it requires, to the extent practicable, that the savings to the state resulting from the exclusion of funding for excess undergraduate semester credit hours be used to finance the TEXAS grant program.

Higher Education

The bill establishes new eligibility periods and requirements for tuition equalization grants initially awarded during or after the 2005-2006 academic year similar to the requirements for a TEXAS grant.

House Bill 1173

Effective: 9-1-05

House Author: Brown, Fred

Senate Sponsor: Ogden

House Bill 1173 amends the Education Code to define “fraudulent or substandard degree” and to require the Texas Higher Education Coordinating Board to establish by rule a process for reviewing and approving degrees conferred by certain private out-of-state or foreign institutions or other persons and for determining whether such degrees are equivalent to degrees granted by accredited or otherwise authorized private postsecondary educational institutions. The bill also makes it a Class A misdemeanor offense for a person to (1) grant or offer to grant a degree, including an honorary degree, without the requisite certificate of authority from the board; (2) misrepresent that credit earned or granted by the person can be applied toward a degree offered by another person or institution; (3) grant or offer to grant credit that is misrepresented as above; (4) knowingly solicit another person to seek a degree, seek or accept an honorary degree, or earn credit that is fraudulently offered; (5) use certain protected terms such as “college,” “university,” “medical school,” “law school,” or other similar term in the official name or title of a nonexempt institution without a certificate of authority; or (6) solicit another person to seek a degree or earn credit offered by an institution or establishment illegally using a protected term in its title. A violation of these provisions is also subject to a public or private remedy enforceable under the state’s deceptive trade practices act.

The bill also amends the Penal Code and the Code of Criminal Procedure to make it a Class B misdemeanor offense for a person to knowingly use or claim to hold a fraudulent, substandard, fictitious, or revoked degree and to do so in advertising or promoting a business or to obtain employment, an occupational license or certificate, a job promotion or raise, admission to an educational institution in this state, or certain government positions.

House Bill 1697

Effective: 9-1-05

House Author: McCall et al.

Senate Sponsor: West, Royce

House Bill 1697 amends the Education Code to include in the state’s minimum matching amount for grants relating to technology workforce development the amount or value of any gift, grant, or donation received directly by an eligible public or private college or university with an accredited computer sciences or engineering program from a source other than a participant in the Texas Engineering and Technical Consortium. The bill also redesignates the committee appointed by the Texas Higher Education Coordinating Board to evaluate the grant program’s effectiveness as an evaluation committee rather than an advisory committee and exempts it from Government Code provisions regulating state agency advisory committees.

House Bill 1791

Effective: 9-1-05

House Author: Naishtat et al.

Senate Sponsor: Barrientos

House Bill 1791 amends the Education Code to clarify the applicability of the state’s anti-hazing statutes to public and private colleges and universities. The bill provides that those statutes apply to a postsecondary educational institution in the same manner as they apply to a public or private high school, and it defines postsecondary educational institution to include any public, private, or independent college or university or other private postsecondary educational institution. The bill expressly provides that the application of the state’s anti-hazing statutes to postsecondary educational institutions is not limited to those institutions supported in whole or in part by public funds.

House Bill 2333**Effective:** 9-1-05**House Author:** Morrison**Senate Sponsor:** West, Royce

House Bill 2333 amends the Education Code to require each director of admissions and each full-time instructor employed by a career school or college as well as the school's chief administrative officer and any owner with supervisory authority over the school to meet minimum qualification and training requirements established by the Texas Workforce Commission and to complete at least six hours each year of continuing education applicable to the person's position. The bill requires the commission, in addition to establishing those requirements, to approve appropriate entities that it determines, on the basis of criteria specified in the bill, are qualified to provide the necessary training or continuing education courses.

House Bill 2701**Effective:** 9-1-05**House Author:** Crownover**Senate Sponsor:** Janek

House Bill 2701 amends the Education Code to rename Chapter 53 the Higher Education Facility Authority for Public Schools Act and to delete all provisions relating to higher education facility authorities for private schools and higher education loan authorities, making the chapter applicable solely to municipally created nonprofit corporations authorized to issue tax-exempt revenue bonds to finance the acquisition, construction, or improvement of educational and housing facilities for the benefit of the municipality's public schools. The bill adds two chapters, 53A and 53B, with corresponding but separate provisions applicable solely to higher education facility authorities for private schools and to higher education loan authorities, respectively.

House Bill 2806**Effective:** 9-1-05**House Author:** Morrison**Senate Sponsor:** West, Royce

House Bill 2806 amends the Education Code to update various provisions regulating career schools and colleges. The bill makes provisions previously applicable to an individual class or course, including school refund policies, applicable to an entire program. Refunds of tuition and fees are based on the period of enrollment computed on the basis of course time, rather than clock hours, remaining in a program. The bill prohibits a career school or college from maintaining, advertising, soliciting for, or conducting any program until it receives a certificate of approval from the Texas Workforce Commission. The bill provides that a career school or college that is eligible to participate in federal financial aid programs is not required to take attendance and sets out the ways in which the school is to document a student's participation. The bill also requires the commission, when refunding tuition and fees to a student who was attending a career school or college that closed, to consider the availability of other schools or colleges at which the student may complete the student's training, regardless of whether such institutions are career schools or colleges, and to attempt to arrange for students of the closed school or college to attend another school or college before proceeding with its refund policy.

Senate Bill 34**Effective:** 6-17-05**Senate Author:** Zaffirini**House Sponsor:** Morrison

Senate Bill 34 amends the Education Code to provide for the gubernatorial appointment of a nonvoting student regent to the governing board of each university or university system. The bill requires the student government of each public college or university or medical or dental school to solicit applicants for the position and to select five applicants and forward their applications to the university system chancellor or the university president. The bill requires the chancellor or president to select two or more applicants and to forward their applications to the governor, and it requires the governor to appoint one of the applicants to serve a one-year term as student

regent for the university system or university that recommended the student for the position. A student regent is not a member of the board of regents but has the same powers and duties as a board member, including the right to attend and participate in board meetings, except that the student may not vote, make or second motions, or be counted in determining whether a quorum is present at any board meeting.

The bill also amends the eligibility requirements for a student to receive a partial rebate of the student's undergraduate tuition by requiring the student to graduate within the same four-or five-year period required for loan forgiveness under the Texas B-On-time loan forgiveness program, except that an otherwise eligible student may receive a rebate if the student fails to graduate within the prescribed time limit solely as a result of hardship or other good cause, including being called to active military duty.

Senate Bill 111

Effective: 9-1-05

Senate Author: Shapleigh et al.

House Sponsor: Smith, Todd

Senate Bill 111 amends the Education Code to require each public college, university, or institute that offers freshman-level courses to adopt and implement a policy to grant undergraduate course credit to entering freshmen who have completed the International Baccalaureate (IB) Diploma Program, achieved required scores on one or more Advanced Placement (AP) Program or College-Level Examination Program (CLEP) tests, or completed one or more courses offered through concurrent high school and college enrollment. The bill requires the Texas Higher Education Coordinating Board, in consultation with the Texas Education Agency, to identify correlations between the subject matter and content of courses and examinations in the IB, AP, and CLEP programs and to make that information available to the public on the board's website. With certain exceptions, the bill requires each institution to grant at least 24 semester credit hours or equivalent course credit in appropriate subject areas to an entering freshman for successful completion of the IB program.

The bill also allows the commissioner of education to develop a standard method of computing high school grade point averages (GPA) that provides for additional weight to be given to honors, AP, IB, or dual credit courses successfully completed. If the commissioner develops such a method, the bill requires each school district to use the method to compute a student's high school GPA, and it requires the use of a GPA computed in such manner in determining a student's eligibility for automatic college admission.

Senate Bill 151

Effective: 6-18-05

Senate Author: Zaffirini

House Sponsor: Morrison

Senate Bill 151 amends the Education Code to authorize the establishment of a pilot project for educationally disadvantaged high school students enrolled in junior college courses for concurrent high school and college credit. The bill provides that participating junior colleges would waive tuition and fees for such students and that the cost of textbooks would be paid by the school district in which the student attends school. The pilot project may only be implemented in a fiscal year in which the General Appropriations Act provides the participating junior colleges with increased funding to cover the exempted tuition and fees.

The bill also establishes the Texas Academy of International Studies at Texas A&M International University to (1) provide academically gifted junior high and high school students a challenging university-level curriculum that allows students to complete high school graduation requirements while earning college credits at a public university and that emphasizes an interdisciplinary approach to international studies; and (2) provide those students with an

awareness of international career and professional development opportunities through seminars, workshops, collaboration with foreign university students, summer international studies internships abroad, and other similar programs.

Senate Bill 302

Effective: 6-17-05

Senate Author: Ellis et al.

House Sponsor: Coleman

Senate Bill 302 amends the Education Code to require each public college or university and each medical and dental school to provide to the Texas Higher Education Coordinating Board an annual report describing the demographic composition of the institution's entering class of students, including a breakdown of the overall class by race, ethnicity, and economic status as well as a separate demographic breakdown of those students granted automatic admission on the basis of having graduated in the top 10 percent of their high school graduating classes and those students admitted under an optional automatic admission policy for students graduating in the top 25 percent of their high school graduating classes.

Senate Bill 502

Effective: 9-1-05

Senate Author: West, Royce

House Sponsor: Morrison

Senate Bill 502 amends the Education Code to require the Texas Higher Education Coordinating Board to adopt an electronic common admission application form for use by a person seeking admission as a freshman student to a public junior college, technical institute, or other public institution, other than a four-year university, that admits students as freshmen. The bill allows the board to adopt a printed format version of a form for that same purpose, and it allows the board to adopt an electronic or printed format common admission application form for use by a person seeking admission as an undergraduate transfer student to a public junior college, technical institute, or state college.

The bill also amends the composition of the coordinating board's advisory committee on common admissions applications forms to include representatives of junior college districts, public state colleges, and public technical institutes, and it requires the board to ensure the greatest possible uniformity in the forms it adopts regardless of the type of institution for which the forms are adopted.

Senate Bill 511

Effective: 6-17-05

Senate Author: Deuell

House Sponsor: Rose

Senate Bill 511 amends the Education Code to require the governing board of each public college or university or of each university system to adopt a policy that allows the public to present, for a reasonable amount of time and for any item on the agenda, both written and oral testimony at a regular board meeting. The bill also requires such board to consider the public testimony presented to it on an issue before making a decision on that issue.

Senate Bill 1226

Effective: 6-17-05

Senate Author: Shapiro

House Sponsor: Morrison

Senate Bill 1226 amends the Education Code to require the Texas Higher Education Coordinating Board and the Legislative Budget Board jointly to study each reporting requirement imposed on colleges and universities by state law or by board or agency rule to determine if any of those requirements are duplicative, inefficient, or unnecessary and to include the results of that study and any related recommendation in the board's biennial report to the 80th Legislature.

Senate Bill 1809

Effective: 9-1-05

Senate Author: Wentworth et al.

House Sponsor: Seaman

Senate Bill 1809 amends the Education Code to require the Texas Higher Education Coordinating Board, in coordination with tech-prep consortia, to develop and implement a statewide system to evaluate such consortia. The bill requires the system to include standards that a consortium is expected to meet, requires the board to evaluate each consortium biennially and report to the consortium the results of its evaluation, and sets forth specific content that must be included in that report.

The bill also prohibits an entity established after January 1, 2005, from becoming a tech prep consortium unless it is the result of a consolidation of a consortium that has failed to meet applicable standards with another consortium to serve the regions formerly served by both consortia or the creation of a new consortium to serve the region formerly served by a consortium that has been abolished for such failure.

Junior and Community College Districts

House Bill 381

Effective: 6-18-05

House Author: Kolkhorst

Senate Sponsor: Armbrister

House Bill 381 amends the Education Code to include Austin County, other than the territory within the Wallis-Orchard Independent School District, in the Blinn Junior College District service area.

House Bill 776

Effective: 6-18-05

House Author: Howard et al.

Senate Sponsor: Janek

House Bill 776 amends the Education Code to expand the Wharton County Junior College District's service area to include the incorporated area and extraterritorial jurisdiction of the City of Sugar Land that is located in Fort Bend County.

House Bill 1274

Effective: 6-17-05

House Author: Hardcastle

Senate Sponsor: Estes

House Bill 1274 amends the Education Code to remove the Graham Independent School District territory that is located in Young County from the Ranger Junior College District service area.

House Bill 1737

Effective: 6-18-05

House Author: Flores et al.

Senate Sponsor: Zaffirini

House Bill 1737 amends the Education Code to allow a junior college district board of trustees to establish and operate a dual usage educational complex to provide a shared facility for the educational activities of the district and one or more other participating entities such as a county, municipality, or school district located in whole or in part in the junior college district's service area or another college or university with a campus or educational facility located in the same state uniform services region adopted by the Texas Higher Education Coordinating Board. The bill requires the junior college district to coordinate and supervise the operation of the complex, with the use and the costs associated with its establishment and operation to be shared by the district and the other participants under the terms of a cooperative agreement.

House Bill 2221**Effective:** 6-18-05**House Author:** Luna et al.**Senate Sponsor:** West, Royce et al.

House Bill 2221 amends the Education Code to specify the methods for being included or for participating in a junior college district. The bill modifies provisions that allow the registered voters of territory outside a junior college district to petition to join an existing district or to establish a new district and establishes requirements and procedures for elections regarding annexation of territory that is contiguous to a district or within its service area. It allows a junior college district to enter into an agreement with an employer, political subdivision, or other entity or community to provide educational services to the entity or community. Beginning with the 2010-2011 academic year, the bill requires a district to use a specific computation when setting nonresident tuition rates and fees to ensure that the cost of providing services to nonresident students is not borne disproportionately by the district's taxpayers.

House Bill 2956**Effective:** 9-1-05**House Author:** Hamric**Senate Sponsor:** Lindsay

House Bill 2956 amends the Education Code to allow the board of trustees of a junior college district with a population greater than one million to require that an application filed with the board by a person seeking election to the board be accompanied by either a filing fee not to exceed \$200 or a petition signed by a number of registered voters not to exceed 200, with the amount of the filing fee or the number of signatures determined by the board.

Senate Bill 114**Effective:** 9-1-05**Senate Author:** Van de Putte**House Sponsor:** McClendon

Senate Bill 114 amends the Education Code to establish as a ground for removal of a member of a junior college district's board of trustees that the member is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year, not counting absences excused by a majority vote of the board. The bill allows the removal of a board member on such grounds under procedures provided in the Government Code for the removal of county officials.

Senate Bill 929**Effective:** 5-27-05**Senate Author:** Ellis**House Sponsor:** Turner

Senate Bill 929 amends the Education Code to include the part of the Fort Bend Independent School District that is located in the municipality of Missouri City in the service area of the Houston Community College System District.

Senate Bill 1193**Effective:** 6-17-05**Senate Author:** Wentworth**House Sponsor:** Kuempel

Senate Bill 1193 amends the Education Code to transfer the portion of the San Marcos Consolidated Independent School District that is located in Guadalupe County from the Alamo Community College District service area to the Austin Community College District service area.

Specific Institutions

House Bill 479

Effective: 6-17-05

House Author: Keel

Senate Sponsor: Barrientos

House Bill 479 amends the Education Code to clarify the concurrent jurisdiction of campus peace officers commissioned by The University of Texas at Austin and other law enforcement agencies. The bill provides that campus peace officers commissioned by the university have the same jurisdiction, powers, privileges, and immunities as provided university campus peace officers generally by the Education Code, but that such provision does not limit or reduce the jurisdiction, powers, privileges, and immunities provided by law for a state or local law enforcement agency, including the City of Austin police department, with territorial jurisdiction that includes all or part of the university campus.

House Bill 495

Effective: 6-18-05

House Author: Miller et al.

Senate Sponsor: Fraser

House Bill 495 amends the Education Code to lower from 2,500 to 1,000 the full-time equivalent student enrollment threshold required for the Tarleton State University System Center—Central Texas in Killeen to operate as a stand-alone general academic teaching institution known as Texas A&M University—Central Texas.

House Bill 868

Effective: 6-18-05

House Author: Ritter

Senate Sponsor: Williams

House Bill 868 amends the Education Code to require the Texas State University System board of regents to establish the Lamar University Center for Excellence in Deaf Studies and Deaf Education for the purpose of advancing deaf education programs in Texas. The bill requires the center to develop a strategic plan to guide and evaluate the center's progress toward achieving its purpose and establishes certain requirements that the strategic plan must meet.

The bill allows the board to solicit, accept, and administer gifts and grants from any public or private source for the center's use and benefit and to use any available funds, including legislative appropriations to Lamar University, to establish and operate the center. Subject to the availability of funding, the bill requires the board to establish the center not later than January 1, 2007.

House Bill 1215

Effective: 6-18-05

House Author: Morrison

Senate Sponsor: Armbrister

House Bill 1215 amends the Education Code to allow the University of Houston—Victoria to offer all graduate-level programs, rather than only the master's-level programs it currently offers.

House Bill 1409

Effective: 6-18-05

House Author: Coleman et al.

Senate Sponsor: Ellis

House Bill 1409 amends the Education Code to exempt Prairie View A&M University from the Texas A&M University System board of regents' authority to change the name of the system or of any component institution, agency, or service under the regents' control.

Senate Bill 254**Effective:** 6-17-05**Senate Author:** Shapiro**House Sponsor:** Hill

Senate Bill 254 amends the Education Code to repeal two provisions that previously imposed restrictions on programs, enrollment, and admissions policies of The University of Texas at Dallas. The repealed provisions included restrictions intended to minimize the impact of expansion at the university on programs at other public universities in the North Texas region, caps on the number of entering freshmen students and on the total enrollment of freshmen and sophomore students, with a portion of the cap conditionally set aside for the enrollment of minority students, and a requirement for undergraduate admissions policies to emphasize the admission and enrollment of lower-division students into academic programs leading to degrees in natural sciences, mathematics, or engineering.

Senate Bill 276**Effective:** 6-1-05**Senate Author:** Staples et al.**House Sponsor:** Berman

Senate Bill 276 amends the Education Code to authorize The University of Texas Health Science Center at Tyler to offer courses and degree programs in allied health and related health science fields subject to approval of such programs by the Texas Higher Education Coordinating Board.

Senate Bill 296**Effective:** 6-17-05**Senate Author:** Madla et al.**House Sponsor:** Cortez

Senate Bill 296 amends the Education Code to lower the minimum enrollment threshold required for Texas A&M University—Kingsville System Center—San Antonio to become a freestanding public university, allowing it to operate as Texas A&M University—San Antonio when its enrollment of full-time equivalent students reaches 1,000, rather than 2,500, for one semester, if the legislature authorizes the issuance of revenue bonds to finance facilities for the institution and those bonds are issued. The bill also stipulates that Texas A&M University—San Antonio is not eligible to receive the small institution supplement under the Texas Higher Education Coordinating Board's General Academic Instruction and Operations Formula during the state fiscal biennium beginning September 1, 2005.

Senate Bill 1452**Effective:** 6-17-05**Senate Author:** Lucio**House Sponsor:** Oliveira

Senate Bill 1452 amends the Education Code to establish the Texas Academy of Mathematics and Science at The University of Texas at Brownsville to provide academically gifted junior and senior high school students who have an interest in and potential to excel in those fields with a challenging university-level curriculum that allows them to complete high school graduation requirements while earning academic credits at a public university. The bill establishes a maximum 30:1 student-teacher ratio for all regular academic classes at the academy, requires all academic classes to be taught by university faculty members, and allows academy students to attend college courses at the university for college credit.

The bill establishes funding for the academy through per-pupil allotments from the Foundation School Program as if the academy were a school district without a tier one local share, and it also allows The University of Texas System board of regents to use any available money, enter into contracts, and accept grants, including matching grants, federal grants, or corporate grants or other private contributions, to establish and operate the academy.

With certain exceptions, the bill exempts the academy from other Education Code provisions and Texas Education Agency rules regulating public schools.

Senate Bill 1883

Effective: 6-17-05

Senate Author: Ogden

House Sponsor: Brown, Fred

Senate Bill 1883 amends the Education Code to allow The Texas A&M University System board of regents to enter into an agreement, including a ground lease, for construction of a donor-funded office, laboratory, and classroom building on Texas A&M University's original main campus. The bill requires the agreement to provide for the transfer of title to the building to the board upon completion.

Student Financial Aid

House Bill 2109

Effective: 6-18-05

House Author: Berman

Senate Sponsor: Shapiro

House Bill 2109 amends the Education Code to clarify and reestablish Early High School Graduation Scholarship Program eligibility for students in the program who graduated from high school before September 1, 2005, in not more than 36 consecutive months, regardless of whether such students completed the recommended or advanced high school program as otherwise required under the program's current eligibility provisions. The bill also: (1) allows an eligible student who graduates from high school after September 1, 2005, having completed the recommended or advanced high school programs within specified time limits, to apply the person's entitlement under the program towards either tuition alone or to both tuition and mandatory fees; (2) expands the definition of a hardship that extends a person's period of eligibility to include active duty or other service in the United States armed forces; and (3) requires the Texas Higher Education Coordinating Board to provide a certificate for state credits for tuition or tuition and mandatory fees to an eligible person as soon as practicable after it confirms the student's eligibility with the high school from which the person graduated.

House Bill 2274

Effective: 9-1-05

House Author: Cook, Byron et al.

Senate Sponsor: Carona

House Bill 2274 amends the Education Code to continue the Texas Guaranteed Student Loan Corporation until September 1, 2017. In addition to including across-the-board sunset provisions, the bill increases the membership of the corporation's governing board to 11 members by including an additional gubernatorial appointee, and it specifies the qualifications required of each appointed member. The bill also requires each state agency that conducts higher education and financial aid outreach activities to enter into a memorandum of understanding with the corporation outlining how the parties to each agreement will coordinate their activities to maximize resources and avoid duplication, and it requires the corporation to report to the legislature before each regular legislative session on the level of demand for student financial aid for postsecondary education in this state.

The bill also requires the corporation to use appropriate technological solutions to improve its ability to perform its functions and to ensure the public's ability to interact with the corporation on the Internet. The bill requires each licensing agency to prepare and submit to the corporation a list of agency licensees to facilitate the corporation's identification and reporting of licensees who have defaulted on corporation-guaranteed student loans.

Senate Bill 101

Effective: 5-3-05

Senate Author: Van de Putte

House Sponsor: McClendon

Provisions of the Education Code, known informally as the Hinson-Hazelwood Act, waive tuition and certain fees for up to 150 credit hours at a public institution of higher education

in Texas for veterans and certain dependents of those veterans. Senate Bill 101 amends the Education Code to require each institution to electronically report to the Texas Higher Education Coordinating Board, after each semester and summer session, information relating to each individual benefiting from such a waiver. The information to be reported includes certain identifying information and the semester and total cumulative credit hours for which charges were waived. The bill requires the board to develop an electronic monitoring system to receive the information.

Senate Bill 1227

Effective: 9-1-05

Senate Author: Shapiro et al.

House Sponsor: Morrison

Senate Bill 1227 amends Education Code provisions relating to enrollment in higher education, including the costs of higher education, student financial aid programs, and other measures to improve student access to higher education.

The bill includes regional education service centers and other entities offering a state-approved alternative educator certification program in the Hinson-Hazlewood student loan program and authorizes student loans from the Texas Opportunity Plan Fund to qualified applicants enrolled in such programs.

A college or university is allowed to use its student deposit fund to award grants under the Texas Public Educational Grants Program to resident students and to use money from certain collegiate license plate fees to award grants to both resident and nonresident students, giving priority to resident students.

Senate Bill 1227 clarifies eligibility criteria for an award through the Early High School Graduation Scholarship Program and provides for an extension of time to use a state credit for tuition and mandatory fees for persons performing U.S. military service. The bill also provides a \$1,000 state credit applicable toward tuition or tuition and mandatory fees for a person who graduated before September 1, 2005, after completing requirements for a high school diploma in not more than 36 months if the person completed a program other than the recommended or advanced high school program and requires certain notification and publication about the credit.

The bill amends the scope of the TEXAS Grant Program to limit grants to eligible students attending public colleges and universities, but it adds a temporary provision, set to expire September 1, 2015, that allows a student who was awarded a grant to pay the cost of attending a private or independent college or university in the 2005 fall semester or an earlier academic term to continue receiving grants while enrolled at that institution if the person remains otherwise eligible. The bill prohibits a student at a private or independent institution from receiving both a TEXAS grant and a tuition equalization grant for the same semester or term regardless of eligibility, but a student otherwise eligible for both grants is entitled to the larger of the two grants. It also includes provisions relating to grant amounts at different types of institutions. It provides that funding for health care professions student grants is from any excess money available from the TEXAS Grant Program after grants have been awarded to all eligible applicants, renames the TEXAS Grant II Program as the Texas Educational Opportunity Grant Program, and establishes the same satisfactory academic progress requirements and hardship provisions as apply to the TEXAS Grant Program.

A person who receives an initial tuition equalization grant after the 2004-2005 academic year and then fails to meet any of the applicable requirements after completing a semester or term becomes ineligible for a grant during the next semester or term in which the student enrolls but may reestablish eligibility by completing that semester or term and meeting all of the applicable requirements. The bill also provides an exception to the limit on such grants.

Higher Education

The bill requires the coordinating board to conduct separate studies on the following issues: (1) the actual cost of attending each college and university and the resources students use to cover that cost; (2) the feasibility of implementing an automatic admissions program for undergraduate students who earn an associate degree or certificate at a junior college and apply to transfer to a four-year college or university; (3) the tuition exemptions and waivers authorized under Chapter 54, Education Code; and (4) alternative methods of funding the TEXAS Grant Program.

Senate Bill 1227 requires the coordinating board, in cooperation with certain specified entities, to develop a comprehensive financial aid training program for public school counselors, employees of college financial aid offices, and other appropriate persons. The bill creates and requires the coordinating board to administer the Higher Education Enrollment Assistance Program to: (1) provide information related to college enrollment, including admissions and financial aid information, to prospective students in three areas of the state identified by the board as having a significant number of high school graduates who do not attend college; and (2) help those prospective students complete admissions and financial aid applications. Contingent on available funding, the bill requires the board to expand the program to additional areas that meet the same criteria. The bill also amends the Education Code and the Government Code to transfer from the coordinating board to the adjutant general of the state military forces administrative responsibility for tuition assistance programs for state military forces personnel.

A student is allowed to elect to pay college tuition and fees by installment regardless of whether the student intends to apply a financial aid award administered by the school toward the tuition and fees, unless the financial aid available to the student covers the total amount of the tuition and fees. The bill also includes provisions relating to delayed financial awards. Contingent on legislative appropriations, it establishes a pilot program to reduce resident undergraduate tuition rates by one-fourth for students enrolled in a summer session or term at Texas A&M University in 2006 or 2007. It amends the eligibility criteria for a tuition and fee exemption for an educational aide. It also expands the scope of a college's or university's emergency loan program to include textbook loans and allows the school's governing board to adopt rules that allow it to select emergency loan recipients from among the eligible applicants according to financial need, regardless of when their applications are received, if program funds are insufficient to provide loans to each applicant. The bill eliminates the 10-year term limit on Hinson-Hazlewood loans and allows the coordinating board to set the maximum loan period.

Senate Bill 1227 provides for the appointment by the governor of a nonvoting student regent to the governing board of each university system and of each public college or university that is not part of a university system, establishes requirements and procedures for the solicitation of applications and the selection of candidates for the governor's consideration when appointing a student regent to each board, and sets forth the limitations, powers, and duties applicable to that position. It also includes provisions relating to the administration of funds for the Texas B-On-time program.

Senate Bill 1247
Effective: 6-17-05

Senate Author: West, Royce
House Sponsor: Brown, Fred

Senate Bill 1247 amends the Education Code to revise eligibility criteria and certain other aspects of the Joint Admission Medical Program. Under the revised criteria, a student may become eligible for selection by the program's advisory council during the student's sophomore year rather than during the freshman year, must complete at least 27 semester credit hours during the student's freshman year, and must apply not later than September 1 of the fall semester of the student's sophomore year. The bill also gives the council greater discretion in allocating

program openings among public colleges and universities after selecting two students from each public college or university and setting aside a number of program openings for students at private and independent schools.

The bill requires the council to identify potentially eligible students not later than the beginning of the first fall semester after the student's high school graduation and entitles a student thus identified who expresses an interest in the program to certain types of preadmission mentoring and academic and financial assistance.

Senate Bill 1844

Effective: 6-17-05

Senate Author: Harris

House Sponsor: Morrison

Senate Bill 1844 amends the Education Code to eliminate the \$3,000 cap on the amount of an individual scholarship that may be awarded under the scholarship program for fifth-year accounting students and to allow the Texas Higher Education Coordinating Board, in consultation with the appropriate advisory committee, to determine the maximum scholarship amount.

Tuition and Fees

House Bill 258

Effective: 6-17-05

House Author: Pena

Senate Sponsor: Hinojosa

House Bill 258 amends the Education Code to allow The University of Texas System board of regents to charge students at The University of Texas—Pan American a sports recreation and wellness facility fee of up to \$75 per semester or summer session to finance construction, operation, maintenance, and improvement of sports recreation and wellness programs and facilities at the campus.

House Bill 598

Effective: 6-17-05

House Author: Blake et al.

Senate Sponsor: Staples

House Bill 598 amends the Education Code to allow the Stephen F. Austin University board of regents to charge each student at the university a recreational sports fee of up to \$120 per semester or summer session of more than six weeks, or up to \$60 per summer session of six weeks or less, to finance the purchase of equipment for and the construction, operation, and maintenance of recreational sports facilities and programs. The bill prohibits any fee increase of more than 10 percent from one academic year to the next without the approval by a majority vote of the students voting in an election held for that purpose, and it provides that the recreational sports fee is not counted toward the \$250 cap on the total amount of all compulsory student services fees charged each student at the university.

House Bill 993

Effective: 6-17-05

House Author: Gonzales et al.

Senate Sponsor: Hinojosa

House Bill 993 amends the Education Code to allow the governing board of a public junior college, technical institute, or state college to provide an installment payment plan for students enrolled for a summer term of less than 12 weeks. This option would allow a student to pay the tuition and fees for that term in two or more installments, with one-half of the amount to be paid before the start of the summer term and the remaining amount to be paid in one or two subsequent payments in the percentages and by the dates determined by the school's governing board, provided that the final payment is made before the beginning of the last week of the summer term.

House Bill 994

Effective: 6-18-05

House Author: Gonzales et al.

Senate Sponsor: West, Royce

House Bill 994 amends the Education Code to allow public junior college district governing boards and the board of regents of the Texas State Technical College System to charge a student a higher rate of tuition than they otherwise would charge for a course if the student has previously enrolled two or more times in the same course or a course of substantially the same content and level and if the student's enrollment in that course is not included in the contact hours used to determine the junior college's or technical institute's level of state funding. The bill provides that the authority to charge a higher rate of tuition for a course being repeated does not apply to a non-degree-credit developmental course, and it prohibits the tuition charged for a repeated course from exceeding the full cost of instruction for the course with respect to that student.

House Bill 1063

Effective: 6-18-05

House Author: Oliveira

Senate Sponsor: Lucio

House Bill 1063 amends the Education Code to allow The University of Texas System board of regents to charge students at The University of Texas at Brownsville a wellness, recreational, and fitness complex fee of up to \$79 per regular semester and up to \$39.50 per summer session term to finance the construction, operation, maintenance, or improvement of a wellness, recreational, and fitness complex owned by Texas Southmost College and used by the partnership between the two institutions. The bill prohibits any fee increase of more than 10 percent in any academic year without approval by both a majority of students voting in an election held for that purpose and a majority of the members of the student government legislative body.

House Bill 1102

Effective: 6-18-05

House Author: Miller

Senate Sponsor: Fraser

House Bill 1102 amends the Education Code to allow The Texas A&M University System board of regents to increase the student center complex fee and the recreational sports fee at Tarleton State University without a student referendum if the increase in either fee is not more than 10 percent from one academic year to the next. The bill also allows the board of regents to impose an intercollegiate athletics fee of up to \$10 per semester credit hour on students at Tarleton State University to finance an intercollegiate athletics program at the university. The initial levy and any fee increase of more than five percent 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.

House Bill 1829

Effective: 6-18-05

House Author: Wong

Senate Sponsor: Averitt

House Bill 1829 amends the Education Code to allow a private or independent college or university to charge an additional transaction fee to cover the cost of processing any tuition, fee, or other charge paid by means of an electronic funds transfer or credit card. The added fee must be in an amount reasonable and necessary to reimburse the school for the expense incurred in processing and handling the payment or payment transaction; may include a discount, convenience, or service charge for the transaction or a service charge for a transaction that is dishonored or refused for insufficient funds; and must be disclosed to the payor before the school accepts a credit card payment.

The bill also amends a similar provision applicable to public colleges and universities to require that the transaction fee they charge for processing and handling the payment of tuition, fee, or other charge by electronic funds transfer or credit card be in an amount that is reasonable and necessary to reimburse them for their processing and handling expenses.

House Bill 2108**Effective:** 6-17-05**House Author:** Berman**Senate Sponsor:** Eltife

House Bill 2108 amends the Education Code to allow The University of Texas System board of regents to charge students at The University of Texas at Tyler a student union fee of up to \$100 per semester or summer session of more than six weeks or up to \$50 per summer session of six weeks or less for a student union building on that campus. The initial levy and any increase of more than 10 percent from one academic year to the next are subject to approval by a majority of the students voting at an election held for that purpose, and the fee would not be counted toward the maximum allowed student services fee.

House Bill 2272**Effective:** 6-17-05**House Author:** Farabee**Senate Sponsor:** Estes

House Bill 2272 amends the Education Code to allow the Midwestern State University board of regents to charge students at the university a recreational and health facilities fee of up to \$130 per semester or summer session of more than six weeks or up to \$65 per summer session of six weeks or less to finance construction, operation, renovation, or maintenance of recreational and wellness facilities and programs at the university.

House Bill 2441**Effective:** 6-18-05**House Author:** Leibowitz**Senate Sponsor:** Van de Putte

House Bill 2441 amends the Education Code to raise the cap on the amount of the recreational facilities fee that The University of Texas System board of regents may charge students at The University of Texas at San Antonio, increasing the maximum allowable fee from \$100 to \$150 per term or semester of more than six weeks. The bill also allows the board of regents to charge students at the university a fee of up to \$75 for a term or semester of six weeks or less.

Senate Bill 30**Effective:** 6-17-05**Senate Author:** Zaffirini**House Sponsor:** Brown, Fred

Senate Bill 30 amends the Education Code to require the Texas Higher Education Coordinating Board to establish a pilot project under which each participating public college or university awards incentives to students, other than a student seeking a certificate at a public junior college, who contract to graduate in a timely manner and meet all other requirements specified in the contract. The bill requires the board to select participants for the project from among the colleges and universities that apply and allows an institution to apply on behalf of a specific degree program, department, college, or school of the institution. The bill requires a participating college or university to enter into an incentives contract with a student on the student's written request, but it prohibits a student from requesting the school to enter into a contract after the student's first year at the school. The bill prohibits a college or university from entering into a contract with a student who transfers from another institution.

The bill requires the board to report to the legislature not later than December 31, 2007, and each year thereafter on the level of participation in the pilot project and on the project's effectiveness in encouraging students to graduate in a timely manner, and it prohibits a student from entering into a contract after the 2009-2010 academic year.

Senate Bill 532**Effective:** 6-17-05**Senate Author:** Shapiro**House Sponsor:** Morrison

Senate Bill 532 amends the Education Code to allow a junior college district's governing board to set and collect tuition, rentals, rates, charges, or fees in an amount it considers necessary

Higher Education

for the college's efficient operation, with certain minimum limits. The bill allows the governing board to set a different tuition rate for each program, course, or course level as it considers appropriate to reflect course costs or to promote efficiency or another rational purpose.

Senate Bill 702

Effective: 6-17-05

Senate Author: Deuell

House Sponsor: Flynn

Senate Bill 702 amends the Education Code to clarify that the student center fees collected from students at a component institution of The Texas A&M University System may be used to acquire, construct, renovate, operate, maintain, improve, add to, replace, finance, and equip one or more student center facilities for the institution. The bill also renames the fee as the student center facility fee.

Senate Bill 1037

Effective: 6-17-05

Senate Author: Lucio

House Sponsor: Oliveira

Senate Bill 1037 amends the Education Code to entitle certain Olympic athletes residing and training in Texas to pay tuition and fees at the rates provided for Texas residents at The University of Texas at Brownsville and Texas Southmost College as long as they are training in a Community Olympic Development Program or at a U.S. Olympic training center or facility in a program approved by the sport's governing body. The bill provides that such students are not considered Texas residents for purposes of state financial aid programs.

Senate Bill 1528

Effective: 9-1-05

Senate Author: Zaffirini

House Sponsor: Morrison

Senate Bill 1528 amends the Education Code to require the Texas Higher Education Coordinating Board, in consultation with public colleges and universities, to adopt rules relating to the resident status of higher education students and to tuition and fee exemptions and waivers. The bill revamps provisions concerning the determination of resident status, continuing resident status, and reclassification of status based on additional or changed information.

Senate Bill 1528 requires a college or university that erroneously classifies a student as a resident to charge that student nonresident tuition and fees beginning the semester following the discovery of the error. The bill allows the institution to request payment for the difference between nonresident tuition and the resident tuition erroneously paid by the student and to impose certain sanctions for nonpayment, exclusive of requiring payment as a condition for subsequent enrollment. If a student fails to provide new information in a timely manner or provides false information relevant to a determination of resident status, the student must repay the difference between nonresident tuition and the resident tuition erroneously paid within 30 days of being notified of the liability, and the institution is allowed to withhold a certificate, diploma, or official transcript until the amount is paid. If an institution erroneously classifies a student as a nonresident, the institution must charge the resident tuition in the semester in which the error is discovered and must immediately refund the amount of excess tuition paid as a result of the error.

Senate Bill 1528 also provides that a nonresident may qualify for resident tuition and fees when the person or the person's caretaker moved to Texas for employment purposes under a state-authorized economic development and diversification program or is a nonresident classified in accordance with the Agreement between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces.

Senate Bill 1528 allows a junior college district to charge higher fees for a course or program that has extraordinary costs without regard for exemptions given to certain persons associated

with service in the armed forces. The bill also prohibits an institution from considering whether an applicant is eligible for such military service-related exemptions when evaluating an application for admissions.

Senate Bill 1528 requires the coordinating board to compile data and report to the 80th Legislature on the amount and percentage change in tuition and fees charged at each public college and university beginning with the 2003 fall semester through the 2007 spring semester.

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

- HB 133 - Military Forces and Veterans
- HB 503 - Military Forces and Veterans
- HB 1170 - Military Forces and Veterans
- HB 1630 - Military Forces and Veterans
- HB 2180 - Health
- HB 2390 - Insurance
- HB 3001 - Appropriations
- HB 3227 - State Government
- SB 579 - Military Forces and Veterans

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, child protective services and adult protective services, child care, Medicaid, Medicare, and the financing of related health and human services programs. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 404

Effective: 5-27-05

House Author: Villarreal et al.

Senate Sponsor: Shapleigh

House Bill 404 amends the Human Resources Code to require that one of the members of the Family and Protective Services Council be a person who was a child in the foster care system, unless the governor, after conducting a search, determines that no such qualified individual is available.

House Bill 801

Effective: 9-1-05

House Author: Uresti et al.

Senate Sponsor: Nelson

House Bill 801 amends the Family Code to require the Department of Family and Protective Services to develop a training program for department personnel who receive reports of abuse and neglect and to include proper methods of screening reports and ways to determine the seriousness of a report as it relates to possible death of or serious harm to a child.

House Bill 802

Effective: 5-17-05

House Author: Uresti et al.

Senate Sponsor: Nelson

House Bill 802 amends the Family Code to require an employee of the Department of Family and Protective Services who responds to a report of abuse or neglect that is assigned the highest priority to identify forms and other paperwork that can be completed by members of the family of the child who is the subject of the report. The bill directs the employee to request the assistance of those family members in completing the documentation, but specifies that the employee remains responsible for ensuring that the documentation is completed.

House Bill 877

Effective: 9-1-05

House Author: Talton

Senate Sponsor: Madla

House Bill 877 amends the Human Resources Code to require the executive commissioner of the Health and Human Services Commission to adopt rules relating to anonymous complaints made regarding child-care facilities and family homes to limit the number of complaints investigated by the Department of Family and Protective Services. The bill requires the executive commissioner to adopt rules relating to a procedure for removing from the department's website certain information regarding a complaint against a facility or home if on investigation the information is determined to be false or to lack factual foundation. The bill also provides that certain proceedings for a disciplinary action by the department against a facility or home qualify as a contested case and are subject to judicial review under the substantial evidence rule. House Bill 877 creates a Class A misdemeanor offense for knowingly or intentionally

filing a complaint alleging that a child-care facility or family home failed to comply with the department's minimum standards that the person knows is false or lacks factual foundation. A repeat offense is a state jail felony.

House Bill 1912

Effective: 9-1-05

House Author: Hupp

Senate Sponsor: Nelson

House Bill 1912 amends and repeals provisions of the Human Resources Code to require the executive commissioner of the Health and Human Services Commission to establish a single rate-setting process, including adopting standards, annually reevaluating the standards, and establishing rate schedules, for certain medical services that were provided by the Texas Commission for the Blind and the Texas Rehabilitation Commission before the duties, programs, and authority of those entities were transferred to the Department of Assistive and Rehabilitative Services by the 78th Legislature.

House Bill 2579

Effective: 9-1-05

House Author: Rodriguez et al.

Senate Sponsor: Zaffirini

House Bill 2579 amends the Government Code relating to procedures to ensure the involvement of parents or guardians of children placed in certain institutions, including an intermediate care facility for the mentally retarded, a group home, a foster home, and a nursing facility. The bill includes provisions relating to the development and implementation of a system to provide certain preadmission information about available community-based services and support options to a parent or guardian of a child for whom placement in a facility has been requested, requirements for an admission form to be completed by a parent or guardian, written reauthorization of a child's plan of care, procedures for informing parents of certain periodic planning meetings and annual service plan reviews, and procedures for notifying and locating parents in certain emergency situations. House Bill 2579 directs an institution to make specific accommodations to promote the participation of a parent or guardian in the planning and decision-making of a child's care and requires an institution to obtain consent before transferring certain children between institutions, except in emergency situations.

House Bill 2961

Effective: 5-27-05

House Author: Paxton

Senate Sponsor: Nelson

House Bill 2961 amends the Human Resources Code to repeal provisions establishing certain requirements for the Texas Workforce Commission's administration of federal and state day-care programs.

Senate Bill 6

Effective: 9-1-05

Senate Author: Nelson et al.

House Sponsor: Hupp et al.

Senate Bill 6 amends the Education Code, Family Code, Government Code, Human Resources Code, Penal Code, Code of Criminal Procedure, and Texas Probate Code to make a number of reforms to the children's protective services and adult protective services programs, certain related guardianship issues, and other family law matters. It requires the Health and Human Services Commission (HHSC) and the Department of Family and Protective Services (DFPS) to adopt a transition plan for the privatization of certain child welfare functions by March 1, 2006, and requires that all substitute care and case management services for children in DFPS managing conservatorship be provided by child-care institutions and child-placing agencies by September 2011. It also requires enhanced training and reduced caseloads for child protective services caseworkers. The children's protective services reforms in the bill include provisions

relating to tuition and fee exemptions for foster and adopted children, continuing education and other requirements for attorneys ad litem, medical assistance under the Medicaid program for children adopted out of DFPS conservatorship, criminal penalties for certain false reports of child abuse or neglect, response time requirements for certain reported cases based on immediacy and severity of harm to a child, a system for screening less serious cases of abuse or neglect without investigation, the exchange of information with other states, a Texas foster grandparent mentors initiative, funding for various community-based services and programs, facility and agency foster home inspection procedures, conditions under which an application for a license to operate a nonresidential child-care facility may be denied, a caseworker replacement program, requirements for providing certain informational materials, including the development of a child placement resources form, requirements relating to the family service plan, and requirements that the DFPS employ child safety specialists, colocate with local law enforcement agencies that investigate child abuse, and encourage the establishment of a children's advocacy center in certain counties. Senate Bill 6 sets out requirements for medical care and educational services for children in foster care, including provisions relating to consent for medical care, parental notification of significant medical conditions, the provision of care in emergency situations, and the development of health and educational passports. The bill directs DFPS to develop and deliver cultural awareness competency training, expand court-appointed volunteer advocacy programs, develop a relative and other designated caregiver placement program, improve quality of investigations, eliminate delays, and establish a drug-endangered child initiative. The bill requires DFPS to license and register child-placing agency administrators and to enforce related regulations and includes several provisions relating to licensing procedures, requirements, and penalties for administrators and facilities. In addition, the executive director of HHSC is required to establish an investigations division to oversee and direct children's protective services investigations. The bill also includes several conditions and restrictions related to employment at certain residential facilities, requires a criminal history background check for a prospective employee, and requires facilities to establish a drug-testing policy for facility employees.

Among the provisions relating to the privatization of substitute care, Senate Bill 6 includes regional implementation requirements and a transition plan and goals to be achieved through privatization. The bill transfers certain duties from DFPS staff to independent administrators and requires hiring preference to be given to DFPS employees whose positions are eliminated as a result of the privatization of services. The bill authorizes the DFPS to continue to provide substitute care and case management services beyond the deadline for privatization in certain emergency cases.

The adult protective services reforms in the bill include provisions relating to coordination between DFPS and the Texas Higher Education Coordinating Board regarding the development of curriculum and degree programs in fields relating to adult protective services, a statewide public awareness campaign designed to educate the public about the abuse, neglect, and exploitation of the elderly and disabled persons, and the use of technology to improve the effectiveness of the adult protective services program. The bill requires DFPS to maintain an investigation unit for adult protective services, develop and implement a training program and continuing education program for newly hired or newly assigned adult protective services workers and a case management training program for supervisors, develop and implement a quality assurance program, and develop procedures for investigating complex cases. Senate Bill 6 requires the executive commissioner of the Health and Human Services Commission to develop risk assessment criteria to determine whether an elderly or disabled person is in a state of abuse, neglect, or exploitation, to develop and implement, subject to the availability of funds, a caseload management reduction plan that provides specific annual reduction targets, and to create a pilot

program for monitoring unlicensed and illegally operating long-term care facilities. In addition, the bill authorizes DFPS, subject to the availability of funds, to contract with protective services agencies for the provision of services particularly to elderly or disabled persons in certain rural or remote areas. It also includes provisions relating to the filing of a petition to a court for an emergency protective order based on certain physical and psychological health assessments performed at the direction of the department.

Senate Bill 6 amends the Government Code, Human Resources Code, and the Texas Probate Code to transfer the powers, duties, functions, programs, and funds of the Department of Family and Protective Services relating to guardianship services to the Department of Aging and Disability Services. The bill includes provisions relating to the specific conditions that must be met for an individual to be referred for guardianship, procedures relating to court-initiated guardianship, and the creation of the guardianship certification board to provide for the certification and regulation of guardians.

Finally, Senate Bill 6 amends the Family Code and Penal Code to clarify provisions of the law relating to the offense of bigamy and to increase the penalty for the offense from a Class A misdemeanor to a felony of the third, second, or first degree depending on the age of the person to whom an actor purports to marry or with whom the actor lives under the appearance of marriage.

Senate Bill 23

Effective: 9-1-05

Senate Author: Zaffirini et al.

House Sponsor: Kolkhorst et al.

Senate Bill 23 amends the Education Code relating to the coordination and integration of certain early childhood care and education programs. The bill authorizes the commissioner of education to provide incentives to providers of early childhood care and education programs that provide certain coordinated services, authorizes the development of coordination-of-resources demonstration projects for early education services, and requires the State Center for Early Childhood Development and the P-16 Council to develop and adopt a school readiness certification system for use in certifying the effectiveness of certain prekindergarten, Head Start and Early Head Start, and government-subsidized child-care programs.

Senate Bill 46

Effective: 6-17-05

Senate Author: Nelson

House Sponsor: Delisi

Senate Bill 46 amends the Government Code to require the Health and Human Services Commission, not later than July 1, 2006, to assess the feasibility and cost-effectiveness of using a single integrated benefits issuance card, multiple cards, or another methodology for consolidating recipient identification and benefits issuance for certain health and human services programs. The bill authorizes the commission to develop and implement the methodology if it is determined to be feasible and cost-effective, describes features the methodology may include, and lists requirements relating to the security of identifying and descriptive information of recipients.

Senate Bill 52

Effective: 9-1-05

Senate Author: Nelson

House Sponsor: Hupp

Senate Bill 52 amends the Human Resources Code to require the Department of Aging and Disability Services to establish a competitive grant program that promotes innovation in the delivery of aging and disability services and improves the quality of life for individuals receiving those services by testing innovative practices or disseminating information regarding innovative practices in providing aging and disability services. The bill includes provisions

relating to the administration of the program and department monitoring and enforcement of performance requirements for each grant recipient. The bill also amends provisions of the Health and Safety Code to authorize the appropriation of various administrative penalties to fund the grant program.

Senate Bill 187**Effective:** 5-9-05**Senate Author:** Zaffirini**House Sponsor:** Rose et al.

Senate Bill 187 amends the Human Resources Code to increase from \$500,000 to \$1.5 million the amount of the unexpended balance in the comprehensive rehabilitation fund above which the comptroller is required to transfer to the general revenue fund at the end of each fiscal year. The bill also repeals provisions that authorize the use of funds in the comprehensive rehabilitation fund for general governmental purposes.

Senate Bill 325**Effective:** 9-1-05**Senate Author:** Zaffirini**House Sponsor:** Naishtat et al.

Senate Bill 325 amends the provisions of the Health and Safety Code and the Human Resources Code to prohibit or limit the use of certain restraints, holds, and seclusion techniques as methods of managing the behavior of residents of certain facilities, including convalescent and nursing homes, assisted living facilities, intermediate care facilities for the mentally retarded, alcohol and drug treatment facilities, mental hospitals and mental health facilities, and certain child-care institutions. The bill includes whistleblower protections and authorizes a health and human services agency that regulates certain facilities to impose an administrative penalty for violations of the whistleblower protections. The bill requires the executive commissioner of the Health and Human Services Commission to establish a work group to recommend best practices to govern the management of facility residents' behavior to be adopted by the Texas Youth Commission, the Texas Juvenile Probation Commission, and health and human services agencies.

Senate Bill 415**Effective:** 9-1-05**Senate Author:** Shapleigh**House Sponsor:** Truitt

Senate Bill 415 amends provisions of the Occupations Code to continue the Texas State Board of Social Worker Examiners until September 1, 2017. The bill includes across-the-board sunset provisions relating to board membership, complaint and dispute resolution, enforcement, and the licensing process.

Senate Bill 565**Effective:** 9-1-05**Senate Author:** Deuell**House Sponsor:** Driver

Senate Bill 565 amends the Human Resources Code to require certain child-care facilities and family homes to post a list of all current employees at the facility.

Senate Bill 882**Effective:** 9-1-05**Senate Author:** Lucio**House Sponsor:** Allen, Alma et al.

Senate Bill 882 amends provisions of the Human Resources Code and Education Code relating to autism and pervasive developmental disorders. The bill includes provisions relating to operations, composition, functions, and funding of the Texas Council on Autism and Pervasive Developmental Disorders. Senate Bill 882 also includes provisions relating to school district compliance with the federal Individuals with Disabilities Education Act and requires the Texas

Education Agency to establish a committee to study the rule concerning the content of an individualized education program for a student with autism or another pervasive developmental disorder.

Senate Bill 984

Effective: 9-1-05

Senate Author: Van de Putte

House Sponsor: Uresti

Senate Bill 984 requires the Health and Human Services Commission to study the feasibility of providing a financial incentive, including an educational or living stipend or the reimbursement of tuition costs, to assist individuals in receiving training for child protective services.

Senate Bill 990

Effective: 9-1-05

Senate Author: Janek et al.

House Sponsor: Eiland

Senate Bill 990 amends the Health and Safety Code to require a person to successfully complete a training and examination program on sexual abuse and molestation in order to be employed or to volunteer for a position involving contact with campers at a youth camp. The bill requires the executive commissioner of the Health and Human Services Commission to establish criteria and guidelines for the training and examination programs, prescribes elements required to be included as part of the programs, authorizes a fee to cover the costs, and requires the appointment of a training advisory committee.

Senate Bill 1525

Effective: 1-1-06

Senate Author: Zaffirini

House Sponsor: Delisi

Senate Bill 1525 amends the Health and Safety Code to require the governing body of a hospital or the quality assurance committee of a nursing home to adopt and ensure implementation of a policy to control risk of injury to patients and nurses associated with the lifting, transferring, repositioning, or movement of a patient. The bill specifies provisions that, at a minimum, must be a component of the policy, including provisions relating to risk analysis, identification, and assessment, evaluation of alternative methods of handling, and procedures for nurses to refuse to perform or be involved in certain handling or movement.

Medicaid

House Bill 1252

Effective: 9-1-05

House Author: Guillen et al.

Senate Sponsor: Zaffirini

House Bill 1252 amends the Government Code to require managed care organizations that implement and develop certain services under a disease management program to manage chronic kidney failure and its medical complications under Medicaid to use generally recognized clinical practice guidelines and laboratory assessments that identify chronic kidney disease on the basis of impaired kidney function or the presence of kidney damage. The bill also amends the Human Resources Code to require certain providers of disease management programs under the Medicaid program to develop a program to provide screening for and diagnosis of chronic kidney disease and its medical complications and to use the generally recognized clinical practice guidelines and laboratory assessments described above.

House Bill 1502

Effective: 6-18-05

House Author: Davis, John

Senate Sponsor: Nelson

Under previous law, the state Medicaid program was prohibited from paying the Medicare coinsurance or deductible amount for certain services provided to an individual who was dually

eligible for Medicaid and Medicare coverage if the reimbursement rate for a comparable service under Medicaid was less than the rate under Medicare. House Bill 1502 repeals the provision of the Human Resources Code that contains that prohibition.

House Bill 1771**Effective:** 6-18-05**House Author:** Delisi et al.**Senate Sponsor:** Nelson et al.

House Bill 1771 amends the Government Code to require the executive commissioner of the Health and Human Services Commission to develop a noncapitated primary care case management model, or “integrated care management model,” of Medicaid managed care designed to improve patient health and social outcomes, improve access to care, constrain health care costs, and integrate the spectrum of acute care and long-term care services and supports. The bill lists the components required to be included in the model, authorizes the commission to contract for certain services and functions under the model, and authorizes the appointment of an advisory committee to assist the executive commissioner in the development and implementation of the model.

House Bill 2420**Effective:** 9-1-05**House Author:** Chavez et al.**Senate Sponsor:** Lucio

House Bill 2420 amends provisions of the Human Resources Code relating to the allocation of federal medical assistance funds for the support of graduate medical education in connection with the state Medicaid program. The bill requires the Health and Human Services Commission or an agency operating part of the medical assistance program, in allocating the funds, to give primary emphasis to graduate medical education in primary care specialties and to recognize the growth in residency training slots since 1997 in the Lower Rio Grande Valley and other health care shortage areas of this state. The bill authorizes a state agency to delay implementation of the requirement until a federal waiver or authorization is granted if the agency determines that such a waiver or authorization is necessary.

House Bill 2463**Effective:** 6-18-05**House Author:** Villarreal et al.**Senate Sponsor:** Janek et al.

House Bill 2463 amends the Health and Safety Code to create a special purpose district known as a health care funding district in certain counties. The bill outlines the authority and the duration of such a district and establishes the governing body and its powers and duties. The bill details the mechanism by which a district is authorized to levy taxes on certain health care services providers to fund certain Medicaid programs and maximize matching federal funds. The bill also establishes the Medicaid health literacy pilot program in Bexar County to prevent unnecessary emergency room visits and related health care costs for Medicaid recipients.

House Bill 3235**Effective:** 9-1-05**House Author:** Uresti**Senate Sponsor:** Van de Putte

House Bill 3235 requires the Health and Human Services Commission, subject to the availability of funds, to provide interpreter services to a person who is deaf or hard of hearing while the person is receiving medical assistance under the Medicaid program, or to the person’s parent or guardian who is deaf or hard of hearing.

Senate Bill 376**Effective:** 5-17-05**Senate Author:** Madla et al.**House Sponsor:** Zedler

Senate Bill 376 amends the Human Resources Code to require the Health and Human Services Commission to establish a pilot program to provide Medicaid recipients with oral and written

language interpreter services. The program is required to operate through local governmental entities in at least five sites with priority for participation given to the Harris, Bexar, El Paso, and Tarrant county hospital districts and the Parkland Health and Hospital System. The bill includes provisions relating to financing the program and requires the commission to evaluate the program and report to the 80th Legislature, not later than January 1, 2007, on the effectiveness of the program and the feasibility of expanding the program statewide.

Senate Bill 563

Effective: 9-1-05

Senate Author: Janek

House Sponsor: Delisi

Senate Bill 563 amends provisions of the Human Resources Code, Government Code, Penal Code, and Civil Practice and Remedies Code relating to the prevention of Medicaid fraud and establishes several criminal offenses ranging from a Class C misdemeanor to a first degree felony for actions that constitute Medicaid fraud. The bill broadens the definition of “provider” to include a manufacturer or distributor of a product for which the Medicaid program provides reimbursement, defines what constitutes a culpable mental state with respect to a person acting “knowingly” in committing certain unlawful acts and amends provisions related to conduct that constitutes those acts, and includes provisions relating to prohibitions against the release and disclosure of certain information and documentary material by the office of the attorney general. Senate Bill 563 authorizes the executive commissioner of the Health and Human Services Commission (HHSC) to grant an exemption to the 10-year period of ineligibility for a provider under the Medicaid program found liable for an unlawful act if enforcing the period of ineligibility is found to be harmful to the program or a beneficiary of the program and extends the period by which the state may elect to intervene and proceed with respect to certain action filed by a private person. The bill requires HHSC to implement the Medicaid fraud reduction pilot program statewide if it is determined to be cost effective and to adopt a plan for the implementation to be phased in.

Senate Bill 566

Effective: 9-1-05

Senate Author: Deuell et al.

House Sponsor: Delisi

Senate Bill 566 amends the Government Code to require the executive commissioner of the Health and Human Services Commission to develop and implement a Medicaid buy-in program for persons with disabilities as authorized by either the federal Ticket to Work and Work Incentives Improvement Act of 1999 or the Balanced Budget Act of 1997.

Senate Bill 626

Effective: 9-1-05

Senate Author: Zaffirini

House Sponsor: Davis, John

Senate Bill 626 amends the Human Resources Code to authorize the Department of Aging and Disability Services to exceed the individual cost limit specified for services provided under the Medicaid program as part of certain alternative community-based care waiver programs. The bill requires the department to continue to provide services to a person receiving services on September 1, 2005, at a cost that exceeds the limit if continuing the services is necessary for the person to live in the most integrated setting possible and does not affect compliance with certain federal requirements. The bill caps the amount by which the limit may be exceeded to 133.3 percent for a person who receives services after September 1, 2005, but authorizes the executive commissioner to adopt rules under which the department may exempt a person from the cap.

Senate Bill 630**Effective:** 9-1-05**Senate Author:** Van de Putte**House Sponsor:** Gonzalez Toureilles

Senate Bill 630 amends the Human Resources Code to require the executive commissioner of the Health and Human Services Commission, not later than January 1, 2006, to adopt rules governing the audit of providers under the Medicaid program. The bill requires that the rules include provisions relating to timely notification of a provider that an audit will be conducted, limits on the time period permitted to be covered by an audit, entrance and exit interviews to be conducted before the beginning and at the close of a field audit, uniform standards and parameters for audits of similar providers, procedures permitting a provider to respond to an audit, and the establishment of an ad hoc review panel to administer an informal process for providers to dispute an unfavorable audit.

Senate Bill 747**Effective:** 9-1-05**Senate Author:** Carona et al.**House Sponsor:** Luna

Senate Bill 747 amends the Human Resources Code to require the Health and Human Services Commission to establish a five-year demonstration project through the Medicaid program to expand access to preventive health and family planning services for certain women. The bill includes provisions relating to services authorized to be provided under the project, eligibility requirements and procedures for determining eligibility, standards of care, and identifying potential sources of funding for project participants to receive treatment. Senate Bill 747 requires the commission to ensure that no money spent under the project is used to perform or promote elective abortions and prohibits the commission from contracting with entities or affiliates of entities that perform or promote elective abortions.

Senate Bill 1188**Effective:** 9-1-05**Senate Author:** Nelson**House Sponsor:** Delisi

Senate Bill 1188 amends provisions of the Government Code, Health and Safety Code, Human Resources Code, and Occupations Code to direct the Health and Human Services Commission and the Department of Aging and Disability Services to study, develop, or implement a number of reforms intended to ensure the cost-effectiveness, streamline the administration, improve the efficacy of, and optimize and maximize the funding for the state Medicaid program.

The bill sets the period for continuous eligibility for Medicaid coverage for a child under the age of 19 at six months and requires the executive commissioner to develop an integrated care management model of Medicaid managed care. It requires the department, subject to available funds, to assure that a Medicaid recipient is permitted to select a licensed psychologist, licensed marriage and family counselor, licensed professional counselor, or licensed master social worker to perform certain services covered under the program. The executive commissioner is authorized to provide for Medicaid reimbursement for certain online medical consultations, and the department is directed to develop and implement a comprehensive medical assistance education program to improve patient outcomes and cost-effectiveness.

The bill also directs the commission to optimize the Medicaid financing system to maximize federal funds, create incentives for the use of preventive care, increase and retain providers, more accurately reflect the costs borne by providers, improve data collection and analysis related to the program, reduce paperwork and streamline certain administrative processes, and improve the administration of contracts with managed care organizations.

The commission is required to examine and evaluate several policy options, including: using certain state funds to maximize federal matching funds; increasing reimbursement rates and employer contributions to cover Medicaid premiums; expanding home health benefits and

other long-term care services; controlling costs of pharmaceutical usage by certain recipients of long-term care services through polypharmacy reviews; establishing a sliding-scale case management fee for the primary care case management program; considering the cost effectiveness of implementing intensive case management for the aged, disabled, and blind; studying the feasibility of combining certain quality control and cost-containment measures under a single federal waiver; improving the delivery of services to individuals enrolled in the managed care program; and considering the commission's authority under federal law to offer stipends and premium payment assistance for private insurance plans as an alternative to Medicaid for certain beneficiaries.

Senate Bill 1188 requires the commission to establish the office of community collaboration to collaborate and share information with certain stakeholders to improve the system of delivery for Medicaid services and the office of medical technology to evaluate and propose the use of emerging medical technology in the Medicaid program. The commission is also required to develop and implement a comprehensive plan to reduce the use of hospital emergency room services by Medicaid enrollees. The bill requires the commission to develop a proposal for a performance bonus pilot program to provide higher reimbursement rates to primary care case management providers. The commission is also directed to implement a Medicaid medical information telephone hotline pilot program under which physicians provide medical information and answers to medical questions by telephone to Medicaid recipients.

The bill abolishes the long-term care legislative oversight committee, the health and human services transition legislative oversight committee, and the interagency council on pharmaceuticals bulk purchasing. Finally, the bill includes provisions relating to disease management programs, notice of availability of certain benefits, prohibitions against the prescription of certain drugs, managed care contract requirements, eligibility requirements for a managed care organization, public disclosure of the preferred drug list, and an analysis required to be included in the commission's annual report relating to the effects of the implementation of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

Senate Bill 1188 requires the commission to take each action and implement each reform required in the bill not later than September 1, 2007. All other provisions of the bill take effect September 1, 2005.

Senate Bill 1340
Effective: 9-1-05

Senate Author: Madla
House Sponsor: Delisi

Senate Bill 1340 amends provisions of the Government Code to require the executive commissioner of the Health and Human Services Commission to develop a pilot program to be implemented by the Department of State Health Services under which Medicaid recipients may receive mental health services through telehealth and telemedicine. Senate Bill 1340 also requires the executive commissioner to adopt minimum standards to permit the use of certain trained health professionals in presenting patients receiving Medicaid telemedicine services for consultation with a physician located at a distant site, provides for reimbursement under the Medicaid program to a physician for overseeing certain telemedicine consultations, and requires the Texas State Board of Medical Examiners to adopt rules to establish requirements for physicians supervising telepresenters. The bill requires the commission to conduct a study relating to the development of a network of telemedicine providers under Medicaid, the use and possible expansion of digital medical imaging in telemedicine, and the development of a system to reimburse physicians for certain telemedicine services.

Mental Health and Mental Retardation

House Bill 2384

Effective: 9-1-05

House Author: Madden et al.

Senate Sponsor: Whitmire

House Bill 2384 amends the Health and Safety Code to update the composition of the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments to reflect the reorganization of Texas health and human services agencies and abolition of the Criminal Justice Policy Council and to add the executive heads of the Correctional Managed Health Care Committee and Board of Pardons and Paroles.

House Bill 2572

Effective: Vetoed

House Author: Truitt et al.

Senate Sponsor: Janek

House Bill 2572 amends the Health and Safety Code relating to the functions of local mental health and mental retardation authorities. The bill transfers from the board of a local authority to the executive commissioner of the Health and Human Services Commission certain responsibilities and authorities related to policy development and planning, resource allocation and development, and coordination of effort and prohibits the executive commissioner from decreasing the number of local authorities except in certain circumstances. It directs the Department of Aging and Disability Services to conduct an evaluation of various payment methodologies and develop a plan for implementing a new payment methodology based on the results of the evaluation. The bill removes language prohibiting a local mental health authority from serving as a qualified service provider except as a provider of last resort and permits a local authority to serve as a provider of intermediate care facilities for the mentally retarded (ICF-MR) and related waiver services in limited situations. House Bill 2572 also changes provisions relating to local mental retardation authority waiver program rules and requirements for a local mental health authority to serve as a provider of ICF-MR services. The bill requires the department to review a local authority's status as a qualified service provider biennially and repeals provisions requiring the department to develop and implement a plan to privatize all ICF-MR and related waiver services. Finally, the bill establishes a joint interim committee to study the local mental health and mental retardation services delivery system and to develop recommendations for improving the provision of services and increasing the accountability for funds management in the system.

Reason Given for Veto: "House Bill No. 2572 is the latest of several efforts over the years to revise the system by which mental health and mental retardation (MHMR) services are provided at the local level. One of the key concerns has been that under the current system, 41 local MHMR authorities have an inherent conflict of interest because they not only control the funds distributed in their local areas, they also provide services. Consumers of MHMR services contend that arrangement has limited their ability to select providers and services.

"House Bill No. 2572 fails to adequately address the conflict, but more importantly it undermines the goals of more effectively delivering services, providing greater options for person who need services, and creating more opportunity for private providers to participate in the system.

"Current law, (Section 533.035 Health and Safety Code) addresses this same concern in a manner that provides greater consumer choice of services and promotes the development of a more effective system of services. This current law also promotes greater participation by private providers. A true market-oriented approach is ultimately better for the taxpayers who fund those services because it puts consumers in better control of the services they receive by affording them greater options. I believe that this current law, when implemented, will build a stronger mental health and mental retardation system with greater choice for consumers."

Senate Bill 40

Effective: 9-1-05

Senate Author: Zaffirini

House Sponsor: Dukes et al.

Senate Bill 40 amends the Government Code relating to permanency planning procedures for children in state institutions. Previous law required the Texas Department of Mental Health and Mental Retardation and the Department of Protective and Regulatory Services to arrange for the local mental retardation authority or a private entity to develop the plan. The bill requires the Department of Aging and Disability Services to make such arrangements or to perform the duties using department personnel. The bill includes provisions relating to minimizing potential conflicts of interest between an institution in which the child resides or in which care is sought for the child and the best interest of the child and assistance and access to records provided by an institution for effective planning for the child.

Senate Bill 812

Effective: 9-1-05

Senate Author: Deuell

House Sponsor: Farabee

Senate Bill 812 amends the Health and Safety Code to establish procedures to authorize a board of trustees for a community center that provides mental health and mental retardation services to issue anticipation notes to pay expenses in anticipation of future revenue.

Senate Bill 1830

Effective: 6-17-05

Senate Author: Zaffirini

House Sponsor: Luna

Senate Bill 1830 amends the Government Code and repeals provisions of the Health and Safety Code to continue the quality assurance fee program for intermediate care facilities for persons with mental retardation and to expand the program to include certain waiver program services.

Nursing Home, Assisted Living, and Related Facilities

House Bill 669

Effective: 9-1-05

House Author: Jones, Jesse

Senate Sponsor: Carona

House Bill 669 amends the Health and Safety Code to require the commissioner of aging and disability services to appoint a work group to study the feasibility of requiring registration of certain assisted living facilities and the best method to identify those facilities. The bill provides for the composition of the work group, requires the commissioner to appoint the members not later than January 1, 2006, and requires the work group to submit its findings to the legislative leadership not later than January 1, 2007.

House Bill 1558

Effective: 1-1-06

House Author: Davis, John

Senate Sponsor: Janek

House Bill 1558 amends the Health and Safety Code to require the Department of Disability and Aging Services to accept the accreditation survey of an assisted living facility by the Commission on Accreditation of Rehabilitation Facilities or the Joint Commission on Accreditation of Healthcare Organizations in lieu of certain required surveys and inspections. The bill further requires the department to coordinate its licensing activities with each of the accreditation commissions.

House Bill 1867**Effective:** 9-1-05**House Author:** Naishtat**Senate Sponsor:** Zaffirini

House Bill 1867 amends the Government Code to provide for the transfer of money appropriated for a person living in a nursing facility to community-based services if the person leaves the facility to receive care through a community-based services waiver program. The bill requires the Health and Human Services Commission to quantify the amount of money that would have been spent to provide care during the remainder of a fiscal year for a person leaving a nursing facility.

Senate Bill 48**Effective:** 9-1-05**Senate Author:** Nelson**House Sponsor:** Hupp

Senate Bill 48 amends the Health and Safety Code to authorize the Department of Aging and Disability Services to require convalescent and nursing homes to submit information to the department, including Minimum Data Set Resident Assessments, necessary to ensure the quality of care in those institutions. The bill also amends the Human Resources Code to require the Health and Human Services Commission to ensure that rules governing the determination of rates paid for nursing home services provide for the reporting of all revenue and costs, with certain exceptions, without regard to whether a cost is eligible for reimbursement under the Medicaid program.

Senate Bill 874**Effective:** 9-1-05**Senate Author:** Nelson**House Sponsor:** Hupp

Senate Bill 874 amends the Health and Safety Code to permit quality-of-care monitoring visits to long-term care facilities conducted by the Department of Aging and Disability Services to be announced or unannounced.

Senate Bill 1055**Effective:** 9-1-05**Senate Author:** Janek**House Sponsor:** Davis, John

Senate Bill 1055 amends the Health and Safety Code to require the Department of Aging and Disability Services to accept the accreditation of an assisted living facility by the Commission on Accreditation of Rehabilitation Facilities or the Joint Commission on Accreditation of Healthcare Organizations in lieu of certain required surveys and inspections. The bill also includes provisions requiring certain community care programs to provide a consumer with the opportunity to choose an assisted living facility that meets the department's licensing standards relating to facility construction without regard to the number of units in the facility if certain conditions are met. Finally, Senate Bill 1055 requires the Health and Human Services Commission to convene a workgroup to perform a comprehensive review of the changing environment in the personal care services delivery system and determine if changes in state licensing and regulation are warranted.

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

- HB 401 - Family Law and Juvenile Justice
- HB 1099 - State Government
- HB 1316 - Health
- HB 1685 - Family Law and Juvenile Justice
- SB 44 - Health
- SB 465 - Criminal Justice

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, requirements for reporting suspected acts of insurance fraud, and functions and operations of the Texas Department of Insurance. Bills relating to workers' compensation insurance are in the **Labor and Employment** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 532

Effective: 9-1-05

House Author: Howard

Senate Sponsor: Janek

House Bill 532 amends the Insurance Code to allow a title insurance company that pays a premium tax in Texas to invest in a certified capital company.

House Bill 885

Effective: 9-1-05

House Author: Seaman

Senate Sponsor: Brimer

House Bill 885 amends the Insurance Code to set the amount of the statutory premium reserve for a domestic title insurance company at 18.5 cents per \$1,000 of net retained liability for the most recent calendar year, beginning in 2005. The bill authorizes the insurance commissioner, based on an actuarial review, to change by order the amount of that reserve.

House Bill 1201

Effective: 5-27-05

House Author: Seaman

Senate Sponsor: Averitt

House Bill 1201 amends the Insurance Code to increase from 250 to 500 the maximum number of temporary agent license holders that an insurance agent, an insurer, or a health maintenance organization may appoint in a calendar year.

House Bill 2017

Effective: 4-1-07

House Author: Swinford

Senate Sponsor: Harris

House Bill 2017, a continuation of the legislature's ongoing statutory revision program, contains nonsubstantive changes adding four titles to the Insurance Code, repealing source law from which the new code content is derived, and making other conforming changes. The new titles relate to property and casualty insurance, the regulation of solvency, utilization review and independent review, and other types of insurance coverage, including credit involuntary employment insurance, mortgage guaranty insurance, and surety bonds and related instruments.

House Bill 2157

Effective: 9-1-05

House Author: Smithee

Senate Sponsor: Harris

House Bill 2157 repeals Article 21.28, Insurance Code, governing the liquidation, rehabilitation, reorganization, and conservation of insurers, and enacts the Insurer Receivership Act, a model act adopted by the National Association of Insurance Commissioners that is designed to protect the interests of policyholders, claimants, creditors, and the public through early detection of potentially hazardous conditions in insurers, improved methods for conserving and rehabilitating insurers, enhanced efficiency of liquidation, apportionment of unavoidable losses, lessening the problems of interstate receivership, regulation relating to delinquency procedures, and providing for a comprehensive scheme for the receivership of insurers.

House Bill 2388

Effective: 9-1-05

House Author: Thompson

Senate Sponsor: Fraser

House Bill 2388 amends provisions of the Insurance Code relating to the requirements for reporting acts or suspected acts of insurance fraud. The bill requires such suspected acts to be reported within 30 days after the date a person makes the determination or reasonably suspects that a fraudulent act has been committed. It specifies the format for the report and includes provisions relating to compliance with the responsibility. It also provides that independent investigators are not required to complete their investigations before requesting the insurance commissioner to investigate the suspected fraud, and it repeals a provision that required an insurer to exercise reasonable care concerning the accuracy of information conveyed to an authorized agency, the insurance fraud unit, or another insurer, person, or entity relating to insurance fraud.

House Bill 2390

Effective: 6-17-05

House Author: Harper-Brown

Senate Sponsor: Carona

House Bill 2390 amends the Education Code to authorize two or more accredited private educational institutions to form a benefits consortium for the purpose of establishing a self-funded employee welfare benefit plan. The bill requires that the consortium file with the commissioner of insurance a copy of its articles of incorporation or declaration of trust and comply with all reporting requirements under the federal Employee Retirement Income Security Act (ERISA). The bill exempts from state regulation an employee welfare benefit plan established by a benefits consortium that is sponsored by a trade association in existence for at least 10 years, is in good standing with the secretary of state, and meets all other requirements for a benefits consortium, and provides that such a plan is governed solely by and must comply with ERISA provisions.

House Bill 2565

Effective: 9-1-05

House Author: Eiland

Senate Sponsor: Lucio

House Bill 2565 amends the Insurance Code to apply laws that prohibit insurers from providing premium rebates, discounts, or reductions or certain other considerations or inducements to county mutual insurance companies, farm mutual insurance companies, Lloyd's plans, and reciprocal exchanges. The bill expands the promotional and educational activities of a title insurance company or agent that are not considered rebates to include purchasing promotional advertising at market rates for such a company or agent, delivering legal documents or funds related to a transaction closed by a title company or agent to a party or a party's representative of the transaction, and participating in certain professional associations if such activity does not exceed normal participation of a volunteer member and would not ordinarily be performed by the association's paid staff. The bill defines "market rate" as the price a seller is willing to accept and a buyer is willing to pay, without obligation or duress, in an arms-length transaction and as determined by comparing the rights or items purchased or sold to similar rights or items recently purchased by or sold to other entities, including entities outside the title insurance business.

House Bill 2614

Effective: 9-1-05

House Author: Eiland

Senate Sponsor: Lucio

House Bill 2614 amends the Insurance Code to apply insurance laws concerning certain inquiries from the Texas Department of Insurance relating to business conditions or transactions to Lloyd's plans and reciprocal or interinsurance exchanges.

House Bill 2941**Effective:** 9-1-05**House Author:** Eiland**Senate Sponsor:** Brimer

House Bill 2941 amends the Insurance Code to prohibit an insurance agent or any affiliate of an agent who receives compensation from a customer for the placement or renewal of an insurance product from also accepting or receiving compensation from an insurer or other third party unless the agent obtains the customer's documented acknowledgement that the compensation will be received. The bill provides for certain exemptions and authorizes the commissioner of insurance to adopt rules necessary to implement the provisions. The bill also requires the Texas Department of Insurance to conduct a study regarding commissions paid to insurance agents for the sale of certain insurance policies.

House Bill 2965**Effective:** 6-17-05**House Author:** Seaman**Senate Sponsor:** Brimer

House Bill 2965 amends provisions of the Insurance Code relating to the financing of insurance premiums. The bill defines a "premium finance agreement servicer" as a person who provides an insurance premium finance company with collection, billing, or other services relating to the administration of premium finance agreements and exempts such a servicer from the same licensing requirements as the company if the company retains the right and responsibility for servicing and collecting payments on the agreements. The bill subjects premium finance agreement servicers and insurance agents to provisions limiting certain inducements and sharing of profits and fees that apply to insurance premium finance companies, adds to the limitations, and provides for certain exemptions. The bill specifies that an agent or an employee of the agent is allowed to accept merchandise featuring an insurance premium finance company's advertisement and increases the maximum value of such merchandise from \$1 to \$10. The bill also increases from \$1 to \$5 the minimum amount of credit for a prepaid agreement for which an insured is entitled to a refund.

Senate Bill 265**Effective:** 9-1-05**Senate Author:** Williams**House Sponsor:** Keffer, Bill

Senate Bill 265 amends the Insurance Code to allow up to four hours of continuing education credit to be granted to an insurance agent who is an active member of a state or national insurance association and requires the commissioner of insurance to specify the types of associations that are acceptable for credit and to establish reasonable requirements for active participation. The bill prohibits an agent from using such credit to satisfy classroom or ethics requirements.

Senate Bill 781**Effective:** 6-17-05**Senate Author:** Fraser**House Sponsor:** Taylor

Senate Bill 781 amends the Insurance Code to specify that a person, including an insurer, commits a third-degree felony for the conduct of insurance business not authorized by state law if the business is conducted intentionally, knowingly, or recklessly.

Senate Bill 1283**Effective:** 9-1-05**Senate Author:** Armbrister**House Sponsor:** Seaman

Senate Bill 1283 amends the Insurance Code to delete a provision that exempts from state regulation an insurance holding company system in which each affiliate is privately owned by five or fewer individuals. The bill provides that a system that becomes subject to regulation as a result of the change is not required to comply with the applicable insurance laws until January 1, 2006.

Insurance

Senate Bill 1564

Effective: 1-1-06

Senate Author: Janek

House Sponsor: Van Arsdale

Senate Bill 1564 amends the Insurance Code to delete a provision that required an applicant for a surplus lines insurance agent's license to provide the Texas Department of Insurance with proof of financial responsibility regarding transactions with insureds under surplus lines insurance policies.

Senate Bill 1591

Effective: 9-1-05

Senate Author: Carona

House Sponsor: Seaman

Senate Bill 1591 amends the Insurance Code to extend a provision prohibiting the commissioner of insurance from accepting audited insurer financial reports prepared by certain auditors to apply such restrictions to firms and to include auditors who have entered into an agreement of indemnity or a release of liability regarding the audit. The bill allows the standards an auditor must use when examining such reports to include those adopted by the Public Company Accounting Oversight Board.

Senate Bill 1592

Effective: 6-17-05

Senate Author: Carona

House Sponsor: Seaman

Senate Bill 1592 amends the Insurance Code to authorize the commissioner of insurance to require that an insurer make a special deposit with the comptroller of public accounts if the commissioner determines that certain conditions of the insurer exist that are potentially hazardous to the insurer's policyholders, enrollees, creditors, or to the public, including the insurer's financial or operating condition relating to its insured risks, its method of operation, its relationship with affiliates, the nature and amount of its investments, any contracts that may lead to a contingent liability, and its guaranty and surety agreements. The bill requires that the commissioner approve the deposit, which must be held until the commissioner issues a written order stating that the condition that necessitated the deposit no longer exists.

Liability

House Bill 654

Effective: 5-27-05

House Author: Goolsby

Senate Sponsor: Deuell

House Bill 654 amends the Insurance Code to authorize insurers and self-insurance trusts to offer professional liability insurance that covers certain volunteer health care providers for an act or omission that results in death, damage, or injury to a patient while the provider is performing volunteer duties. The bill provides that such insurance does not affect the liability of a provider who is a direct service volunteer of a charitable organization.

House Bill 655

Effective: 5-30-05

House Author: Goolsby et al.

Senate Sponsor: Deuell

House Bill 655 amends the Insurance Code to require the Texas Medical Liability Insurance Underwriting Association and to authorize self-insurance trusts to offer medical liability insurance or other appropriate health care liability insurance that covers certain volunteer health care providers against any claim for loss, damage, or expense from a person's death or injury due to a provider's negligence in rendering or failing to render professional service while performing volunteer duties. The bill provides that such insurance does not affect the liability of a provider who is a direct service volunteer of a charitable organization, establishes that such a provider may obtain liability insurance through the association, and requires that

the association's coverage be offered in the same manner as that for eligible physicians. It also exempts retired physicians whose only practice is voluntary medical care for a disaster relief organization from the registration permit fee.

House Bill 2678

Effective: 9-1-05

House Author: Smithee

Senate Sponsor: Seliger et al.

House Bill 2678 amends the Insurance Code to prohibit an insurer that writes professional liability insurance for physicians or health care providers from considering whether a physician or provider furnishes services to recipients of Medicaid or to individuals covered by the state's children's health insurance program (CHIP). The bill also prohibits the insurer from considering, when setting premiums or reducing a claims-free discount for an insured physician's professional liability insurance, a lawsuit filed against the physician if the lawsuit was dismissed by the claimant or nonsuited and the claimant received no payment under a settlement agreement. The bill also removes language relating to consideration of the degree of competition that exists in an area in determining whether rates are held to be excessive.

Life and Health

House Bill 407

Effective: 6-18-05

House Author: Uresti

Senate Sponsor: Madla

House Bill 407 amends the Insurance Code to allow a school district employee who is eligible for coverage under either a large or small employer health benefit plan and who is the spouse of a school district employee who is also covered under the plan to elect, beginning with the 2005-2006 school year, to be treated under the plan as either an employee or as a dependent of his or her spouse.

House Bill 526

Effective: 6-17-05

House Author: Berman

Senate Sponsor: Deuell

House Bill 526 amends the Insurance Code to remove limits on the amount of life insurance a purchaser may obtain under a group life insurance policy or certificate that is issued to a creditor.

House Bill 765

Effective: 9-1-05

House Author: Menendez

Senate Sponsor: Van de Putte

House Bill 765 amends the Insurance Code to require that the certificate of insurance provided to a policyholder by a group health insurance company include the policy's annual deductible, annual and lifetime policy limits, and maximum out-of-pocket expenses. The bill also requires that the insurer provide the policyholder with a notice informing the employee or member of the availability of and premiums for a rider or separate insurance policy that would provide additional coverage. The bill requires an employer who offers employees a standard health benefit plan to provide each employee with a copy of the plan issuer's disclosure statement before the employee initially enrolls or renews enrollment in the plan, unless prior notice has been given, and to each prospective employee before hiring, and to obtain a copy of the notice signed by the employee at the time the notice is provided.

Insurance

House Bill 1030

Effective: 9-1-05

House Author: Taylor

Senate Sponsor: Jackson, Mike

House Bill 1030 amends the Insurance Code to prohibit an insured's coinsurance that is applied to a payment to a nonpreferred provider from exceeding 50 percent of the total covered amount applied to the medical or health care services rendered. The change applies to an insurance policy, certificate, or contract that is delivered, issued, or renewed on or after January 1, 2006.

House Bill 1485

Effective: 9-1-05

House Author: Thompson et al.

Senate Sponsor: Ellis

House Bill 1485 amends the Insurance Code to require that certain health benefit plans provide an annual examination for the early detection of cervical cancer and the human papillomavirus to women who are enrolled in the plan and who are at least 18 years of age and that the plan issuers provide each qualified woman with written notice of such coverage. The bill requires that the cervical cancer examination include at a minimum a conventional Pap smear screening or a screening using liquid-based cytology methods, to be conducted either alone or in combination with a test for detecting the human papillomavirus that is approved by the U.S. Food and Drug Administration, and that the tests be performed in accordance with guidelines adopted by the American College of Obstetricians and Gynecologists or a similar national organization recognized by the commissioner of insurance.

House Bill 1571

Effective: 6-18-05

House Author: Taylor

Senate Sponsor: Averitt

House Bill 1571 amends the Insurance Code to allow the policyholder of a group life insurance policy issued to certain employers the option of paying the policy premium wholly from funds contributed by the insured employees. The bill also repeals a provision requiring that employees must have elected to make premium contributions for certain insurance.

House Bill 1602

Effective: 5-24-05

House Author: Eissler

Senate Sponsor: Janek

House Bill 1602 amends the Insurance Code to include high deductible health plans, as defined by the Internal Revenue Code, as a specialized type of health insurance coverage. The bill establishes that such a plan is subject to laws mandating minimum health insurance benefits or reimbursements and that the state's insurance laws may not be construed to prevent a health insurance provider from applying deductible or copayment requirements to benefits, including state-mandated health benefits, in order to qualify a health insurance policy or certificate of coverage as a high deductible health plan.

House Bill 1775

Effective: 9-1-05

House Author: Taylor

Senate Sponsor: Averitt

House Bill 1775 amends the Insurance Code to require that an individual or group specified disease insurance policy that uses the term "actual charge" or "actual fee" define the terms to mean the amount actually paid by or on behalf of the insured and accepted by the provider for services rendered.

House Bill 2371
Effective: 9-1-05

House Author: King, Tracy
Senate Sponsor: Madla

House Bill 2371 amends the Insurance Code to prohibit a health maintenance organization or an insurer offering a preferred provider benefit plan that includes acupuncture from refusing to provide reimbursement for the performance of a covered acupuncture service solely because the service is performed by an acupuncturist. The change applies to an insurance policy, certificate, contract, or evidence of such coverage that is delivered, issued, or renewed on or after January 1, 2006.

House Bill 2613
Effective: 9-1-05

House Author: Eiland et al.
Senate Sponsor: Averitt

House Bill 2613 amends the Insurance Code to adopt the Interstate Insurance Product Regulation Compact and to establish Texas as a member of the Interstate Insurance Product Regulation Commission with the commissioner of insurance as the state's representative. The bill sets out the purposes of the compact, which include the promotion and protection of the interests of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products; development of uniform standards for insurance products; establishment of a central clearinghouse for prompt review and regulatory approval of insurance products; and improvement of coordination among states.

House Bill 2810
Effective: 9-1-05

House Author: Hochberg
Senate Sponsor: Ellis

House Bill 2810 amends the Insurance Code to allow the issuer of an individual health benefit plan to ask a plan applicant or any other person or entity if the applicant had previously been denied coverage for such a plan only for the purpose of determining whether to request other information relating to a factor used by the insurer for underwriting purposes. The bill prohibits the insurer from considering the applicant's previous denial of coverage as an underwriting factor and establishes that an issuer who violates these provisions engages in unfair discrimination. The change applies to an application for coverage made on or after January 1, 2006.

House Bill 2883
Effective: 9-1-05

House Author: Smithee
Senate Sponsor: Harris

House Bill 2883 amends provisions of the Insurance Code relating to the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association. It updates definitions and provisions relating to the association's administration of its duties and incorporates current revisions of a model law developed by the National Association of Insurance Commissioners. It includes changes to the coverage and limitations provided under the guaranty association act and adds a section on the definition of principal place of business of a plan sponsor. It also adds provisions relating to assessments on member insurers.

House Bill 2999
Effective: 6-18-05

House Author: Morrison
Senate Sponsor: Armbrister

House Bill 2999 amends the Insurance Code to prohibit an insurer that contracts with a hospital to provide services to insured individuals under a preferred provider plan from denying the hospital the opportunity to provide the services solely because the hospital is not accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or another specified accrediting body. The bill requires the insurer to accept a hospital's certification by the Medicare program or accreditation by JCAHO or other national accrediting body and specifies

Insurance

that the insurer maintains its authority to establish other reasonable terms under which a hospital may provide services as a preferred provider. The bill requires the commissioner of insurance on the request of a hospital to determine whether an insurer is complying with these provisions and to take reasonable action to ensure such compliance.

Senate Bill 50

Effective: 9-1-05

Senate Author: Nelson

House Sponsor: Smithee

Senate Bill 50 amends the Insurance Code to require an insurer or a health maintenance organization (HMO) to include in a contract with a participating physician, a provider, or a preferred provider—if requested by the contracting party—a provision that prohibits the insurer or HMO from refusing to process or pay an electronically submitted clean claim because the claim was submitted or batched with a non-clean claim. The bill authorizes the commissioner of insurance to impose penalties relating to violations of this provision.

Senate Bill 51

Effective: 9-1-05

Senate Author: Nelson

House Sponsor: Smithee

Senate Bill 51 amends the Insurance Code to require a contract between an insurer and a group policyholder under a preferred provider benefit plan, or between a health maintenance organization (HMO) and a group contract holder, to provide that the policy or contract holder is liable for the payment of an individual insured's or enrollee's premiums from the time the individual leaves the group until the end of the month in which the policy or contract holder notifies the insurer or HMO that the individual is ineligible for coverage.

Senate Bill 51 exempts an HMO that provides routine vision or dental services as a single health care service plan from extended hours of telephone coverage required for other medical services and requires the HMO to provide physicians and providers with verification and preauthorization information for such services via a toll-free telephone number between 8 a.m. and 5 p.m. central time on weekdays except for legal holidays. It provides for alternate coverage at other times and requires the HMO to respond to such calls not later than the next business day.

Senate Bill 53

Effective: 9-1-05

Senate Author: Nelson

House Sponsor: Smithee

Senate Bill 53 amends the Insurance Code to extend restrictions on the use of genetic testing information to an issuer of an individual health insurance benefit plan, which under prior law applied only to an issuer of a group health insurance benefit plan. These restrictions prohibit the discriminatory use of genetic information, prohibit the issuer from requiring in utero genetic testing of a child or from compelling a woman to have an induced abortion based on genetic information, limit the disclosure of certain genetic information, and provide penalties for violations.

Senate Bill 88

Effective: 9-1-05

Senate Author: Averitt

House Sponsor: Taylor

Senate Bill 88 amends the Insurance Code to change from 10 to 2 the minimum number of employees an employer must cover in order to qualify for certain group life insurance policies. The change applies to policies delivered, issued, or renewed on or after January 1, 2006.

Senate Bill 155
Effective: 6-17-05

Senate Author: Shapiro et al.
House Sponsor: Eiland

Senate Bill 155 amends the Insurance Code to establish a quality assurance accreditation process for certain health benefit plan issuers. The bill provides that an issuer with nonconditional accreditation by a national accreditation organization is presumed to be in compliance with state statutory and regulatory requirements relating to health plans if the organization's requirements are at least as stringent as the state's requirements. The bill also provides that an issuer offering a Medicare Advantage coordinated care plan through the federal Centers for Medicare and Medicaid Services is presumed to be in compliance with any state requirements that meet or exceed the plan requirements and that an issuer of a Medicaid or children's health insurance plan (CHIP) that the Health and Human Services Commission determines is in compliance with state requirements may be presumed to also comply with any contractual Medicaid or state CHIP managed care plan requirements that meet or exceed the state requirements. The bill authorizes the commissioner of insurance to take appropriate action against an issuer who does not maintain compliance and requires the Texas Department of Insurance to monitor and periodically analyze any changes to national accreditation standards. The commissioner may require an issuer to submit its national accreditation report to the commissioner and provides that such a report is proprietary and confidential, except for the summary results, which are subject to public disclosure. The bill sets out the duties of the commissioner and the Health and Human Services Commission in conducting compliance examinations of issuers and requires the commissioner and the commission to enter into a memorandum of understanding to specify their respective responsibilities in the examination process.

Senate Bill 155 also requires a health benefit plan to establish a process for granting to physicians provisional credentialing status that complies with the requirements of the National Committee for Quality Assurance. The bill establishes the criteria a physician must meet to qualify for provisional credentialing status and sets out procedures for granting that status.

Senate Bill 261
Effective: 6-17-05

Senate Author: Williams
House Sponsor: Keffer, Bill

Senate Bill 261 amends the Insurance Code to require the Texas Department of Insurance (TDI) to develop and implement a program to increase public awareness of health coverage options available in the state, to educate the public on the value of such coverage, and to provide information on coverage options, including health savings accounts and compatible high deductible health benefit plans, without favoring or endorsing any particular issuer. The bill requires TDI to develop and produce public service announcements, an Internet website, and other appropriate resources about health insurance availability; directs the commissioner of insurance to appoint a task force to make recommendations for the program; and authorizes TDI to accept donations from certain foundations and health benefit plan issuers to assist with the program's funding, with the acceptance of such donations to be governed by rules adopted by TDI after review by the Texas Ethics Commission.

Senate Bill 449
Effective: 9-1-05

Senate Author: Wentworth
House Sponsor: Seaman

Senate Bill 449 amends the Insurance Code to allow a mutual life insurance company that is regulated by the state to convert to a mutual insurance holding company and continue its corporate existence as a stock life insurance company. The bill makes such a conversion contingent on a determination by the commissioner of insurance that the conversion is fair and equitable to the converting company's policyholders and on approval of the commissioner. The

Insurance

bill establishes that the commissioner retains jurisdiction over the converting company and sets certain incorporation requirements for the mutual insurance holding company that results from the conversion. The bill provides exemptions from certain registration and licensing requirements of the Texas Securities Act for securities sold, issued, or offered in the course of a conversion and for officers, directors, and employees who participate in a conversion, and prohibits a person from receiving compensation other than the usual salary or compensation for services performed under such an exemption.

Senate Bill 500
Effective: 6-17-05

Senate Author: West, Royce
House Sponsor: Taylor et al.

Senate Bill 500 amends provisions of the Insurance Code relating to illegal pricing practices by providers of health care services to exempt from such provisions health care services to patients who are covered by federal, state, or local government-sponsored indigent health care programs; patients who are financially, as well as medically, indigent; patients who qualify for indigent health care services based on a written charity care policy established by a health care provider; and persons who are not covered by a health insurance policy or similar plan that qualifies for services for the uninsured based on a written policy established by a health care provider. The bill provides that the illegal pricing provisions do not authorize health care provider policies or contracts that violate other state or federal laws and do not prohibit providers from contracting with health insurance policy or plan issuers to provide services that are covered by the policy or plan or with a preferred provider organization that contracts with such an issuer.

Senate Bill 805
Effective: 9-1-05

Senate Author: Averitt
House Sponsor: Taylor

Senate Bill 805 amends the Insurance Code to clarify that a health benefit plan issuer may voluntarily participate in one or more health group cooperatives of its choice and to specify that a cooperative may consist only of small or large employers but not both. The bill provides that a cooperative composed only of small employers that—at the time the cooperative is initially formed and no later than December 31, 2005—has not elected to place certain restrictions on its membership is treated as a single small employer for the purpose of premium rates and as a single large employer for all other purposes and that a cooperative composed only of large employers that does not elect such restricted membership is treated as a single large employer.

Senate Bill 805 removes a provision that prohibits a reinsured health benefit plan issuer from writing policies for a small employer health benefit plan on a guaranteed issue basis during a period in which assessments on behalf of the Texas Health Reinsurance System, or expected losses of the system, exceed a specified limit and instead prohibits the issuer from transferring to the system the additional risk of the policies during such a period. The bill temporarily increases from 5 to 10 percent the maximum assessment amount of total premiums that a reinsured health benefit plan issuer may earn in the preceding calendar year from a small employer health benefit plan and also temporarily increases from 5 to 10 percent the ratio between the assessment amount payable for the preceding calendar year and the total applicable reinsurance premiums earned in that year, at or above which certain limitations are imposed on the issuer. The temporary increases expire September 1, 2007.

Senate Bill 809
Effective: 1-1-06

Senate Author: Averitt
House Sponsor: Taylor

Senate Bill 809 amends provisions of the Insurance Code relating to the Texas Health Insurance Risk Pool. The bill reduces the types of insurance policies covered by the pool by

excluding accident insurance, fixed indemnity insurance, and other limited benefit coverage. It eliminates eligibility for coverage for an individual who has been refused substantially similar individual coverage except at a higher rate and adds coverage for a person who has substantially similar coverage that excludes one or more conditions by rider. The bill also excludes from coverage any expenses incurred within the first benefit year pertaining to symptoms that would cause an ordinarily prudent person to seek medical care within the six months preceding the coverage effective date. The bill requires, rather than authorizes, the pool to use cost containment measures, including individual case management, and also requires disease management as such a measure.

Senate Bill 809 requires each health plan issuer to submit to the pool's board of directors an annual report that includes the number of state residents enrolled in the plan as of the end of the previous year as either employees under a group health benefit plan or individual policyholders or subscribers and specifies how the numbers are to be determined. The bill revises the computation of the annual assessment paid by each issuer by basing it on the number of enrollees rather than on the amount of gross premiums collected.

In addition, Senate Bill 809 establishes the pool's subrogation rights and specifies that benefits are not payable for an injury or illness for which a third party may be liable under contract, tort law, or other law. The bill authorizes the pool to advance a covered individual the benefits provided under the policy for medical expenses, subject to the pool's right to subrogation and reimbursement. It requires that any recovered amount be used to reimburse the pool for expenses that were advanced and provides that the amount of reimbursement is not reduced by the application of the "made whole" doctrine. The bill requires that any recovered amount that exceeds the reimbursed amount be treated as an advance against future benefits for the injury or illness the individual would otherwise be entitled to receive. If the advanced amount is inadequate to cover the future costs, the pool must resume such payment when the advance is exhausted. The bill also provides for the payment of an attorney's fee from the pool's recovery in a third-party action. Finally, the bill creates a joint interim committee to study the deficit resulting from the pool's net losses and to recommend a method for recouping any deficit that apportions the cost of the losses among the largest number of the system's users.

Senate Bill 826

Effective: 9-1-05

Senate Author: Van de Putte

House Sponsor: Coleman

Senate Bill 826 requires the Health and Human Services Commission to conduct a study examining the feasibility and effects of providing 12 months of health services under Medicaid to women who are diagnosed with postpartum depression and who are eligible for medical assistance at the time of the diagnosis.

Senate Bill 1149

Effective: 9-1-05

Senate Author: Harris

House Sponsor: Eiland

Senate Bill 1149 amends the Insurance Code to require a health benefit plan issuer to make specified information sufficient for participating providers to determine an enrollee's eligibility and payment status at the time of the enrollee's visit available to the provider telephonically, electronically, or by an Internet website portal. The bill prohibits the issuer from charging a fee for the service. The bill requires the commissioner of insurance to waive the requirement if compliance will result in a negative fiscal impact on the state's provision of benefits or services under certain federally funded medical assistance programs. The bill also exempts from the requirement a single-service health maintenance organization that covers only dental or vision benefits.

Insurance

Senate Bill 1284

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Seaman

Senate Bill 1284 amends the Insurance Code to provide that a health maintenance organization (HMO) is subject to provisions governing insurance holding company systems and that a merger of two or more HMOs is subject to provisions governing the merger and consolidation of stock insurance corporations. The bill authorizes an HMO solvency surveillance committee to provide funds for administrative expenses incurred by the commissioner of insurance acting as a receiver or by a special deputy receiver and repeals a provision regarding conditions that must be met before assessments for certain administrative expenses may be made.

Senate Bill 1448

Effective: 9-1-05

Senate Author: Averitt

House Sponsor: Eiland

Senate Bill 1448 amends the Education Code to require that group health benefit coverage provided by or offered through a school district to its employees under any law other than that relating to a uniform group coverage program is subject to laws relating to preexisting conditions, affiliation periods, and waiting periods. The bill specifies that the change applies to standard health benefit plans that do not offer or provide state-mandated health benefits and health and accident coverage provided through a risk pool for employees of political subdivisions.

Property and Casualty

House Bill 363

Effective: 9-1-05

House Author: Hegar

Senate Sponsor: Armbrister

House Bill 363 amends the Insurance Code to prohibit an insurer from declining to issue a policy for standard fire, homeowners, or farm and ranch owners insurance based on a customer inquiry by telephone or other communication if the inquiry relates to the general terms, conditions, or coverage of the policy, such as the claims filing process or loss coverage, but excluding questions concerning specific damage that has occurred and that results in an investigation or claim.

House Bill 941

Effective: 9-1-05

House Author: Geren et al.

Senate Sponsor: Eltife

House Bill 941 amends the Insurance Code to add a definition for “appliance” as it relates to water damage claims under a residential property insurance policy. The term is defined as a household device that is operated by gas or electric current, including hoses directly attached to the device, and specifically includes air conditioning units, heating units, refrigerators, dishwashers, icemakers, clothes washers, water heaters, and disposals.

House Bill 1018

Effective: 5-24-05

House Author: Noriega, Melissa

Senate Sponsor: Ellis

House Bill 1018 amends the Transportation Code to require a motor carrier that owns and operates a school bus and that meets certain related requirements to maintain liability insurance in the amount of at least \$500,000 combined single limit.

House Bill 1328

Effective: 5-24-05

House Author: Naishtat et al.

Senate Sponsor: Fraser

House Bill 1328 amends the Insurance Code to prohibit underwriting decisions concerning residential real properties that have suffered mold damage from being made based on the previous

damage if a certificate has been issued stating that the underlying cause of the damage has been remediated “with reasonable certainty.” The bill limits the period of time during which a property owner is required to provide a future buyer with a copy of any mold remediation certificates issued for the property to five years preceding the date of the sale.

House Bill 1572
Effective: 9-1-05

House Author: Taylor
Senate Sponsor: Fraser

House Bill 1572 amends the Insurance Code to establish that an insurer that brings suit or takes certain other action against a responsible third party relating to a loss that is covered under a private passenger automobile insurance policy by a state-regulated insurer and for which the third party is uninsured is entitled to recover, in addition to payments made by the insurer or insured, the costs of bringing the suit or taking the action, including reasonable attorney’s fees and court costs. The bill also establishes that an insurer offering motor vehicle liability insurance that provides personal injury protection, including a county mutual insurance company, has a right of subrogation and a claim against a person causing or contributing to a motor vehicle accident if, on the date of the loss, financial responsibility has not been established for a motor vehicle involved in the accident and operated by the person.

House Bill 1744
Effective: 6-18-05

House Author: Seaman
Senate Sponsor: Hinojosa

House Bill 1744 amends Insurance Code provisions relating to the Fair Access to Insurance Requirements (FAIR) Plan Association. The bill requires that the commissioner of insurance make one of two determinations relating to the state residential property insurance market as grounds for establishing the plan, rather than making both determinations as required by previous law, and it prohibits the Texas Windstorm Insurance Association from participating in the plan. The bill makes changes relating to qualifications for membership on the plan’s governing committee, authorizes the commissioner of insurance to remove a committee member without cause, authorizes the committee to meet by telephone conference call or other telecommunications methods, and establishes procedures for the public notification and conduct of such meetings.

House Bill 1744 adds provisions about service fees, authorizes the insurer to carry the amount of any assessment paid and surcharged as an admitted asset until collected, and requires that all association assets be deposited in the general revenue fund on the association’s dissolution.

House Bill 1891
Effective: 9-1-05

House Author: Eiland
Senate Sponsor: Jackson, Mike

House Bill 1891 amends Insurance Code provisions relating to the Texas Windstorm Insurance Association Act to specify that an exclusion from provisions of the act for certain industrial county mutual fire insurance companies applies only to such a company that is not affiliated with other insurers as part of a holding company group.

House Bill 2171
Effective: 5-27-05

House Author: Cook, Robby
Senate Sponsor: Armbrister

House Bill 2171 amends the Insurance Code to provide that money deposited for use by the volunteer fire department self-insurance fund is an account held in a depository selected by the board of regents of The Texas A&M University System according to certain requirements and subject to the control of the university or the Texas Forest Service, rather than an account in the state’s general revenue fund that is expended according to legislative appropriation.

Insurance

House Bill 2298

Effective: 5-27-05

House Author: Smithee

Senate Sponsor: Fraser

House Bill 2298 repeals a provision of the Insurance Code that provides a rollback of insurance rates for certain windstorm and hail insurance coverage for new residential construction.

House Bill 2437

Effective: 6-18-05

House Author: Haggerty

Senate Sponsor: Lucio

House Bill 2437 amends the Insurance Code to add insurers writing personal automobile insurance policies only below 101 percent of minimum limits and with less than a 3.5 percent share of the personal automobile insurance market in Texas to Insurance Code provisions allowing for simplified filing requirements.

House Bill 2761

Effective: 5-17-05

House Author: Taylor

Senate Sponsor: Fraser

House Bill 2761 amends the Insurance Code to prohibit a lender from requiring as a condition of financing a residential mortgage or similar financing arrangement, including such a loan for a mobile or manufactured home, that the borrower purchase insurance for the property in an amount greater than the replacement value of the dwelling and its contents, regardless of the amount financed. The lender is also prohibited from including in the replacement value the fair market value of the land on which the dwelling is located.

House Bill 2870

Effective: 9-1-05

House Author: Smithee

Senate Sponsor: Eltife

House Bill 2870 amends the Insurance Code to include guaranty bonds as a type of property and casualty insurance for which rates and forms are regulated by the Texas Department of Insurance.

House Bill 2872

Effective: 9-1-05

House Author: Smithee

Senate Sponsor: Eltife

House Bill 2872 amends the Insurance Code to include multi-peril insurance as a type of property and casualty insurance for which rates and forms are regulated by the Texas Department of Insurance.

House Bill 3048

Effective: 9-1-05

House Author: Hopson

Senate Sponsor: Staples

House Bill 3048 amends the Insurance Code to authorize the Texas Windstorm Insurance Association, the Texas FAIR Plan Association, farm mutual insurance companies, and county mutual insurance companies to offer insurance policies that cover loss or damage caused by windstorm, hurricane, or hail for buildings or other structures located in the seacoast territory that are built or partially built over water and for the corporeal movable property contained in such a building or structure. The bill authorizes the insurers to impose appropriate limits of coverage and deductibles for the coverage, requires the associations' boards of directors to submit to the commissioner of insurance any proposed changes to their plans of operation that are necessary to implement the coverage and limits, and requires the commissioner to adopt rules to implement the coverage and any proposed changes.

House Bill 3300
Effective: 6-18-05

House Author: Thompson
Senate Sponsor: Averitt

House Bill 3300 amends the Insurance Code to authorize an insurer to reinstate a personal automobile insurance policy canceled for nonpayment of the premium if the premium owed is paid within 60 days after the cancellation date. The bill specifies that coverage lapses on the date of cancellation and is not effective again until the date the payment is received by the insurer and that the premium is not owed for any period in which the policy is not in effect. The bill applies certain laws relating to the provision of uninsured or underinsured motorist coverage and personal injury protection coverage following an insured's rejection of such coverage to reinstated policies.

Senate Bill 14
Effective: 9-1-05

Senate Author: Jackson, Mike et al.
House Sponsor: Smithee

Senate Bill 14 amends Insurance Code provisions relating to property and casualty insurance. It requires an insurer that is ordered to issue a refund of premiums for personal automobile insurance or residential property insurance determined to be excessive or unfairly discriminatory to also pay interest on the refund amount and prohibits an insurer that does not comply with the requirement from claiming a premium tax credit to which it would otherwise be entitled. For certain residential property insurance policies, the bill allows the use of an optional premium discount by an insurer that uses a tier classification or discount program with premiums based on claims experience, exempts certain types of claims from such a discount or from a premium surcharge on the renewal of such policies, and allows an insurer to assess the premium surcharge on a policy's renewal if one or more claims were filed in the preceding three policy years, rather than two or more claims in the preceding policy year.

In addition, Senate Bill 14 adds the Insurance Market Conduct Surveillance Act to the Insurance Code to establish a framework for the Texas Department of Insurance (TDI) to oversee actions by the insurance market in the state by establishing protocols to identify, assess, and remedy market actions that adversely impact consumers, policyholders, and claimants. The bill requires TDI to collect market information by reviewing available public and private data and by performing targeted examinations of insurers no more than once every three years. It also authorizes the commissioner to impose sanctions for violations detected through market conduct oversight.

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

HB 417 - Military Forces and Veterans
 HB 2680 - Health and Medical Occupations
 HB 3376 - Criminal Justice
 SB 99 - Business and Commerce
 SB 359 - Business and Commerce
 SB 554 - Civil Remedies and Procedures
 SB 1214 - Local Government

Labor and Employment

This chapter covers legislation on issues relating to labor and employment, including Texas Workforce Commission functions and duties, unemployment compensation, workers' compensation, and workforce development. Bills on job creation are in the **Economic Development** chapter, and bills on public employment 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 2930

Effective: 9-1-05

House Author: Deshotel

Senate Sponsor: Van de Putte

House Bill 2930 amends the Labor Code to exempt a child 11 years of age or older engaged in the delivery of newspapers related to a paper route from the law governing employment of children. The bill also defines delivery of newspapers and specifies that the term does not include direct sales to the general public.

House Bill 2962

Effective: 5-30-05

House Author: Paxton

Senate Sponsor: Nelson

House Bill 2962 amends the Labor Code to repeal provisions establishing the Work and Family Policies Advisory Committee and the work and family policies fund and amends the Health and Safety Code, Labor Code, and Local Government Code to make conforming changes.

Texas Workforce Commission Functions and Duties

House Bill 2716

Effective: 6-18-05

House Author: Swinford

Senate Sponsor: Eltife

House Bill 2716 amends the Government Code to provide that, notwithstanding any other law, state agency equal employment opportunity information required to be filed with the governor must be filed instead with the Texas Workforce Commission civil rights division. The bill requires the division, rather than the governor, to compile the information into a report and file it with the governor and the legislature as a separate report or as a part of any other biennial report to the legislature. The bill amends the Labor Code regarding the deadline for state agencies to report equal employment opportunity information to the division.

Senate Bill 1309

Effective: 5-20-05

Senate Author: Ellis

House Sponsor: Miller

Senate Bill 1309 amends the Labor Code to revise member restrictions for commissioners of the Texas Workforce Commission. The bill extends to a member's spouse the prohibition against a member being employed by, rather than engaging in, any business during a member's term and includes in the prohibition employment by any organization receiving money from the commission. The bill specifies that "business" does not mean personal investment in real property, financial investments, or tangible assets or the provision of personal services, other than workforce services in the State of Texas, as an independent contractor. It also specifies that the prohibition against serving on the commission if the person or the person's spouse is licensed or otherwise authorized by the commission does not include an authorization related to

the commission's role under the Texas Unemployment Compensation Act or to the employment of domestic workers. The bill requires a member of the commission, if the member or the member's spouse is engaged in any other employment not specifically prohibited, to refrain from voting on or participating in any commission decision that involves the other employment. Finally, the bill prohibits a member of the commission or the member's spouse from entering into a contract, either directly or indirectly, with a local workforce development board under which the member or the member's spouse receives compensation for services provided by the member or the member's spouse.

Senate Bill 1408

Effective: 9-1-05

Senate Author: Estes

House Sponsor: Cook, Byron

Senate Bill 1408 amends provisions of the Labor Code relating to wage claims before the Texas Workforce Commission (commission). The bill requires an examiner employed by the commission, rather than the commission, to investigate a wage claim and issue a preliminary wage determination order. It requires the commission to establish one or more impartial wage claim appeal tribunals to hear and decide on the appeals of orders if the commission determines that establishment of the tribunals is necessary to ensure prompt disposal of wage claims cases on appeal. The bill requires each tribunal to be composed of a salaried examiner appointed by the commission. The bill amends provisions relating to a determination of bad faith by an employer in not paying wages as required to provide that the determination is made by the commission examiner, a wage claim appeal tribunal, or the commission, rather than solely by the commission. The bill provides procedures for the removal or transfer of claims pending before wage claim appeal tribunals, commission review of a tribunal order, and distribution of the notice of commission action, and provides for the finality of a commission order 14 days after the date the order is mailed, with certain exceptions. The bill also provides that notwithstanding the selection of the commission chair by the governor, the member of the commission who represents the public shall serve as chair when the commission acts under the law governing wage claims.

Unemployment Compensation

House Bill 481

Effective: 6-17-05

House Author: Hochberg

Senate Sponsor: Zaffirini

House Bill 481 amends the Labor Code to establish the eligibility of certain persons with disabilities for unemployment benefits. The bill establishes that a permanently disabled individual is considered able and available for work under the Texas Unemployment Compensation Act if the individual meets certain criteria. The bill provides an exclusion from chargebacks to an employer if an employee is unable to perform the work as a result of a disability for which the employee is receiving federal disability insurance benefits. It requires the Texas Workforce Commission to study unemployment benefits paid to persons who are eligible under this act and report the results to the lieutenant governor, the speaker of the house of representatives, and the legislature not later than December 1, 2006.

House Bill 1745

Effective: 9-1-05

House Author: Seaman

Senate Sponsor: Carona

House Bill 1745 amends the Labor Code to provide that for purposes of the Texas Unemployment Compensation Act, an individual who last worked for a temporary help firm is not considered to be unemployed until three business days have passed since the date the individual's last assignment ended.

House Bill 1939**Effective:** 9-1-05**House Author:** Ritter**Senate Sponsor:** Fraser

House Bill 1939 amends the Labor Code to clarify the provision requiring a staff leasing services company to make certain demonstrations before an assigned employee may be disqualified for unemployment compensation benefits. The bill requires the staff leasing services company to demonstrate, in conjunction with certain other requirements, that at the time the employee's assignment to a client company concluded, the staff leasing services company, or the client company acting on its behalf, gave written notice and written instructions to the employee to contact the staff leasing services company for a new assignment.

House Bill 2273**Effective:** 9-1-05**House Author:** Cook, Byron**Senate Sponsor:** Fraser

House Bill 2273 amends the Labor Code provision requiring the Texas Workforce Commission to determine the average weekly wage in covered employment and to compute the maximum and minimum weekly benefit amounts to specify that if a benefit amount includes cents, the commission is required to make certain adjustments to round the benefit to the nearest multiple of \$1. It prohibits an increase in the maximum and minimum weekly benefit amounts from exceeding \$14 and \$1, respectively, in any year. The bill also amends the provision authorizing an individual claiming benefits in a proceeding to be represented by counsel or another authorized agent to remove language prohibiting counsel or agent fees from being greater than an amount approved by the commission.

House Bill 2421**Effective:** See below**House Author:** Chavez et al.**Senate Sponsor:** Zaffirini

House Bill 2421 amends the Labor Code to reduce by one-tenth of one percent the contribution rate of a new employer and the rate of the replenishment tax paid by an experience-rated employer under the Texas Unemployment Compensation Act. The bill imposes, on or after January 1, 2006, an employment and training investment assessment of one-tenth of one percent of wages paid by employers subject to the Act, and it requires the revenue to be deposited in a special holding fund administered by the comptroller. The bill requires prescribed amounts of the holding fund to be transferred to the Texas enterprise fund and the skills development fund if the unemployment compensation fund exceeds a specified level or to the compensation fund if that fund falls below the specified level. The bill establishes the training stabilization fund financed by remaining amounts in the holding fund after the prescribed amounts are transferred from the holding fund to the Texas enterprise fund and skills development fund or to the compensation fund, depending on the level of the compensation fund. It authorizes money in the stabilization fund to be used when amounts in the holding fund are insufficient to meet the legislative appropriation for that fiscal year for either the Texas enterprise fund or the skills development fund, and it specifies the amounts and time frame of the funds transfer. The bill requires the Texas Workforce Commission, in awarding grants from the skills development fund, to consider giving priority to training incentives for small businesses, and it provides for concurrent grants from the skills development fund and the Texas enterprise fund.

The provisions of House Bill 2421 relating to the contribution rate of a new employer and the rate of the replenishment tax paid by an experienced employer under the Texas Unemployment Compensation Act take effect January 1, 2006; all other provisions take effect June 18, 2005.

House Bill 3250

Effective: 9-1-05

House Author: Ritter

Senate Sponsor: Fraser

House Bill 3250 amends the Texas Unemployment Compensation Act to revise and enhance provisions relating to the transfer of compensation experience following the acquisition of an experience-rated organization, trade, or business. The bill provides that the transfer of the predecessor employer's compensation experience to the successor employer is required if the predecessor employing unit transfers, through any means, all or part of the organization, trade, or business to the successor employer and there is substantially common management or control or substantially common ownership of the entities. The bill authorizes a successor employing unit and the predecessor employer, if the acquisition is without substantially common management or control or substantially common ownership, to jointly apply to the Texas Workforce Commission to transfer the compensation experience of the predecessor employer. The bill requires the commission to deny the transfer if the commission determines that the transfer was done primarily to qualify for a reduced compensation experience rating. The bill specifies the contribution rate to the compensation fund if the successor employing unit is an experience-rated employer and is not an employer under an acquisition without substantially common management or control or substantially common ownership. It sets the contribution rate for successor employers when substantially common management or control or substantially common ownership exists in the case of certain partial acquisitions and in the case of certain other acquisitions. The bill makes an offense under the provisions a Class A misdemeanor and provides that an employer or other person who commits an offense may be assessed a specified civil penalty.

Workers' Compensation

House Bill 7

Effective: 9-1-05

House Author: Solomons et al.

Senate Sponsor: Staples

House Bill 7 amends the Labor Code to abolish the Texas Workers' Compensation Commission and transfer its powers and duties, with the exception of the ombudsman program, to the division of workers' compensation within the Texas Department of Insurance. The ombudsman program is transferred to the office of injured employee counsel. The department, division, and office expire September 1, 2009, unless continued by the legislature. The division is administered by the commissioner of workers' compensation, who is appointed by the governor and serves a two-year term.

House Bill 7 requires the commissioner to implement a strategic management plan and to use incentives and performance-based oversight to promote greater overall compliance and performance. The division is required to regularly evaluate and rank the performance of insurance carriers and health care providers and to use the results to focus regulatory oversight on the poor performers and to publicly recognize the high performers. Other powers and duties of the division set forth in the bill include performing workforce education and safety functions and providing education on best practices for return-to-work programs.

The bill establishes the office of injured employee counsel to represent the interests of workers' compensation claimants in this state. The office is administratively attached to the department, but is independent of the department and the division. The bill also establishes the workers' compensation research and evaluation group within the department and specifies the group's research duties. It requires the group to annually prepare and publish a proposed workers' compensation research agenda in the Texas Register for public comment and approval by the commissioner of insurance.

House Bill 7 amends the Insurance Code to authorize the establishment of workers' compensation health care networks for the provision of workers' compensation medical benefits. The bill authorizes a workers' compensation insurance carrier, employers and groups of employers certified to self-insure, and public employers that self-insure to establish or contract with a health care network to provide workers' compensation medical benefits. If an employer elects to receive health care services through a network, employees who live within the network's service area must obtain medical treatment for a compensable injury within the network except for emergency care and approved out-of-network care; employees who do not live within the service area are also the responsibility of the employer's insurance carrier. Networks must be certified by the commissioner of insurance in a manner prescribed by the bill, and group health insurers are authorized to obtain certification. The bill sets forth quality of care requirements for a health care network, including developing and maintaining an ongoing quality improvement program and utilizing a medical case management program with certified case managers. The bill provides for utilization review and retrospective review to evaluate health care that is or has been provided to an injured employee. It requires a utilization review agent to permit an independent review organization to review an adverse determination by the review agent, and it requires the insurance carrier to pay for the review. It requires the workers' compensation research and evaluation group established by the bill to develop and issue an annual informational report card for consumers that compares workers' compensation health care networks with each other and with medical care provided outside of networks.

House Bill 7 requires the commissioner of insurance, not later than December 1 of each even-numbered year, to report to the governor, lieutenant governor, and speaker of the house of representatives regarding the impact of workers' compensation system reforms on the affordability and availability of workers' compensation insurance. It prohibits workers' compensation insurance rates and premiums from being excessive, inadequate, or unfairly discriminatory, and it requires underwriting guidelines to be sound, actuarially justified, or otherwise substantially commensurate with the contemplated risk. It requires each workers' compensation insurer to file a copy of its underwriting guidelines with the department, and it requires the commissioner of insurance to review the information to determine the impact on workers' compensation rates and premiums. The commissioner of insurance is required to conduct a hearing each biennium, beginning not later than December 1, 2008, to review workers' compensation insurance rates.

House Bill 251

Effective: 6-18-05

House Author: Eissler

Senate Sponsor: Williams

House Bill 251 amends the Labor Code provision allowing the release of workers' compensation claim information to an insurance carrier that has adopted an antifraud plan and that seeks to identify valid subclaims. The bill allows such a carrier and its authorized representative to request full claims data in an electronic data format on all cases related to the workers' compensation claimants listed as insureds of the requesting carrier, and it requires the Texas Workers' Compensation Commission to produce the records monthly. The carrier is not required to demonstrate that a subclaim exists in order to obtain the information. The commission is authorized to charge a fee not to exceed five cents for each claimant listed in an information request, and it is prohibited from redacting claims records produced for the request. The bill requires the carrier and the commission to execute a written agreement prior to the carrier's first request. It specifies certain time frames relating to the release of an autopsy report in relation to a workers' compensation claim.

Labor and Employment

House Bill 1353

Effective: 9-1-05

House Author: Cook, Robby

Senate Sponsor: Duncan

House Bill 1353 amends the Labor Code to create the Texas self-insurance group guaranty fund as a nonprofit association that provides for the payment of workers' compensation insurance benefits for injured employees covered by a group of private employers that is certified to self-insure for workers' compensation insurance coverage but that has been declared insolvent. The bill requires each group desiring certification to participate as a member of the guaranty fund. The guaranty fund is managed by a board of directors, and the bill specifies representation on the board and sets out the powers and duties of the board to take certain actions, including the requirement to create and maintain a trust fund for paying the workers' compensation liabilities of an insolvent group and the control and investment of money in the fund. The bill requires each group to contribute a certain amount to the trust fund. It specifies a process for disbursements from the trust fund if a group becomes insolvent and the required assessments on the group's members are insufficient to cover the incurred liabilities. The bill provides that if the guaranty fund has assumed compensation obligations on behalf of an insolvent group, the fund is entitled to immediate possession of any assets of the insolvent group and the fund has the same rights and defenses as the insolvent group regarding a workers' compensation claim. The bill further provides that a security deposit may be deposited with the commissioner of insurance in lieu of a bond in certain circumstances relating to the initial certificate of approval to organize as a workers' compensation self-insurance group.

Senate Bill 742

Effective: 9-1-05

Senate Author: Duncan

House Sponsor: Giddings

Senate Bill 742 amends the Labor Code to add the Central Hockey League to the sports franchises that are listed in the definition of "professional athlete" for purposes of disqualification for eligibility for workers' compensation benefits under the Texas Workers' Compensation Act.

Workforce Development

House Bill 720

Effective: 9-1-05

House Author: Berman

Senate Sponsor: Van de Putte

House Bill 720 amends the Government Code to revise the provision requiring at least one member of a local workforce development board to be a veteran who represents a prescribed entity. The bill requires the veteran to serve as a representative on the board for the interests of veterans in the workforce development area.

House Bill 900

Effective: 6-18-05

House Author: Chavez et al.

Senate Sponsor: Zaffirini

House Bill 900 amends the Labor Code to require the Texas Workforce Commission and local workforce development boards to ensure that each workforce development program offered in this state includes training in financial literacy. The bill requires the division of workforce development of the commission to develop training materials and information and authorizes the commission to accept a donation of services, money, or property to support the financial literacy program. The bill requires that the donation be accepted and reported in a prescribed manner.

House Bill 3384

Effective: 6-18-05

House Author: Chavez

Senate Sponsor: Zaffirini

House Bill 3384 amends the Government Code to add a local workforce development board and a junior college district to the definition of “local government” for purposes of the authority to contract under the Interlocal Cooperation Act.

Senate Bill 998

Effective: 6-18-05

Senate Author: Madla

House Sponsor: Uresti

Senate Bill 998 amends the Government Code to add to the contracting guidelines that the Texas Workforce Commission is required by rule to establish in consultation with local workforce development boards. The bill requires that the guidelines ensure that an entity that contracts with a board may use, display, and advertise the entity’s name when providing workforce services for the board.

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

HB 2604 - Military Forces and Veterans

HB 2961 - Human Services

SB 1342 - Military Forces and Veterans

Law Enforcement

This chapter covers legislation relating to peace officers, security officers, law enforcement agencies, including the Department of Public Safety, and concealed handgun licensing. Bills on criminal offenses, penalties, procedures, and crime victims are in the **Criminal Justice** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 225

Effective: 9-1-05

House Author: Driver et al.

Senate Sponsor: Deuell et al.

House Bill 225 amends the Government Code to expand the list of those who are eligible to obtain a nonresident license to carry a concealed handgun to include a legal resident of any other state. The bill provides for the recognition of a license to carry a concealed handgun issued by another state if the attorney general of Texas determines that a background check of each applicant for such a license is initiated, rather than conducted, by state or local authorities of the issuing state and defines “background check” to mean a search of the National Crime Information Center database and the Interstate Identification Index maintained by the Federal Bureau of Investigation. House Bill 225 extends from four years to five years the renewal period for a license to carry a concealed handgun.

House Bill 915

Effective: 9-1-05

House Author: Woolley

Senate Sponsor: Whitmire

House Bill 915 amends the Code of Criminal Procedure to confirm the authority of certain sheriffs, deputies, constables, deputy constables, and investigators who are outside their jurisdiction to arrest, without a warrant, a person who commits an offense within the officer’s presence or view. However, this authority does not include an arrest for a traffic offense. The bill confirms the authority of certain municipal marshals and municipal police officers who are outside their jurisdiction to arrest, without a warrant, a person who commits an offense within the officer’s presence or view, including a traffic offense in the county or counties in which the officer’s employing municipality is located. House Bill 915 sets forth procedures relating to property seized by a peace officer making an arrest outside the officer’s jurisdiction.

House Bill 1038

Effective: 9-1-05

House Author: Isett

Senate Sponsor: Brimer

House Bill 1038 amends the Government Code to require that the Department of Public Safety reduce by 50 percent the cost to renew a license to carry a concealed handgun for an applicant who is 60 years of age or older. The law presently requires the 50 percent reduction only for the issuance of a license.

House Bill 1239

Effective: 9-1-05

House Author: Hodge et al.

Senate Sponsor: Hinojosa

House Bill 1239 amends provisions of the Local Government Code and the Government Code relating to multicounty drug task forces. The bill sets out the definition and composition of a multicounty drug task force and provides that a task force may be established and operated only after the Department of Public Safety (DPS) confirms a strategic need for the task force and the composition of the task force. The bill requires a task force and any county or municipality participating in the task force to comply with policies and procedures developed by DPS. House Bill 1239 also authorizes DPS to exercise the authority necessary to ensure compliance with the policies and procedures. The bill requires DPS to perform certain evaluations of a task force

and to submit semiannual reports on the evaluations to the governor's office and the Legislative Budget Board. The bill also requires any task force not established in accordance with the above prescribed provisions or that fails to comply with DPS policies and procedures to forward all proceeds received by the task force from forfeiture of contraband to the comptroller of public accounts for deposit in the general revenue fund and authorizes the attorney general to enforce the requirement to forward such proceeds.

House Bill 1438

Effective: 6-18-05

House Author: Talton

Senate Sponsor: Whitmire

House Bill 1438 amends the Occupations Code to require the Commission on Law Enforcement Officer Standards and Education to credit a peace officer with meeting the continuing education requirements if during the relevant 24-month period the peace officer serves on active duty as a member of the U.S. military for at least 12 months. The bill also requires the commission, under certain circumstances, to notify a peace officer of the reasons the officer is in noncompliance with continuing education requirements. The commission, at the request of the officer, will hold a hearing if the officer fails to obtain the required training within 60 days after receipt of notice.

House Bill 1483

Effective: 9-1-05

House Author: Frost et al.

Senate Sponsor: Eltife et al.

House Bill 1483 amends the Government Code to expand the methods of payment of the fee for an original, renewal, duplicate, or modified license to carry a concealed handgun to include cash, credit card, or personal check. The bill provides that if a person pays by cash, payment must be made in person. The bill also sets out provisions for fee payment and an additional charge in a case in which a payment is dishonored or reversed.

House Bill 1588

Effective: 6-18-05

House Author: Driver

Senate Sponsor: Williams

House Bill 1588 amends the Local Government Code to increase the qualifications required to serve as a constable to include having at least an associate's degree from an accredited institution of higher education and being licensed as a special investigator or honorably retired as a peace officer or federal criminal investigator who holds a certificate in weapons proficiency, or an active or inactive licensed Texas peace officer. The bill sets out certain initial training and continuing education requirements for constables and requires a public institution of higher education selected by the Commission on Law Enforcement Officer Standards and Education to establish and offer the initial training and continuing education programs. House Bill 1588 requires the commission to establish procedures to annually determine a constable's compliance with these training requirements and to report to the attorney general any constable who is not in compliance. The bill requires the office of the attorney general to institute a quo warranto proceeding to remove from office any such constable.

House Bill 1589

Effective: 6-18-05

House Author: Driver

Senate Sponsor: Williams

House Bill 1589 amends the Government Code to require the Department of Public Safety (DPS) to administer a polygraph examination to an applicant for a peace officer commission or a police communications operator position. The results of the examination are to be used as a factor in determining whether to commission an applicant as a peace officer or hire an applicant as a communications operator. The bill exempts an applicant who is currently commissioned by

DPS as a peace officer or employed by DPS as a communications operator from the examination requirement. The bill sets out provisions for the administration of the polygraph examination, including confidentiality provisions.

House Bill 1695**Effective:** 9-1-05**House Author:** Hegar**Senate Sponsor:** Seliger

House Bill 1695 amends the Code of Criminal Procedure to allow the director of the Department of Public Safety to appoint up to 50 special rangers who are employed by the Texas and Southwestern Cattle Raisers Association to aid law enforcement agencies in the investigation of the theft of livestock or related property. The bill allows the special rangers to make arrests and exercise the authority vested in peace officers when necessary to prevent or abate an offense involving livestock or related property, but prohibits rangers from issuing traffic citations. The bill sets out provisions relating to employment benefits, liability, appointment procedures and standards, license revocation, termination of employment, and agency rulemaking.

House Bill 2110**Effective:** 9-1-05**House Author:** Berman et al.**Senate Sponsor:** Eltife et al.

Previous law required an honorably retired peace officer to obtain the authority to carry certain weapons from the agency in which the officer served and counted only the years served with that particular agency as years of service. House Bill 2110 amends the Occupations Code to authorize the head of a state or local law enforcement agency to give any honorably retired peace officer an opportunity to demonstrate weapons proficiency under certain specified circumstances and reduces from 20 to 15 years the number of years of service by a retired peace officer required for such an opportunity and allows the years of service to be counted cumulatively if service includes service in more than one law enforcement agency. The bill sets out provisions relating to proof of retirement, annual evaluation of weapons proficiency, and issuance of a certificate of proficiency and an identification card.

House Bill 2110 amends the Penal Code to add certain peace officers, a judge or justice of a federal court, and a district attorney, criminal district attorney, or county attorney to the list of persons who are licensed to carry a concealed handgun that are exempt from the offenses of “unlawful carrying of a weapon” and “places weapons are prohibited.” The bill amends the Penal Code to conform to federal law that allows certain honorably retired peace officers to carry weapons in any state.

House Bill 2574**Effective:** 6-17-05**House Author:** Hamric et al.**Senate Sponsor:** Whitmire

House Bill 2574 amends the Occupations Code to authorize the Texas Commission on Law Enforcement Officer Standards and Education to waive the requirement that a deputy constable take continuing education on civil process, if the constable requests the waiver based on a representation that the deputy constable’s duty assignment does not involve civil process responsibilities.

House Bill 2677**Effective:** 9-1-05**House Author:** Driver**Senate Sponsor:** Seliger

House Bill 2677 amends provisions of the Occupations Code relating to employment records of law enforcement officers. The bill requires a law enforcement agency, before it hires anyone licensed as a law enforcement officer, to make a written request to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) for any employment termination

Law Enforcement

report regarding the applicant and to submit certain information to TCLEOSE. The bill requires TCLEOSE to release the report if it receives such a request. Previous law required the head of a law enforcement agency to submit to TCLEOSE certain information relating to officers who have separated from the agency. Senate Bill 1303 expands that information to include a designation of the separation as either retired, honorably discharged, dishonorably discharged, generally discharged, killed in the line of duty, deceased, or disabled and requires a report each time a person licensed by the agency resigns or is terminated. The bill also establishes procedures relating to correcting an employment termination report, administrative penalties, hearings, and appeals.

House Bill 2769

Effective: 9-1-05

House Author: Talton

Senate Sponsor: Whitmire

House Bill 2769 amends provisions of the Government Code, the Health and Safety Code, and the Occupations Code relating to the presentation of state flags to survivors of certain deceased peace officers. The bill amends the flag presentation requirements to limit flag presentations to the survivors of peace officers who were currently employed as peace officers or honorably retired peace officers who voluntarily terminated their employment with a law enforcement agency of this state. The bill also requires the Department of State Health Services to include “honorably retired peace officer” in the current question regarding peace officer status on the registration of death form.

House Bill 2823

Effective: 6-17-05

House Author: Rose

Senate Sponsor: Madla

House Bill 2823 amends the Code of Criminal Procedure to provide that a peace officer disabled in the line of duty who is entitled to an annual payment under the Crime Victim’s Compensation Act may elect to receive the payment in a single payment each year or equal monthly installments.

Senate Bill 578

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Hope

Previous law required an honorably retired peace officer to obtain the authority to carry certain weapons from the agency in which the officer served and counted only the years served with that particular agency as years of service. Senate Bill 578 amends the Occupations Code to authorize the head of a state or local law enforcement agency to give any honorably retired peace officer an opportunity to demonstrate weapons proficiency under certain specified circumstances. The bill reduces from 20 to 15 years the number of years of service by a retired peace officer required for such an opportunity and allows the years of service to be counted cumulatively if service includes service in more than one law enforcement agency. Senate Bill 578 sets out provisions relating to proof of retirement, annual evaluation of weapons proficiency, and issuance of a certificate of proficiency and an identification card. The bill amends the Penal Code to conform to federal law that allows certain honorably retired peace officers to carry weapons in any state.

Senate Bill 732

Effective: 6-17-05

Senate Author: Williams

House Sponsor: Driver

Senate Bill 732 amends the Government Code to require the Department of Public Safety (DPS) to administer a polygraph examination to an applicant for a peace officer commission or a police communications operator position. The results of the examination are to be used as a

factor in determining whether to commission an applicant as a peace officer or hire an applicant as a communications operator. The bill exempts an applicant who is currently commissioned by DPS as a peace officer or employed by DPS as a communications operator from the examination requirement. The bill sets out provisions for the administration of the polygraph examination, including confidentiality provisions.

Senate Bill 907**Effective:** 9-1-05**Senate Author:** Whitmire**House Sponsor:** Woolley

Senate Bill 907 amends the Code of Criminal Procedure to confirm the authority of certain sheriffs, deputies, constables, deputy constables, and investigators who are outside their jurisdiction to arrest, without a warrant, a person who commits an offense within the officer's presence or view. However, this authority does not include an arrest for a traffic offense. The bill confirms the authority of certain municipal marshals and municipal police officers who are outside their jurisdiction to arrest, without a warrant, a person who commits an offense within the officer's presence or view, including a traffic offense in the county or counties in which the officer's employing municipality is located. Senate Bill 907 sets forth procedures relating to property seized by a peace officer making an arrest outside the officer's jurisdiction.

Senate Bill 1473**Effective:** 9-1-05**Senate Author:** Lindsay**House Sponsor:** Coleman

Senate Bill 1473 amends the Education Code and the Occupations Code to enact the Bob Meadours Act. The bill amends the Education Code to require the Bill Blackwood Law Enforcement Management Institute of Texas to establish a program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments as part of the initial training and continuing education of police chiefs. The bill requires a police chief to complete the training and education and prohibits a police chief from satisfying the requirement by taking an online course. Additionally, Senate Bill 1473 amends the Occupations Code to provide that the Texas Commission on Law Enforcement Officer Standards and Education must require a peace officer, reserve law enforcement officer, or county jailer (officer), within a certain timeframe, to complete an education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer may not satisfy the requirement by taking an online course. The bill also requires such a program to be completed by an officer as a requirement for an intermediate or advanced proficiency certificate.

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

- HB 322 - Military Forces and Veterans
- HB 685 - Military Forces and Veterans
- SB 148 - Open Government and Privacy
- SB 212 - Military Forces and Veterans
- SB 619 - Transportation
- SB 866 - Transportation

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. Bills relating specifically to economic development districts are in the **Economic Development** chapter; those relating to emergency response districts are in the **Emergency Response** chapter; those relating to hospital districts are in the **Health** chapter; those relating to transportation districts are in the **Transportation** 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.

General

House Bill 282

Effective: 9-1-05

House Author: Hope

Senate Sponsor: Wentworth

House Bill 282 amends provisions of the Civil Practice and Remedies Code relating to funding an alternative dispute resolution system. Previous law authorized a county commissioners court to assess a court cost for certain civil cases filed in county courts, district courts, and certain justice courts to establish and maintain an alternative dispute resolution system in the county. The bill increases the cap on the assessment from \$10 to \$15 for cases filed in county and district courts. The bill also increases the cap from \$3 to \$5 for cases filed in justice courts and gives the commissioners court of any county in Texas the authority to assess such a cost, rather than the commissioners court of only certain populous counties. In addition, House Bill 282 allows certain counties that establish an alternative dispute resolution center to collect a user fee that will be set by the county commissioners court.

House Bill 1562

Effective: 5-30-05

House Author: Chavez

Senate Sponsor: Madla

House Bill 1562 amends the Government Code to authorize a local government to enter into an interlocal contract with a federally recognized Indian tribe whose reservation is located within this state to perform governmental functions or services, but it prohibits any interlocal contracts with an Indian tribe that is not federally recognized or whose reservation is not located within this state.

House Bill 1606

Effective: 6-18-05

House Author: Thompson

Senate Sponsor: Ellis

House Bill 1606 amends provisions of the Local Government Code relating to developer participation contracts to increase the cap on a developer's reimbursement from a municipality to a level not to exceed 70 percent, rather than 30 percent, of the costs of certain infrastructure improvements in a municipality with a population of at least 1.8 million. In addition, the bill authorizes such a municipality to participate at a level of up to 100 percent of the total contract price for all required drainage improvements relating to the development and construction of affordable housing.

House Bill 1835

Effective: 6-18-05

House Author: Talton

Senate Sponsor: Armbrister

House Bill 1835 amends the Local Government Code to allow a developer who, as a condition of approval for a municipal property development project, is required to bear a portion of the project's

Local Government

infrastructure improvement costs to appeal the apportionment to the municipality's governing body. The bill entitles a developer who prevails in such an appeal to applicable costs and attorney fees.

House Bill 2019

Effective: 4-1-07

House Author: Swinford

Senate Sponsor: Harris

House Bill 2019 amends the Special District Local Laws Code to codify, with no substantive changes, the enabling statutes of various hospital, water, economic development, and other special districts. Boundary provisions of these statutes are not codified but remain in the session laws. The bill makes conforming changes and repeals provisions of the code that conflict with other laws, preserving the interpretation as to which law prevails.

Senate Bill 574

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Pickett

Senate Bill 574 amends the Local Government Code to clarify that the chapter on issuing local land development permits applies to municipal zoning, land use, annexation, and imminent destruction regulations that affect landscaping or tree preservation or open space or park dedication and to municipal zoning regulations that affect property classification. The bill specifies the earliest expiration date that a local regulatory agency can set for a project (five years) or permit (two years) on which no progress is made and exempts Texas Commission on Environmental Quality permits for on-site sewage disposal systems from this provision. It also reduces to one the number of specified actions necessary to constitute progress on a project. The bill provides that a political subdivision's immunity from a lawsuit relating to an action under the chapter is waived. The changes in law affect permit applications filed, progress demonstrated, and suits pending before a trial court on or after September 1, 2005.

Senate Bill 1205

Effective: 6-17-05

Senate Author: Madla

House Sponsor: Menendez

Senate Bill 1205 amends the Local Government Code to provide for the creation, administration, powers, duties, operation, and financing of multi-jurisdictional library districts. With voter approval, such a district would be authorized to impose a sales and use tax, a property tax, or both, to establish, equip, operate, and maintain one or more libraries in the district, or to use as collateral for borrowing money for district purposes. With the consent of the governmental entity that proposed the district's creation, the district also would be authorized to issue bonds or other obligations to acquire, construct, equip, or improve district facilities.

Senate Bill 1458

Effective: See below

Senate Author: Wentworth

House Sponsor: Corte

Senate Bill 1458 amends the Local Government Code to adopt the International Building Code, as it existed on May 1, 2003, as a municipal commercial building code in Texas. The building code applies to all commercial buildings in a municipality for which construction begins on or after January 1, 2006, and to any alteration, remodeling, enlargement, or repair of those buildings. The bill authorizes a municipality to establish procedures to administer and enforce the International Building Code and to adopt local amendments to it. A municipality that has adopted a more stringent commercial building code before January 1, 2006, is not required to repeal the more stringent measure and may adopt future editions of it. Electrical wiring and related components are an exception, and a municipality need not consider amendments to that code regarding electrical provisions. Instead, the bill adopts the National Electrical Code, as it existed on May 1, 2001, as the municipal electrical construction code in Texas applicable to commercial electrical construction applications.

The bill requires municipalities, before January 1, 2006, to establish rules and take other actions to implement the building code provisions. Provisions relating to those required preparatory rules and actions take effect September 1, 2005. Other parts of the bill take effect January 1, 2006.

City Government

House Bill 150

Effective: 6-17-05

House Author: Reyna et al.

Senate Sponsor: Deuell

House Bill 150 amends the Local Government Code to specify the conditions under which a municipality with a population of less than 1.5 million may reappoint to consecutive terms a member of the municipality's firefighters' and police officers' civil service commission.

House Bill 585

Effective: 6-16-05

House Author: Corte

Senate Sponsor: Wentworth

House Bill 585 amends the Local Government Code to set out provisions governing procedures for incorporating a municipality in the extraterritorial jurisdiction of certain municipalities with a population of one million or more.

House Bill 664

Effective: 9-1-05

House Author: Isett

Senate Sponsor: Duncan

House Bill 664 amends the Local Government Code to allow certain municipalities with a population of less than 250,000 to accept a competitive sealed bid in specified contracts from a bidder whose principal place of business is within the municipality if that bid is within five percent of the lowest bid received and the local bid also demonstrates sufficient economic development opportunities for the municipality. The bill amends the Education Code to allow a school district whose central administrative office is located in a municipality with a population of less than 250,000 to offer similar consideration to local bidders for certain contracts.

House Bill 1772

Effective: 6-18-05

House Author: Miller

Senate Sponsor: Fraser

House Bill 1772 amends the Local Government Code to authorize the governing body of a general-law municipality with a population of 1,500 to 1,599 to annex an adjacent area that is not being served with water or sewer service from a governmental entity and for which a petition requesting annexation has been filed. The bill includes regulations governing an annexation petition and development agreement related to the proposed annexation. The bill provides that upon the effective date of a certified petition the area is annexed and outlines the municipality's administrative requirements. The bill also provides that such an annexation does not expand the municipality's extraterritorial jurisdiction and extraterritorial jurisdiction regulations do not apply. The bill expands the criteria that must be met for a general-law municipality to annex territory without the consent of the residents, voters, or landowners in the area. The area must (1) be entirely surrounded by a municipality that is a Type A general-law municipality, or (2) meet certain acreage requirements and, if the area is appraised for ad valorem tax purposes for use as agricultural or wildlife management, meet certain other conditions.

House Bill 1812

Effective: 6-18-05

House Author: Hamilton

Senate Sponsor: Staples

House Bill 1812 amends the Local Government Code to prohibit a municipality from annexing all or part of an unincorporated area that lies within the circumference of a circle with

Local Government

a radius of six miles, the center of which is the intersection of State Highways 87 and 12 in Newton County, unless the area is in the municipality's annexation plan. The bill requires the municipality to publish public notice of an annexation plan if the affected unincorporated area is within the Mauriceville boundary.

House Bill 2266
Effective: 9-1-05

House Author: Baxter et al.
Senate Sponsor: Deuell

House Bill 2266 amends the Local Government Code to prohibit a municipality from adopting a requirement that establishes a maximum sales price for a privately produced housing unit or a residential building lot. The bill provides that the prohibition does not affect a municipality's authority to offer incentives or other voluntary programs to increase the number of low income housing units or its authority to establish a requirement applicable to certain homestead preservation districts. The bill provides that the prohibition does not apply to certain existing municipal requirements or to land that is part of an urban land bank program.

House Bill 2866
Effective: 9-1-05

House Author: Bailey et al.
Senate Sponsor: Whitmire

House Bill 2866 amends the Local Government Code to authorize certain public employers in a municipality with a population of 1.5 million or more to meet and confer with a recognized employee association provided that the association does not advocate an illegal strike by public employees. The bill allows a public employer that chooses to meet and confer to recognize an association as the sole and exclusive bargaining agent for all covered employees other than department heads, firefighters, and police officers whose employment is covered by other provisions, provided the association submits a petition for recognition signed by a majority of the municipal employees it seeks to represent. The bill allows the municipality to (1) grant recognition; (2) defer granting it and order a municipal election on the issue regarding whether a public employer may meet and confer; or (3) order a certification election to determine whether the association represents a majority of the covered employees. The bill also requires the public employer's chief executive officer to select one or more persons to represent the public employer as its sole and exclusive bargaining agent. House Bill 2866 provides that a ratified agreement between a public employer and an association preempts any conflicting statute, executive order, local ordinance, civil service provision, or rule, and that it may not interfere with the right of a member of a bargaining unit to pursue certain allegations of discrimination. The bill allows voters in the municipality to call for the repeal of an agreement. If the governing body of the municipality does not repeal the agreement, it is required to call a municipal election to determine whether to repeal the agreement.

House Bill 3262
Effective: 6-17-05

House Author: Escobar
Senate Sponsor: Lucio

House Bill 3262 validates an annexation or attempted annexation by a general-law municipality that occurred after May 1, 2004, and before January 1, 2005, and that was initiated by a petition signed by all of the property owners in the annexed area. The bill enumerates certain actions to which this validation does not apply.

Senate Bill 177
Effective: 5-9-05

Senate Author: Brimer
House Sponsor: Veasey

Previous law authorized the governing body of a municipality to provide for the appointment of a board of adjustment, which hears and decides certain zoning issues. A municipality with

a population of 1.8 million or more was authorized to have a board of adjustment comprised of one or more panels, each of which must consist of exactly five members. Senate Bill 177 amends the Local Government Code to authorize a municipality with a population of 500,000 or more to have panels, each of which must consist of at least five members.

Senate Bill 356

Effective: 9-1-05

Senate Author: Ellis

House Sponsor: Thompson

Senate Bill 356 amends the Local Government Code to add the Urban Land Bank Program Act for a Municipality with a Population of 1.9 Million or More. The bill authorizes a home-rule municipality with a population of at least 1.9 million to adopt an urban land bank 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 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 five 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 the property 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. The bill gives the right of first refusal on the purchase of the property to eligible adjacent property owners and the right of second refusal to a nonprofit community housing development organization that provides housing within the same area as the land bank's properties. If no adjacent property owner or 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 record-keeping and reporting requirements.

Senate Bill 466

Effective: 9-1-05

Senate Author: Fraser

House Sponsor: Hill

Senate Bill 466 amends the Local Government Code to extend the authority to create a municipal development district to any municipality. The bill allows creation of such a district in all or part of a municipality, in all or part of the area within its extraterritorial jurisdiction, or in any combination of territory within the municipality and within its extraterritorial jurisdiction. The bill amends the residency requirement for members of a district's board of directors to require a board member to reside in the municipality that created the district or the municipality's extraterritorial jurisdiction.

The bill also creates a program under Section 52-a, Article III, Texas Constitution, making municipal development districts eligible for grants or loans that may be financed through the issue of voter-approved municipal bonds or other municipal obligations.

Local Government

Senate Bill 734

Effective: 5-3-05

Senate Author: Williams et al.

House Sponsor: Mowery

Senate Bill 734 amends the Local Government Code to prohibit a municipality from applying a regulation relating to the discharge of firearms or other weapons in the extraterritorial jurisdiction of the municipality or in an area annexed by the municipality after September 1, 1981. The bill specifies the types of firearms or weapons, the circumstances, and locations affected by the prohibition. Senate Bill 734 also amends the Agriculture and Local Government Codes to make conforming changes.

Senate Bill 1105

Effective: 6-17-05

Senate Author: Madla

House Sponsor: Uresti et al.

Senate Bill 1105 amends the Local Government Code to expand the area for which a municipality may create a defense adjustment management authority to include an area annexed or disannexed for full or certain limited purposes by a municipality with a population of at least 1.1 million. The bill requires the name of the proposed authority to be included in the notice of hearing on the creation of an authority. The bill includes provisions for certain school districts' involvement in electing members of the board of directors of an authority. The bill authorizes an authority's board of directors to vote to annex or disannex territory and establishes provisions for public notice, public hearing, and subsequent actions by the governing body of the municipality. The bill also provides that the annexation regulations for a municipal utility district do not apply to such an authority. The bill provides that an authority has the power of a municipality within the authority area unless the area is annexed by a municipality for full purposes and that the authority regains the power of a municipality over its annexed area upon disannexation by the municipality.

County Government

House Bill 129

Effective: 6-18-05

House Author: Berman et al.

Senate Sponsor: Eltife et al.

House Bill 129 amends the Code of Criminal Procedure and the Health and Safety Code to expand purposes for which county jail inmate labor may be used to include maintenance projects for certain cemeteries that the commissioners court maintains using public funds. The bill also allows inmate labor to be used for maintenance and services provided to certain nonprofit organizations at the sheriff's request if the commissioners court determines that such an organization provides a public service to the county or to a political subdivision within the county. House Bill 129 provides that a county, at the discretion of the commissioners court, may permit the use of public funds, county employees, county inmate labor, and county equipment to open and close graves in a cemetery more than 50 years old. The bill deletes provisions that limited the use of public resources for maintenance activities of those older cemeteries to counties with a population of 40,000 or less.

House Bill 422

Effective: 9-1-05

House Author: Casteel

Senate Sponsor: Wentworth

House Bill 422 amends Local Government Code provisions relating to a park and recreation district in a county with land on both the Guadalupe and Comal Rivers. The bill specifies that a district's board of directors is required to hold meetings in a county in which at least part of the district is located and authorizes the board to hire support staff. The bill raises the maximum

dollar amount of a contract that does not require a bid to correspond to the maximum amount set for a county. The bill authorizes the district to levy a tax on dry boat storage rental and expands the authorized uses of district tax revenue.

House Bill 571
Effective: 6-17-05

House Author: Hegar et al.
Senate Sponsor: Janek

House Bill 571 amends the Local Government Code to allow a county commissioners court to establish a branch office in an unincorporated area of the county. The bill allows any county official to maintain an office at the branch office if an office is also maintained at another location required by law. The bill also allows the county to provide a county service at the branch office if the service is also provided at another location required by law.

House Bill 580
Effective: 9-1-05

House Author: Smith, Wayne
Senate Sponsor: Gallegos

House Bill 580 amends the Local Government Code to authorize a county to provide hazardous material services, including a response to abandoned, leaked, spilled, or released hazardous material, if the concerned party fails to respond in a timely and effective manner after reasonable notice from the county of the need for action. The bill authorizes a county to provide immediate limited containment or control of abandoned, leaked, spilled, or released hazardous material to protect public health and safety without notice to the concerned party. The bill provides for hazardous material services fees and exemptions from the fees.

House Bill 602
Effective: 6-18-05

House Author: Eissler
Senate Sponsor: Williams

House Bill 602 amends the Transportation Code to allow the commissioners court in certain counties to designate a county constable or deputy constable as a weight enforcement officer.

House Bill 647
Effective: 6-18-05

House Author: Krusee
Senate Sponsor: Ogden

House Bill 647 amends the Government Code to permit a county with an outstanding property tax-backed debt of at least \$100 million to issue obligations for certain public improvements if the long-term debt is rated in one of the four highest rating categories for a long-term obligation. The bill also adds a provision relating to the review and approval of refunding bonds by the attorney general.

House Bill 731
Effective: 6-18-05

House Author: Jackson, Jim et al.
Senate Sponsor: Madla

House Bill 731 amends the Local Government Code to allow a county to establish an electronic system for the requisition of supplies and materials. The bill requires the county auditor to establish procedures for administering the system, subject to the approval of the commissioners court, and sets out requirements for the system.

House Bill 950
Effective: 9-1-05

House Author: Casteel
Senate Sponsor: Madla

House Bill 950 amends the Local Government Code to increase fees for filing certain documents with a county clerk.

Local Government

House Bill 960

Effective: 6-17-05

House Author: Smith, Wayne

Senate Sponsor: Jackson, Mike

House Bill 960 amends the Local Government Code to prohibit a political subdivision from requiring a county with a population of 3.3 million or more to notify the political subdivision or to obtain a building permit for any new construction or any renovation of a building or facility owned by the county and located within the boundaries of the political subdivision if the construction or renovation is supervised by a licensed engineer or architect. The bill requires that the work comply with the building standards of that political subdivision.

House Bill 961

Effective: 6-17-05

House Author: Smith, Wayne

Senate Sponsor: Jackson, Mike

House Bill 961 amends the Property Code to allow the commissioners court of a county to designate an area other than an area of the courthouse for the sale of real property under a contract lien. The bill provides that the designated area must be in a public place that is within a reasonable proximity of the county courthouse and is as accessible to the public as the courthouse door. The bill also requires the commissioners court to record the designated area in the real property records of the county. The bill also sets out notice of sale provisions.

House Bill 1140

Effective: 6-18-05

House Author: Flynn

Senate Sponsor: Averitt

House Bill 1140 amends the Local Government Code to require that a legal paper presented to a county clerk for filing or recording meet certain requirements, regardless of the county in which the paper is filed. The bill also prohibits a county clerk from imposing additional requirements or fees for the filing.

House Bill 1287

Effective: 9-1-05

House Author: Leibowitz

Senate Sponsor: Madla

House Bill 1287 amends the Health and Safety Code to allow a county to bring a suit or undertake abatement procedures to prohibit or control access to premises to prevent or abate a public nuisance involving illegal dumping. The bill also entitles a county to use any money available under other law to clean up or remediate private property to reduce or remove such a nuisance.

House Bill 1610

Effective: 6-18-05

House Author: Chisum

Senate Sponsor: Brimer

House Bill 1610 amends the Local Government Code to allow a county to impose a fee of no more than \$500 on any person or entity for each cut of a county road made for certain purposes. The funds are to be used for the future inspection, repair, and maintenance of a cut road.

House Bill 2120

Effective: See below

House Author: Allen, Ray et al.

Senate Sponsor: Lindsay

House Bill 2120 amends provisions of various codes that relate to the administration of county government. Among other provisions, the bill:

- amends the Code of Criminal Procedure to provide that a person arrested, with or without a warrant, may appear before a magistrate in any county of the state, rather than only a county bordering the county in which the arrest was made. The bill allows the use of teleconferencing for certain criminal proceedings for a defendant who is confined in a county other than the county in which charges against the defendant are pending.

- amends the Government Code and the Health and Safety Code to provide for changes to the existing criteria for membership on the Tobacco Settlement Permanent Trust Account Administrative Advisory Committee and the Tobacco Settlement Permanent Trust Account Investment Advisory Committee.
- amends the Health and Safety Code to allow certain hospital districts to employ or contract with private legal counsel to represent the district in certain legal matters, taking into consideration the duties of a county attorney, district attorney, or criminal district attorney in matters involving the district. The bill includes in the list of items that constitute a public nuisance the maintenance of an unprotected swimming pool on any property in a neighborhood in a county with a population of more than 1.1 million.
- amends the Local Government Code to require that the bond for a county treasurer be executed with a surety company authorized to do bonding business in Texas, specify the maximum and minimum amounts of such bonds, and delete certain conditions of the bond. The bill requires that a county treasurer's official oath and bond be recorded in the county clerk's office and specifies that failure to obtain the bond subjects the treasurer to removal from office. The bill also provides that the 20 hours of annual continuing education required for a county treasurer need only be sponsored by an appropriate accredited institution and need not be actually held on campus. A county treasurer, whether elected or appointed, must provide a bond and take the oath of office before or at the time of assuming the office. The bill also allows, rather than requires, a county judge to declare the county treasurer's office vacant if those two actions are not taken in the required time. House Bill 2120 expands the list of those with whom a sheriff or a constable may execute a bond to include a solvent surety company authorized to do business in Texas.
- amends the Local Government Code to stipulate that if certain counties provide certain medical care, hospitalization, compensation, accident, hospital, and disability insurance, or group health and related benefits, the county has not created an insurance pool with other governmental entities, unless the county enters such a contract, and the county is not an insurance company subject to regulation.
- amends the Local Government Code to establish a procedure whereby the commissioners court of a county may sell or lease certain advertising space and allows a branch county office to be established in an unincorporated area of the county. The bill allows a sheriff to designate a private vendor, including a private vendor operating a detention facility under contract with the county, to operate a commissary for the use of the inmates and provides for the use of commissary proceeds and examination of the facility.
- amends the Local Government Code to authorize counties to provide certain hazardous material services and sets forth parameters for providing such service.
- amends the Local Government Code to authorize the creation, administration, powers, duties, operation, and financing of a public improvement district by a county with a population of 825,000 or more if the county determines it is in the county's best interest. The district is authorized to contract with any person, take on road projects, issue bonds and to levy, assess, and collect taxes and assessments. The bill makes conforming changes in the Tax Code.

House Bill 2120 takes effect September 1, 2005, except for the provisions authorizing the creation, administration, powers, duties, operation, and financing of a public improvement district by a county, which became effective June 18, 2005.

Local Government

House Bill 2458

Effective: 6-18-05

House Author: Jones, Jesse

Senate Sponsor: Carona

House Bill 2458 amends the Local Government Code to allow the commissioners court in a county with a population of more than 125,000 to designate the county budget officer, or another officer or employee of the county, as a person who may amend the budget by transferring amounts budgeted for certain items to other budget items, under certain conditions.

House Bill 2618

Effective: 9-1-05

House Author: Eiland

Senate Sponsor: Nelson

House Bill 2618 amends the Health and Safety Code to add federally qualified health care services received at a federally qualified health center to the list of expenditures made for certain eligible residents that a county may credit toward eligibility for state assistance.

House Bill 2626

Effective: 6-18-05

House Author: Smith, Wayne

Senate Sponsor: Lindsay

House Bill 2626 amends the Code of Criminal Procedure and the Local Government Code to provide that a county with a population of 3.3 million may charge a fee if the constable's office responds to any false alarm. The bill removes the prohibition on imposing a penalty or fee for the first five false alarms in a 12-month period. The bill provides that a county may contract with a private vendor or attorney to recover such fees and that a civil action may be filed to collect all false alarm fees and fines.

Senate Bill 270

Effective: 6-17-05

Senate Author: Madla et al.

House Sponsor: Mowery

Previous law defined "mass gathering," for county permitting and inspection purposes, as an expected gathering of more than 5,000 people outside the boundaries of a municipality for more than five continuous hours. Senate Bill 270 amends the Health and Safety Code to reduce the size component of the definition to more than 2,500 people, or more than 500 people if at least 51 percent of them are expected to be younger than 21 years of age and alcoholic beverages may be consumed. The bill also provides that a gathering of the specified size for any amount of time between 10 p.m. and 4 a.m. may be considered a mass gathering.

Senate Bill 526

Effective: 6-17-05

Senate Author: Hinojosa

House Sponsor: Martinez

Senate Bill 526 amends the Local Government Code to require a county clerk to designate the public documents that are part of the records archive, subject to approval by the commissioners court in a public meeting, for the purpose of collecting a records archive fee. The bill amends the Code of Criminal Procedure and the Government Code to alter the fee itself and specify the procedures by which the fee is collected and distributed.

Senate Bill 736

Effective: 6-17-05

Senate Author: Brimer

House Sponsor: Smith, Wayne

Senate Bill 736 amends the Local Government Code to add multifamily residential dwellings to the list of buildings in unincorporated areas that are subject to certain accepted fire code standards. The bill also expands the types of building projects in unincorporated areas for which a building permit is required to include substantial improvement projects. The bill sets out provisions relating to fire code inspections.

Senate Bill 829
Effective: 6-17-05

Senate Author: Wentworth
House Sponsor: Menendez

Senate Bill 829 amends the Local Government Code to allow the commissioners court of a county with a population of less than 3.3 million to set aside money for a petty cash fund. The bill establishes that the commissioners court approves the amount set aside for the petty cash fund. The bill also establishes that falsifying a document or a report relating to a county petty cash fund is an offense of forgery or tampering with a governmental record.

Senate Bill 951
Effective: 9-1-05

Senate Author: Estes
House Sponsor: King, Phil

Senate Bill 951 amends the Code of Criminal Procedure and the Health and Safety Code to allow a county, at the discretion of the commissioners court, to use county inmate labor to maintain certain cemeteries over 50 years old for purposes of historical preservation or public health, safety, or welfare, regardless of the population of the county.

Senate Bill 1106
Effective: 6-17-05

Senate Author: Madla
House Sponsor: Casteel

Senate Bill 1106 amends the Local Government Code to provide that the 20 hours of continuing education required to be taken by a county treasurer each year need only be sponsored by an appropriate accredited institution and need not be actually held on campus.

Senate Bill 1107
Effective: 9-1-05

Senate Author: Madla
House Sponsor: Casteel

Senate Bill 1107 amends the Local Government Code to require a county treasurer to provide a bond and take the oath before or at the time of assuming the office, regardless of whether the person is elected or appointed to the office. The bill also allows, rather than requires, a county judge to declare the office vacant if those two actions are not taken in the required time. The bill also repeals the provision that allows a county treasurer to be removed from office for failing to obtain a new or additional surety bond when required to do so under the statute.

Senate Bill 1108
Effective: 9-1-05

Senate Author: Madla
House Sponsor: Casteel

Senate Bill 1108 amends the Local Government Code to require that the bond for a county treasurer be executed with a surety company authorized to do bonding business in the state, specify the maximum and minimum amounts of such bonds, and delete certain conditions of the bond. The bill requires that a county treasurer's official oath and bond be recorded in the county clerk's office and specifies that failure to obtain the bond subjects the treasurer to removal from office.

Senate Bill 1214
Effective: 6-17-05

Senate Author: Barrientos
House Sponsor: Naishtat

Senate Bill 1214 amends the Local Government Code to authorize a county with a population of 800,000 or more to select an appropriately licensed insurance agent as the sole broker of record to obtain proposals and coverage for insurance. The bill places certain stipulations on how such a broker may be paid, with whom the broker may have business relationships, and the consequences of any violation.

Local Government

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

HB 467 - Water
HB 843 - Utilities
HB 970 - Criminal Justice
HB 1165 - Transportation
HB 1239 - Law Enforcement
HB 1820 - State Government
HB 2039 - Civil Remedies and Procedures
HB 2131 - Environment
HB 2140 - Water
HB 2876 - Water
SB 200 - Property Interests
SB 224 - Property Interests
SB 425 - Border Affairs
SB 480 - Energy Resources
SB 1498 - Water Districts
SB 1730 - Taxes and Tax Administration

Military Forces and Veterans

This chapter covers legislation relating to current and former state and national military personnel, including legislation on education and employment issues. Bills relating to economic development in military base communities are in the **Economic Development** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 322

Effective: 9-1-05

House Author: Hupp et al.

Senate Sponsor: Estes

House Bill 322 amends the Government Code to provide that a person who is at least 18 years of age but under 21 years of age is eligible for a license to carry a concealed handgun if the person is a member of the U.S. military or is a veteran who was honorably discharged and who meets certain other eligibility criteria. The bill also requires such a person applying for a license or a license modification to submit two recent color passport photographs in profile of the applicant and provides that the issuance of a license to such a person does not affect the person's ability to purchase a handgun or ammunition under federal law. House Bill 322 also requires the Department of Public Safety to reduce by 50 percent any fee for a license to carry a concealed handgun for a member of the U.S. armed forces, including a member of the reserves, national guard, or state guard.

House Bill 417

Effective: 5-27-05

House Author: Delisi et al.

Senate Sponsor: Williams

House Bill 417 amends the Insurance Code to authorize the board of trustees of the Employees Retirement System of Texas to offer a voluntary supplemental health coverage program as an alternative to basic state employees group coverage to certain state employees who are eligible for benefits under the TRICARE Military Health System, the U.S. Department of Defense health care program for active duty and retired members of the uniformed services and their families and survivors. The bill requires that the cost of such supplemental coverage be paid from state, employer, and employee contributions in the same manner as basic coverage under the state employees group benefits plan. The bill authorizes the board to purchase such supplemental coverage and prohibits the board from implementing the program if it would not be cost-effective or otherwise not advantageous to the state or to the program's participants. The bill also authorizes the board to coordinate and implement the program's purchasing, contracting, and administrative functions with certain governmental entities or retirement systems and allows a reduction in the contribution for each program participant to reflect the reduced cost of coverage.

House Bill 685

Effective: 9-1-05

House Author: Rose et al.

Senate Sponsor: Van de Putte

House Bill 685 amends Government Code provisions relating to requirements for a concealed handgun license to exempt from the range instruction portion of the handgun proficiency course a person who is currently serving or honorably discharged from the armed services and who has, within five years of applying for a license or license renewal, completed a handgun proficiency or familiarization training course as part of that service.

House Bill 1076

Effective: 9-1-05

House Author: Crabb et al.

Senate Sponsor: Van de Putte

House Bill 1076 amends the Parks and Wildlife Code to require the Parks and Wildlife Commission to waive resident hunting and fishing license fees for a state resident on active duty as a member of the United States military forces.

House Bill 1318

Effective: 9-1-05

House Author: Dawson

Senate Sponsor: Jackson, Mike

House Bill 1318 amends the Government Code to require the adjutant general to provide a grave marker for a person who served in the state military forces on the request of an authorized person. The bill specifies who may make the request and provides that a person who is eligible for a federal grave marker is not eligible for a grave marker from the adjutant general. The bill applies only to a member of the state military forces who dies on or after September 1, 2005.

House Bill 3162

Effective: 6-17-05

House Author: Noriega, Melissa

Senate Sponsor: Ellis

House Bill 3162 amends the Election Code to authorize a member of a political party's county executive committee who enters active duty in the U.S. armed forces to appoint a temporary replacement. The bill specifies the temporary member's qualifications, powers, privileges, duties, compensation, and term of service on the county executive committee.

Senate Bill 580

Effective: 5-17-05

Senate Author: Van de Putte

House Sponsor: Rose

Senate Bill 580 amends the Tax Code to require the collector for a taxing unit, on request of a property owner who is a disabled veteran or a recipient of the Purple Heart, the Congressional Medal of Honor, the Bronze Star Medal, the Silver Star, the Legion of Merit, or a service cross awarded by a branch of the United States armed forces, to enter into a contract to establish an escrow account to provide for the installment payment of property taxes. Under the code, the collector already has authority to establish such accounts for any property owner but is not required to do so.

Senate Bill 955

Effective: 6-17-05

Senate Author: Seliger

House Sponsor: Noriega, Melissa et al.

Senate Bill 955 amends the Government Code to add the Texas Cavalry Medal, the Texas Combat Service Ribbon, and the Texas Purple Heart Medal to the service recognitions awarded by the adjutant general.

Senate Bill 1217

Effective: 9-1-05

Senate Author: Seliger et al.

House Sponsor: Corte

Previously the Texas Code of Military Justice authorized a commanding officer, as nonjudicial punishment for minor offenses, to demote subordinate personnel not more than the number of pay grades that the commanding officer was authorized to promote personnel. The only commanding officer authorized to demote personnel more than one rank was the adjutant general. Senate Bill 1217 authorizes a commanding officer of the rank of colonel or higher to demote personnel up to two pay grades and a commanding officer of a rank lower than colonel to demote personnel not more than one pay grade. The bill allows a commanding officer to delegate this demotion authority to the officer's executive officer, chief of staff, or vice commander. The bill also increases certain fines and terms of confinement authorized under courts-martial.

Senate Bill 1479

Effective: 9-1-05

Senate Author: Shapleigh et al.

House Sponsor: Cortez

Senate Bill 1479 amends the Finance Code to prohibit a lender who engages in a deferred presentment transaction, commonly referred to as a “payday loan,” with a member of the U.S. military or the member’s spouse from conducting collection activity against or garnishing the wages of the member or spouse in order to repay the debt or from contacting the member’s or spouse’s employer relating to the debt while the member of the military is deployed to combat or a combat support posting. The bill requires a payday lender to provide the member or spouse with a written disclosure that states that such activities are prohibited; that the lender will honor the terms of the lender’s repayment agreement with the member or spouse, including an agreement negotiated through a military counselor or third-party credit counselor; and that the lender will honor any statement made by the member’s commanding officer prohibiting the member or spouse from doing business at a location where the lender conducts payday loan transactions. The bill defines “member of the United States military” as a member of the armed forces of the United States or a member of the Texas National Guard who is called to federal active duty.

Senate Bill 1480

Effective: 9-1-05

Senate Author: Shapleigh

House Sponsor: Uresti

Senate Bill 1480 amends the Government Code to establish the Permanent Fund for Veteran’s Assistance. The available earnings of the fund and gifts and grants contributed to the fund may be appropriated to the Texas Veterans Commission for veterans’ assistance programs and for grants to local communities to address veterans’ needs.

Education

House Bill 133

Effective: 6-18-05

House Author: Brown, Fred

Senate Sponsor: Ogden

House Bill 133 amends the Education Code to require a public college or university, in determining whether to award course credit toward a degree for a student’s completion of certain military training, to consider any official military record provided by the student that describes the substance and verifies the student’s completion of that training and whether the substance of that training satisfies the purpose of the course for which the student seeks credit.

House Bill 503

Effective: 5-20-05

House Author: Guillen et al.

Senate Sponsor: Fraser

Provisions of the Education Code, known informally as the Hinson-Hazelwood Act, waive tuition and certain fees for up to 150 credit hours at a public institution of higher education in Texas for certain veterans. House Bill 503 clarifies that all persons who served a portion of their duty during the time of national emergency arising from the terrorist attacks of September 11, 2001, and meet other requirements are authorized to access the waiver under the Hinson-Hazelwood Act. The change in law takes effect beginning with the 2005 fall semester.

House Bill 1058

Effective: 6-17-05

House Author: Pickett et al.

Senate Sponsor: Zaffirini

House Bill 1058 amends the Education Code to authorize a school district to issue a high school diploma to an honorably discharged veteran who had been scheduled to graduate before 1975 but left school to serve in the Korean or Vietnam War.

House Bill 1170

Effective: 6-17-05

House Author: Miller et al.

Senate Sponsor: Shapleigh

House Bill 1170 amends the Education Code to require a college or university to readmit a student who withdrew from school to perform active military service as a member of the U.S. armed forces or the Texas National Guard and who returns to school within the first year after the student's release from active duty service without requiring reapplication or charging a fee for that student's readmission. The bill requires the college or university, on the student's readmission, to provide the student any financial aid it provided before the student's withdrawal if the student meets current eligibility requirements for that financial aid and to allow the student the same academic status that the student had before the withdrawal, including any course credit previously awarded.

The bill also requires a public college or university, in determining whether to award course credit toward a degree for a student's completion of certain military training, to consider any official military record provided by the student that describes the substance and verifies the student's completion of that training and whether the substance of that training satisfies the purpose of the course for which the student seeks credit.

House Bill 1630

Effective: 6-17-05

House Author: McReynolds

Senate Sponsor: West, Royce

House Bill 1630 amends the Education Code to provide a student at an institution of higher education who is called to active military service of brief duration and who chooses not to withdraw from school a period of excused absence and an opportunity to make up course work and examinations within a reasonable amount of time. The bill requires the Texas Higher Education Coordinating Board, in consultation with institutions of higher education, to adopt rules to administer the policy, including the maximum time period for an excused absence.

Senate Bill 579

Effective: 6-17-05

Senate Author: Van de Putte et al.

House Sponsor: Corte

Senate Bill 579 amends the Education Code to extend eligibility for a Texas B-On-time loan to a person who is entitled, as a child of a member of the armed forces of the United States, to pay tuition at the rate for state residents and who graduated from a U.S. Department of Defense high school not earlier than the 2002-2003 school year.

Employment

House Bill 2604

Effective: 9-1-05

House Author: Guillen

Senate Sponsor: Van de Putte

House Bill 2604 amends the Labor Code to provide that a veteran who qualifies for an employment preference and meets minimum eligibility requirements qualifies for a preference in the selection of applicants for job training and employment assistance. The bill also transfers administration of the veterans employment programs from the Texas Workforce Commission to the Texas Veterans Commission and provides that the program services be provided exclusively to eligible veterans and by state employees.

Senate Bill 143

Effective: 6-17-05

Senate Author: Wentworth

House Sponsor: McClendon

Senate Bill 143 amends the Occupations and Education Codes to provide that a person who holds a required professional license or a permit or certificate required to work in a school

district and is ordered to active military duty is entitled to an extension, equaling the time on active duty, to fulfill any continuing education or other requirements for renewal of the license, permit, or certificate. The provisions of the bill apply to a person ordered to report for active duty on or after September 1, 2004.

Senate Bill 212

Effective: 6-17-05

Senate Author: Shapleigh

House Sponsor: Noriega, Melissa

Senate Bill 212 amends the Labor Code to require the Texas Workforce Commission, in cooperation with local workforce development boards, to provide employment assistance services to the spouses and dependents of military personnel assigned to duty in Texas.

Senate Bill 1342

Effective: 5-9-05

Senate Author: Van de Putte

House Sponsor: Campbell

Senate Bill 1342 amends the Labor Code to prohibit disqualifying for unemployment compensation benefits an employee who is the spouse of a member of the armed forces who must move because of a permanent change of station of longer than 120 days or a tour of duty of longer than one year. The bill also provides that benefits for such an employee may not be charged to the former employer of that employee.

Senate Bill 1345

Effective: 6-17-05

Senate Author: Van de Putte

House Sponsor: Berman

Current law requires state agencies to grant emergency leave as differential pay to an employee on unpaid military leave if the employee's military gross pay is less than the employee's state gross pay. Senate Bill 1345 amends the Government Code to exclude combat and hardship pay and money received for being separated from family from military pay calculations for this purpose. The bill requires the state auditor to adopt guidelines for determining the amount of emergency leave to grant as differential pay.

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

- HB 18 - Open Government and Privacy
- HB 370 - Transportation
- HB 720 - Labor and Employment
- HB 3113 - Public Officials and Employees
- SB 101 - Higher Education
- SB 581 - Government Purchasing
- SB 828 - Taxes and Tax Administration
- SB 863 - Public Officials and Employees
- SB 1186 - Property Interests

Occupational Regulation

This chapter covers legislation on issues relating to the regulation of certain occupations and professions, including license and permit requirements and fees, performance standards and restrictions, and penalties for violations. Bills relating to medical, veterinary, 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: 9-1-05

House Author: Solomons et al.

Senate Sponsor: Harris

House Bill 135 amends provisions of the Occupations Code relating to the regulation of health spas. The bill changes the amount of a surety bond or other security required to be posted by an applicant for a health spa operator's certificate from \$20,000 to between \$20,000 and \$50,000, repeals provisions relating to and revises the terms for exemption from the bond or security requirements, and requires the secretary of state, at least once every three years, to review the amount of security an operator is required to post to determine whether that amount is sufficient to protect the spa's total membership. House Bill 135 requires the operator of a health spa to submit a copy of the operator's certificate of registration to the comptroller and to include the operator's certificate of registration number or identification number in a contract between a health spa operator and a member and in certain advertisements. The bill also amends provisions relating to a notice required to be posted before the scheduled closing or relocation of a health spa.

House Bill 1286

Effective: See below

House Author: Callegari

Senate Sponsor: Brimer

House Bill 1286 amends provisions of the Occupations Code relating to the regulation of service contract providers. The bill adds a definition of a "controlling person" of a corporation or other business entity and revises the definition of "administrator" to exclude the service contract provider or an employee of the provider. The bill prohibits a person from operating as an administrator unless registered with the Texas Department of Licensing and Regulation (TDLR), prohibits an administrator from being responsible for the provider's compliance with financial security requirements, and removes a provision authorizing a provider to designate a person other than an administrator to be responsible for administering or selling service contracts or ensuring compliance with state regulations. The bill establishes that a provider's appointment of an administrator does not affect the provider's responsibility for compliance and that an administrator appointed to maintain a provider's records is equally responsible for compliance. The bill imposes additional requirements for registration or renewal and expands the circumstances in which a service contract holder may apply for reimbursement directly to an insurer that provides a reimbursement insurance policy to a provider.

The provisions of the bill take effect January 1, 2006, except for the changes to registration and renewal requirements for administrators, which are effective March 1, 2006.

House Bill 2382

Effective: 6-18-05

House Author: Hegar

Senate Sponsor: Staples

House Bill 2382 amends the Education Code to require the Board of Tax Professional Examiners to implement a training program for newly appointed chief appraisers. The bill requires the board to prescribe the curriculum for the training program and outlines certain topics that must be covered by the program. The bill also amends the Tax Code to prohibit a person who has not completed the training program from serving as a chief appraiser unless the person is serving in a temporary, provisional, or interim capacity for a period of up to one year.

House Bill 2856

Effective: 6-18-05

House Author: Uresti

Senate Sponsor: Ellis

House Bill 2856 repeals Occupations Code provisions relating to the regulation of career counseling services. The bill provides that a certificate of authority issued under the provisions expires on the effective date of the bill; requires that a bond filed or money deposited by a certificate holder be returned to the holder by the Texas Department of Licensing and Regulation no later than 30 days after that date; and terminates any pending proceeding that was initiated under the provisions, including a complaint investigation, a disciplinary action, or an administrative penalty proceeding.

Senate Bill 442

Effective: 6-17-05

Senate Author: Hinojosa

House Sponsor: Rose

Senate Bill 442 amends the Government Code to provide immunity from civil liability for a lottery ticket sales agent acting in good faith for an act or omission within the course and scope of the agent's license under the State Lottery Act and to set out parameters of the immunity.

Senate Bill 988

Effective: 9-1-05

Senate Author: Carona

House Sponsor: Flynn

Senate Bill 988 amends the Finance Code to increase from 15 to 30 the number of hours of approved education courses that must be completed by a person applying for a loan officer license and requires that such courses cover ethics and certain state and federal lending laws. The bill requires the Texas Finance Commission to include as approved course topics those that are acceptable to trade associations related to the loan industry and authorizes the commission to approve any course endorsed by the Texas Real Estate Commission, the Mortgage Bankers Association of America, or the National Association of Mortgage Brokers. The bill also requires the commission to adopt a rule that requires licensed mortgage brokers and loan officers to attend at least 8 hours of courses related to residential mortgage lending before renewing their licenses.

Senate Bill 1122

Effective: 9-1-05

Senate Author: West, Royce

House Sponsor: Alonzo et al.

Senate Bill 1122 amends the Government Code to increase the compensation of each member of the Board of Law Examiners to an amount that does not exceed \$30,000 a year.

Senate Bill 1290

Effective: 6-17-05

Senate Author: Wentworth

House Sponsor: Chisum

Senate Bill 1290 amends the Occupations Code to provide an exception to the application of penalties for the purchase of flammable refrigerant, refrigerant substitute, or equipment containing a liquid petroleum-based product for certain uses to allow purchase of such a product for use only in a motor vehicle if that use is authorized by the United States Environmental Protection Agency.

Amusements, Games, and Sports

House Bill 541

Effective: 6-18-05

House Author: Krusee

Senate Sponsor: Jackson, Mike

House Bill 541 amends provisions of the Occupations Code relating to the conduct of charitable raffles. The bill defines “money” as it pertains to raffle prizes to mean coins, paper currency, or a readily convertible negotiable instrument; removes provisions requiring that organizations authorized to conduct such raffles have a governing body or officers elected by its members or by delegates of its members; and removes a provision that prohibits a person who is not a member of the organization from selling or offering to sell raffle tickets, requiring only that the person be authorized by the organization to conduct such transactions. The bill places a \$250,000 limit on the value of a residential dwelling offered or awarded as a raffle prize.

House Bill 659

Effective: 9-1-05

House Author: Hupp

Senate Sponsor: Fraser

House Bill 659 amends the Occupations Code to authorize a qualified organization to conduct a “reverse raffle,” defined as a raffle in which the last ticket or tickets drawn are considered the winning tickets, and to award as a raffle prize a refund of the ticket’s purchase price. The bill authorizes the organization, after the raffle drawing has begun, to auction off additional tickets to persons present at the drawing for a price other than that printed on the ticket, to allow a ticket holder present at the drawing to resell a ticket to another person at the drawing for an amount greater than the ticket’s original price, and to allow the holder of a previously drawn ticket to buy additional chances for the ticket to be selected to win a prize or to buy additional tickets for the raffle. The bill requires that the authorized resale of a raffle ticket be made through a designated representative of the organization and that the organization retain not less than 10 percent of the resale proceeds. The bill provides that the retained amount from the resale of tickets and all proceeds from the sale of additional chances for a ticket must be spent for charitable purposes of the organization.

House Bill 1892

Effective: 6-17-05

House Author: Eiland

Senate Sponsor: Barrientos

House Bill 1892 amends the Occupations Code to exclude from regulation as an amusement ride a challenge course that is constructed and used for educational, team and confidence building, or physical fitness purposes if its operator has a combined single limit or split limit insurance policy currently in effect written by an insurance company that is authorized to do business in the state or by a surplus lines insurer or if the operator has an independently procured policy that provides a prescribed amount of liability insurance to cover injuries arising out of the use of the challenge course.

House Bill 2879

Effective: 9-1-05

House Author: Keffer, Bill

Senate Sponsor: Armbrister

Under previous law an amusement park operator was required to carry liability insurance to cover injuries arising out of the use of amusement rides in the amounts of \$100,000 per occurrence for Class A (fixed location) rides and \$1,000,000 per occurrence for Class B (other than fixed location) rides. House Bill 2879 amends the Occupations Code to require that such insurance be a combined single limit or split limit policy of either \$100,000 bodily injury and \$50,000 property damage per occurrence or \$150,000 per occurrence combined single limit for Class A rides and either \$1,000,000 bodily injury and \$500,000 property damage per occurrence

Occupational Regulation

or \$1.5 million per occurrence combined single limit for Class B rides. The bill excludes a challenge course constructed and used for educational, team and confidence building, or physical fitness purposes from regulation as an amusement ride if the operator of all or any part of such a course has the combined single limit or split limit coverage required for an amusement park operator.

Senate Bill 766

Effective: 5-9-05

Senate Author: Wentworth

House Sponsor: Chisum

Senate Bill 766 amends the Occupations Code to include a local organization that is formally affiliated with an incorporated grand lodge or similar institution organized for charitable or benevolent purposes among the qualified nonprofit organizations that are authorized to conduct a charitable raffle if they meet certain requirements.

Senate Bill 796

Effective: 9-1-05

Senate Author: Lucio

House Sponsor: Goolsby

Senate Bill 796 amends provisions of the Occupations Code relating to the regulation of combative sports to include martial arts and mixed martial arts, to exclude elimination tournaments and certain student training activities and exhibitions, and to remove provisions relating to the registration of wrestling promoters. The bill caps the gross receipts tax for a combative sports event at three percent of the amount received from ticket sales plus the lesser of three percent of the gross receipts from the sale of broadcast rights or \$30,000. Under previous law, the tax was three percent of all gross receipts from the event. The bill requires that the tax be paid no later than three business days, rather than 72 hours, after the end of the event or telecast; requires that the tax form submitted with the payment be acceptable to, rather than furnished by, the department; and allows payment by check.

Senate Bill 796 authorizes the Texas Commission of Licensing and Regulation to adopt rules governing regulated amateur events and establishes registration requirements for amateur combative sports associations, including application and fee requirements, proof of nonprofit status, and approval and annual review of association rules by the Texas Department of Licensing and Regulation. The bill requires such associations to register with the department no later than 30 days before the date an event begins and requires each contestant in the event to be an association member during that 30-day period and on the date of the event. Previously, an entry could be filed with the organization until the third day before the event. The bill also requires an association participating in an event to establish a training program for contestants and revises provisions relating to exemptions from license and bonding requirements. The bill removes requirements that all profits from an amateur event be used to develop amateur athletics and that only licensed referees or judges participate in the event. Rather than prohibiting a professional contestant from participating in an amateur event in any capacity, the bill prohibits such a professional from competing in the event.

Senate Bill 1282

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Keffer, Bill

Under previous law an amusement park operator was required to carry liability insurance to cover injuries arising out of the use of amusement rides in the amounts of \$100,000 per occurrence for Class A (fixed location) rides and \$1,000,000 per occurrence for Class B (other than fixed location) rides. Senate Bill 1282 amends the Occupations Code to require that such insurance be a combined single limit or split limit policy of either \$100,000 bodily injury and \$50,000 property damage per occurrence or \$150,000 per occurrence combined single limit for

Class A rides and either \$1,000,000 bodily injury and \$500,000 property damage per occurrence or \$1.5 million per occurrence combined single limit for Class B rides. The bill excludes a challenge course from regulation as an amusement ride if the operator of all or any part of the course has the combined single limit or split limit coverage required for an amusement park operator.

Barbering and Cosmetology

House Bill 1304

Effective: 1-1-06

House Author: Wong

Senate Sponsor: Van de Putte

House Bill 1304 amends the Occupations Code to require a person who holds a barbering or cosmetology license, certificate, or permit to sterilize and disinfect nondisposable instruments with an autoclave or dry heat, ultraviolet, or other board-approved sterilizer before using them to perform a manicure or pedicure service. The bill provides that the facility owner or manager is responsible for providing a sterilizer that meets certain requirements and that disposable supplies or instruments may be used only if purchased on-site or provided by the person receiving the service.

House Bill 2627

Effective: 6-17-05

House Author: Moreno, Paul

Senate Sponsor: Carona

House Bill 2627 amends the Occupations Code to modify the requirements for issuing a barbershop permit. The bill requires the applicant to be an owner of the shop and removes the requirements that the applicant hold a Class A barber certificate and have practiced barbering for at least 12 months.

House Bill 3149

Effective: 9-1-05

House Author: Wong

Senate Sponsor: Van de Putte

House Bill 3149 amends the Occupations Code to establish an inactive status for a cosmetology certificate or license. The bill authorizes a cosmetology certificate or license holder to submit paperwork to the Texas Cosmetology Commission requesting inactive status before the certificate or license expires and requires payment of a fee. The bill provides for maintaining inactive status and specifies that a person with an inactive certificate or license is not required to comply with continuing education requirements and is prohibited from engaging in activities that require an active certificate or license. The bill also prohibits licensed operators of cosmetology programs or businesses from employing a person with an inactive certificate or license to practice or teach cosmetology. The bill provides for the reactivation of a person's certificate or license by fulfilling certain specified actions.

Senate Bill 411

Effective: See below

Senate Author: Whitmire

House Sponsor: Hamric

Senate Bill 411 amends the Occupations Code to abolish the State Board of Barber Examiners and the Texas Cosmetology Commission and to transfer the duties and powers of barbering and cosmetology oversight and regulation to the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation. The bill establishes the commission as the rulemaking authority for matters related to barbering and cosmetology and requires the department to administer the rules. The bill creates advisory boards of barbering and cosmetology to advise the department on policy issues. The bill makes technical and conforming changes related to the transfer of duties and powers.

Occupational Regulation

The bill takes effect September 1, 2005, except sections relating to certain transition duties of the affected entities take effect June 17, 2005, and changes relating to the inactive status of a cosmetology license and sanitation requirements for certain services performed by a person holding a cosmetology or barbering license take effect January 1, 2006.

Engineering, Design, and Construction

House Bill 74

Effective: 5-24-05

House Author: Naishtat et al.

Senate Sponsor: Fraser

House Bill 74 amends the Occupations Code to allow the holder of a mold assessment license and a mold remediation license to perform both assessment and remediation services on the same project if the license holder is an employee of a school district working on a project for that district. The bill also exempts such a license holder from related conflict of interest and disclosure requirements.

House Bill 1317

Effective: 6-18-05

House Author: Driver et al.

Senate Sponsor: Armbrister

House Bill 1317 amends provisions of the Occupations Code relating to the regulation of electricians. The bill exempts from regulation, with certain qualifications, electrical work performed by a power generation company affiliated with an electrical utility, a licensed on-site sewage facility installer, or a licensed manufacturer or installer of HUD-code manufactured housing or modular housing. Also exempt is certain work involving certain activities for the manufacture of electrical equipment and work performed on a well pump or on a building or equipment used in an agricultural activity other than the processing of an agricultural commodity. The bill extends the exemption for employees of chemical and petrochemical businesses to a contract electrician who works for at least 12 months with a specific plant or refinery, with certain exceptions. The bill applies the regulations for the licensing of electricians to businesses as well as individuals and provides that a political subdivision is not required to hold an electrical contractor's or electrical sign contractor's license in order to employ a licensed electrician to perform work for the entity.

House Bill 1317 requires an applicant for a master electrician's license to have held a journeyman electrician license for at least two years and sets out the authorized activities for a master electrician. The bill establishes requirements for an electrical sign apprentice license and provides for the issuance of a temporary apprentice license. The bill also provides for issuance of an emergency electrician license to an out-of-state electrician who assists with electrical work following a disaster. The Texas Department of Licensing and Regulation (TDLR) is authorized to issue an electrician license without examination to an individual who was on active duty in the U.S. armed forces between March 1, 2004, and June 1, 2004, and who meets other requirements. This authorization expires January 1, 2007.

In addition, House Bill 1317 allows a person who holds a license issued by a municipality or region that elects to discontinue its licensing activities to apply for an equivalent state license without taking an examination if the person meets certain requirements. The bill delays until December 31, 2005, the expiration date of certain provisions concerning the regulation of electricians by local governments and requires TDLR to accept alternative documentation of on-the-job work experience for applicants in areas not supported by local licensing programs. Finally, the bill repeals a provision that allowed an electrician license that had been expired for no more than two years to be renewed by paying the required renewal and late fees.

House Bill 1573
Effective: 9-1-05

House Author: Geren
Senate Sponsor: Harris

House Bill 1573 amends the Occupations Code to specify that the term “practice of architecture” applies to a building or environs that is intended for human use or occupancy and to expand the definition of the term to include establishing and documenting the form, aesthetics, materials, and construction technology prior to construction; consulting, investigating, and analyzing those elements and providing expert opinion and testimony; preparing or supervising and controlling the preparation of architectural plans and specifications and observing work to evaluate conformance with the plans and specifications; programming for construction projects; recommending and overseeing construction project delivery systems; conducting research to expand the knowledge base of the profession; and teaching, administering, and developing pedagogical theory in academic settings.

The bill amends Civil Practice and Remedies Code provisions relating to design professionals to refer to a licensed, rather than registered, architect and to apply the term “design professional” to any firm in which a licensed architect or professional engineer practices. Previous law specified that, in any action for damages alleging professional negligence, the plaintiff is required to file an affidavit of a design professional and that failure to file the affidavit may result in dismissal with prejudice. House Bill 1573 instead specifies that, in any action or arbitration proceeding for damages arising out of the provision of professional services, other than an action for the payment of fees, the plaintiff must file an affidavit of a design professional holding the same professional license as the defendant. Failure to file the affidavit shall result in dismissal, and dismissal may be with prejudice. The bill further provides that an order granting or denying a motion for the complaint’s dismissal is immediately appealable as an interlocutory order.

House Bill 1817
Effective: 9-1-05

House Author: Driver
Senate Sponsor: Brimer

House Bill 1817 amends provisions of the Occupations Code relating to the regulation of professional engineers. The bill includes in the practice of engineering the provision of an engineering opinion or analysis relating to a certificate of merit for design professionals. It authorizes the Board of Professional Engineers to establish a late fee for renewal of an expired license in addition to the regular annual renewal fee and removes language prescribing specific annual renewal fee increases for licenses that have been expired for different amounts of time. The bill provides for the confidentiality of information relating to complaints against licensees that are determined to be frivolous or without merit and requires the board, if it does not respond to requests for advisory opinions within the required 180 days, to affirmatively state its reason for the delay or for not responding to the request at all. The bill exempts projects constructed or used in another state or country from a requirement that a licensee’s seal be placed on certain project-related documents.

House Bill 2746
Effective: 9-1-05

House Author: Deshotel et al.
Senate Sponsor: Janek

House Bill 2746 amends Occupations Code provisions relating to the licensing of mold assessors and remediators to provide that applicants required by the Texas Department of Health to take a competency examination to qualify for such a license must pass the examination with a score of 70 percent or more.

Senate Bill 443

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Blake

Senate Bill 443 amends the Occupations Code to exclude from the definition of “industrialized building” a commercial structure that exceeds three stories or 49 feet in height from the finished grade elevation at the building’s entrance to the peak of its roof and a commercial building or structure that is not on a permanent foundation and is either a non-public building or has a total area of less than 1,500 square feet and is used other than as a school or a place of religious worship. The bill replaces the term “construction site office” with “construction site building,” applies the term to a commercial structure used for any purpose at a construction site, rather than solely as an office, and extends to such structures an exemption from displaying a decal or insignia that indicates a building’s compliance with mandatory building codes. The bill provides that on-site inspections of certain industrialized buildings other than housing must be performed by approved third-party inspectors only if required by a rule of the Texas Commission of Licensing and Regulation. Previous law included a statutory requirement for such inspections.

Real Estate

House Bill 207

Effective: 9-1-05

House Author: Goodman et al.

Senate Sponsor: Brimer

House Bill 207 amends the Occupations Code to authorize the Texas Board of Professional Land Surveying by rule to adopt reduced fees for initial and renewal certificates of registration and licenses for land surveyors who are at least 65 years of age.

House Bill 1236

Effective: 5-17-05

House Author: Paxton

Senate Sponsor: Harris

House Bill 1236 amends the Occupations Code to exempt a person conducting a sale of foreclosed real property from licensing requirements for real estate brokers and salespersons.

House Bill 2179

Effective: 6-17-05

House Author: Cook, Byron

Senate Sponsor: Wentworth

House Bill 2179 amends provisions of the Occupations Code relating to the regulation of professional land surveyors to expand the definition of “professional surveying” to include the acquisition of survey data and the preparation of technical reports when those services are performed in connection with other regulated land surveying activities.

House Bill 2438

Effective: 6-18-05

House Author: Haggerty et al.

Senate Sponsor: Armbrister

House Bill 2438 amends provisions of law relating to the sale, construction, and taxation of manufactured homes. The bill amends the Occupations Code to require that an applicant for a salesperson’s license be sponsored by a licensed, bonded retailer and that a salesperson’s participation in the sale of manufactured homes be restricted to sales handled through the sponsoring retailer. The bill increases from \$20,000 to \$50,000 the security bond required for a broker’s license and allows a retailer or broker to sell a manufactured home that is outside the licensee’s authorized location if the retailer or broker states in the contract that the bond applies to the sale. The bill makes a salesperson’s license valid for two years instead of one, prohibits a licensee whose license has been suspended or revoked or has expired from performing regulated activities until the license is reinstated or renewed, and revises certification and continuing education program requirements for original and renewal applications.

House Bill 2438 requires a broker to ensure that the seller provides the buyer with the disclosure and warranties the buyer would receive if the home were purchased through a licensed retailer, revises the form requirements for consumer disclosure statements used in chattel mortgage transactions, and requires that a retailer provide the disclosure statement before the consumer completes the first credit application, rather than 24 hours before an installment contract is fully executed. The bill authorizes a retailer to withdraw an offer if the consumer does not accept it within 72 hours after delivery of the contract. The bill requires the director of the manufactured housing division of the Texas Department of Housing and Community Affairs (TDHCA) to make an independent inquiry in a case in which a consumer sustains actual damages resulting from an unsatisfied claim against a licensee to determine the damages actually incurred, unless they are established by a contested jury trial.

House Bill 2438 revises procedures relating to a manufactured home that is treated as real property, is being converted from real property to personal property, or has been declared abandoned. The bill amends provisions relating to TDHCA investigations of consumer complaints regarding manufactured home warranties and provisions relating to a warranty of habitability of a used manufactured home that is sold, exchanged, or lease-purchased for use as a dwelling. It also prohibits a person who purchases a used manufactured home for business use from knowingly allowing any person to occupy or use the home as a dwelling unless certain requirements are met and applies the same restrictions to a salvaged manufactured home.

In addition, House Bill 2438 amends the Government Code to require that a manufactured home meet certain criteria to be approved as a dwelling in a colonia and to require that these criteria be met before the owner can participate in a TDHCA grant loan program. Finally, the bill amends the Tax Code to specify that a manufactured home is an improvement to real property only if the owner has elected to treat it as real property in accordance with Occupations Code requirements. The bill establishes requirements for enforcing a tax lien against a manufactured home and prohibits transfer of title until all liens have been extinguished or released, unless the home is sold in inventory. The bill also revises language relating to recording requirements that must be met before a home's purchaser or lienholder must pay property taxes.

Senate Bill 381

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Geren

Senate Bill 381 amends provisions of the Occupations Code relating to the regulation of real estate appraisers. The bill includes appraiser trainees in provisions relating to the certification, licensing, and continuing education requirements for an appraiser and allows an authorized supervisor to oversee an appraisal conducted by an appraiser trainee. It removes a requirement that rules of the Texas Appraiser Licensing and Certification Board be no more stringent than applicable federal law and changes federal entities referenced in provisions that cite federal standards or guidelines applicable to appraisers. Requirements for specific numbers and types of hours of education and experience to obtain a license are replaced with requirements to comply with the numbers and types of hours specified in guidelines of the federal Appraisal Qualifications Board, and a holder of an appraiser license, certificate, or approval is required to comply with the most current edition of the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board or with standards set by the Texas Appraiser Licensing and Certification Board that are at least as stringent.

Senate Bill 381 requires an applicant for an appraiser license to pass the licensing examination within one year of application, after which a new application and fee must be submitted. The bill requires the application form and fee for a reciprocal certificate or license to be comparable to those for a Texas resident who applies for a similar certificate or license and increases from

Occupational Regulation

60 days to six months the maximum amount of time an out-of-state appraiser may have an appraisal business in this state. The bill also prohibits the termination of a complaint alleging a violation by a holder of a certificate, license, or approval solely on the basis that the holder failed to renew the certificate, license, or approval.

The changes relating to requirements for issuing a license or certificate apply to applications filed with the state board on or after March 1, 2006.

Senate Bill 382

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Geren

Senate Bill 382 amends provisions of the Occupations Code relating to disciplinary proceedings involving real estate appraisers and conducted by the Texas Appraiser Licensing and Certification Board. The bill applies the provisions to appraiser trainees who are approved by the board, removes a requirement that a complaint against an appraiser or trainee be in the form of an affidavit, and prohibits the termination of a complaint solely because the subject's license, certificate, or approval expires. The bill requires the board or the commissioner of the Texas Real Estate Commission to dismiss a complaint that fails to present facts that are grounds for disciplinary action, transfers from the board's presiding officer to the commissioner the authority to sign a consent order or agreement, and removes a provision that limits the option for a consent agreement to a case involving a first-time violator.

Senate Bill 382 transfers from the attorney general to an attorney representing the board certain responsibilities in a contested case, including preparing the statement of charges and presenting evidence at the hearing. The bill removes provisions requiring that copies of evidence in the case be provided to board members and authorizing board members other than the presiding officer to conduct a direct examination of a witness. The bill allows the board, rather than the presiding officer, to grant a witness immunity from disciplinary action and eliminates the requirement for a unanimous vote on granting immunity. It also requires that a written response by a contestant to the board's decision be made within 10 days of the last day of the hearing, rather than at a subsequent board meeting. Finally, the bill repeals provisions authorizing the board to consider in a contested case any facts addressed in an informal discussion, requiring certain board actions for a contested case hearing, and allowing the contestant at such a hearing to challenge the participation of a specific board member.

Senate Bill 810

Effective: 9-1-05

Senate Author: Averitt

House Sponsor: Flores et al.

Senate Bill 810 amends provisions of the Occupations Code relating to the regulation of real estate brokers, salespersons, and professional inspectors.

The bill authorizes the Texas Real Estate Commission to charge a fee of up to \$100 for attendance at a program to train instructors of continuing education courses for brokers or salespersons and authorizes the commission to issue a provisional moral character determination to an applicant for a license. The bill increases the postsecondary education requirement for a salesperson's license to include an additional core real estate course and applies all of the additional requirements previously distributed among the first, second, and third renewals to the first renewal. A provision authorizing the commission to suspend or revoke the license of a broker or salesperson who engages in certain deceptive or fraudulent activities in the broker's name is amended to also apply to activities conducted in the name of the spouse or a close relative of the licensee. The commission is further authorized to suspend or revoke a license if the licensee fails to notify the commission within a certain time that the licensee has been convicted of or entered a plea of no contest to a felony or a criminal offense involving fraud.

Senate Bill 810 specifies that a broker who lists real estate for sale under an exclusive agreement with a represented party is the party's agent, prohibits the broker from instructing another broker to negotiate with a party who is already under an exclusive agreement, and adds provisions regulating certain broker transactions. The bill requires a broker to act as an intermediary if the broker agrees to represent a buyer or tenant and a seller or landlord in a transaction.

To be eligible for a professional inspector's license, Senate Bill 810 requires a corporation or limited liability company to designate as its agent an officer, manager, or employee who is a licensed professional inspector. The bill provides uniform continuing education requirements for renewal of a real estate, professional, or apprentice inspector's license and includes inspectors under a provision prohibiting the commission from investigating a licensee in connection with a complaint submitted more than four years after the alleged incident took place.

Senate Bill 810 also amends the Property Code to prohibit a person who has a right of first refusal in a condominium from charging a fee for declining to exercise the right.

The bill requires the commission to adopt rules necessary to administer these provisions no later than January 1, 2006, and applies the changes in law made by the bill to license or renewal applications submitted on or after that date.

Security and Public Safety

House Bill 808

Effective: 6-17-05

House Author: Driver

Senate Sponsor: Brimer

House Bill 808 amends the Occupations Code to expand the list of persons and entities who are exempt from regulation under the Private Security Act to include a licensed accountant, a licensed accounting firm, an owner of an accounting firm, or an employee of an accountant or accounting firm.

House Bill 1132

Effective: 9-1-05

House Author: Haggerty

Senate Sponsor: Averitt

House Bill 1132 amends the Occupations Code to transfer the licensing duties for private security officers from the Texas Commission on Private Security to the Texas Private Security Board and to require a license holder to demonstrate compliance with certain standards for minimum marksmanship competency with a handgun, rather than a shotgun. The bill provides that an applicant who is a peace officer is not required to submit fingerprints with the application, but the officer's employer or the entity that maintains the officer's fingerprints must provide the fingerprints to the board upon request, and the officer must provide sufficient information to the board to enable it to obtain the fingerprints. House Bill 1132 also amends the Penal Code to make conforming changes relating to the transfer of licensing responsibilities.

House Bill 1393

Effective: 9-1-05

House Author: Flores et al.

Senate Sponsor: Shapiro

House Bill 1393 amends the Occupations Code to prohibit the security department of a private business from employing as a private security officer an individual who has been convicted of any of certain types of offenses. The bill revises and clarifies provisions that specify individuals and types of investigatory activities to which the Private Security Act applies.

Occupational Regulation

House Bill 1531

Effective: 9-1-05

House Bill 1531 amends the Occupations Code to provide that telematics service providers who establish a certain standard of business practices and procedures and who pay an annual fee of \$2,500 to the Department of Public Safety are exempt from the regulations of the Private Security Act.

House Author: Jackson, Jim et al.

Senate Sponsor: Harris

House Bill 2243

Effective: 9-1-05

House Bill 2243 amends the Occupations Code to include as a locksmith or locksmith company a person who services mechanical security devices and to exclude hotels. The bill prohibits a locksmith or locksmith company from performing services for an individual who seeks entry to a structure, motor vehicle, or other property unless the individual provides certain identification and authorization or unless there is an imminent threat to a person or property. The bill exempts from the provisions of the Private Security Act a retailer, wholesaler, or other seller of mechanical security devices who does not service such devices for the public on the seller's premises and who does not claim to act as a locksmith.

House Author: Jackson, Jim

Senate Sponsor: Carona

House Bill 2303

Effective: 9-1-05

House Bill 2303 amends the Occupations Code and the Penal Code to make conforming changes as a result of the abolition of the Commission on Private Security and the assumption of the commission's functions by the Department of Public Safety (DPS). The Private Security Board remains as an advisory board. The bill requires DPS to designate a DPS employee who reports directly to the board to assist in the administration of the board's duties and sets out rulemaking procedures for the board. The bill also adds new fees and increases the amounts of existing fees assessed by the Public Safety Commission for licenses, registrations, and other items related to private security personnel. Additionally, House Bill 2303 authorizes certain licensed hospitals to provide private security services for affiliated locales and entities.

House Author: Driver

Senate Sponsor: Armbrister

House Bill 3140

Effective: 6-18-05

House Bill 3140 amends the Occupations Code to provide that the Private Security Act does not apply to a manufacturer or authorized distributor who sells equipment intended for resale or does not perform any other service that requires a license under the act. The bill redefines "alarm system" and "electronic access control device" to provide that a manufacturer, authorized distributor, or installer of an electronic control device that operates for the sole purpose of providing restricted access through a door or gate and is not connected to an alarm system is exempted from private security regulation.

House Author: Hughes

Senate Sponsor: Armbrister

Senate Bill 568

Effective: 9-1-05

Senate Bill 568 amends the Local Government Code, Occupations Code, and Health and Safety Code relating to private security systems and providers of private security and personal emergency response systems. The bill includes provisions relating to municipal security system permit fees, permit issuance, renewal, and revocation for residential and multiunit housing alarm systems, and the penalty for false alarms. The bill lists the duties of an alarm systems company with respect to the distribution of certain information to customers and to information required

Senate Author: Deuell

House Sponsor: Truitt

to be provided to a municipality on system installation. Senate Bill 568 also includes provisions relating to the licensing and regulation of personal emergency response systems providers, employees, owners, and shareholders, prohibitions against certain political subdivisions acting as an alarm systems company, and penalties for certain violations.

Senate Bill 624**Effective:** 9-1-05**Senate Author:** Hinojosa**House Sponsor:** Talton

Senate Bill 624 amends Occupations Code provisions relating to the regulation of bail bond sureties to require that an applicant for a license submit documented evidence of continuous employment with a licensed surety for at least 30 hours per week, excluding annual leave, and of performance of duties that encompass all phases of the bonding business. The bill establishes that an exemption allowing a state-licensed attorney without a surety license to execute a bail bond or act as a surety for another person applies to an attorney who files a notice of appearance as counsel of record in the criminal case for which the bond was given or submits proof that such a notice was previously filed with the court in which the case is pending. Under previous law, the exemption applied to an attorney representing the other person in the case. The bill authorizes a county bail bond board to suspend or revoke the attorney's authorization to post a bond if the attorney engages in conduct that would result in the suspension or revocation of a surety license or to bar the attorney from performing surety services until a violation is remedied. The bill specifies that an attorney who is later replaced as the attorney of record is not relieved of liability on the bond solely for that reason.

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

HB 854 - Civil Remedies and Procedures

HB 2036 - Criminal Justice

SB 96 - State Government

SB 143 - Military Forces and Veterans

SB 343 - Environment

SB 415 - Human Services

Open Government and Privacy

This chapter covers legislation on issues relating to public access to 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 18

Effective: 5-24-05

House Author: Corte

Senate Sponsor: Van de Putte

House Bill 18 amends the Government Code to add a representative of a funeral home that assists in the burial of a veteran to the list of those authorized to inspect or receive a free copy of the veteran's military discharge record.

House Bill 976

Effective: 6-17-05

House Author: Madden

Senate Sponsor: Wentworth

House Bill 976 amends the open meetings law in the Government Code to authorize the Texas Building and Procurement Commission to conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated, if two conditions are met in advance of the closed meeting. The attorney advising the commission must issue a written determination finding that deliberation in an open meeting would have a detrimental effect on the state's negotiating position with a third person, and commission members must vote unanimously that it would have such a detrimental effect. The bill requires the commission to make a tape recording of the closed meeting.

House Bill 1009

Effective: 5-30-05

House Author: Corte et al.

Senate Sponsor: Gallegos

House Bill 1009 amends the Transportation Code to permit personnel authorized by the executive director or administrative head of certain maritime facilities, ports, port authorities, or navigation districts to access, use, compile, or maintain electronically readable information from driver's licenses and identification certificates for specified security related activities. The bill provides that, except to the extent it is shared with a security network or emergency operations center, such information is confidential and not subject to disclosure under state public information law.

House Bill 1285

Effective: 5-27-05

House Author: Swinford

Senate Sponsor: Wentworth

House Bill 1285 amends the Government Code to expand an exception to disclosure under the open records law for the audit working papers from certain governmental audits to include those from an audit of an airport joint board. The bill also expands the definition of an audit for such purposes to include one that is authorized or required by a municipal charter or ordinance, an order of a county commissioners court, or a resolution or other action of an airport joint board. The change to the law applies to an audit working paper created before or after the bill's effective date.

House Bill 1426

Effective: 9-1-05

House Author: Anderson

Senate Sponsor: Armbrister

House Bill 1426 broadens confidentiality provisions of the Rabies Control Act of 1981 to provide that not only information contained in a dog or cat rabies vaccination certificate but also

information in any record compiled from certificate contents is confidential and not subject to disclosure under open records law if it identifies or tends to identify an owner of an animal or the owner's address, telephone number, or other personally identifying information.

House Bill 1733
Effective: 6-18-05

House Author: Swinford
Senate Sponsor: Armbrister

House Bill 1733 amends the Agriculture Code to provide that records maintained by licensed commercial feed manufacturers and distributors, and the reports they file with the Texas Feed and Fertilizer Control Service, are confidential and not subject to disclosure under the open records law.

House Bill 2381
Effective: 9-1-05

House Author: Hegar
Senate Sponsor: Armbrister

A provision of the Government Code requires governmental bodies to post notice of meetings in a place readily accessible to the general public at all times for at least 72 hours before the scheduled meeting time. Other provisions specify particular physical locations where counties, municipalities, institutions of higher education, school districts, water districts, and other special districts and political subdivisions must post meeting notices, such as the county courthouse, city hall, or administrative offices. House Bill 2381 amends the code to provide that if the open meetings law specifically provides for Internet posting of a meeting notice by a governmental body, the requirement to post in a place readily accessible at all times is satisfied by a good-faith attempt to continuously post notice on the Internet during the 72-hour period. If the good-faith attempt is made, physical posting at a specified location must still occur, but need only be readily accessible to the public during normal business hours.

Senate Bill 121
Effective: 6-18-05

Senate Author: Duncan
House Sponsor: Gattis

Senate Bill 121 amends the Government Code to list 16 categories of governmental body investment information that are public information. The bill provides that all information prepared or provided by a private investment fund and held by a governmental body, other than information included in the 16 categories, is confidential and excepted from disclosure. It clarifies the extent of confidentiality of pre-investment and post-investment diligence information, and of certain information regarding a governmental body's direct purchase, holding, or disposal of restricted securities. The legislation does not apply to the Texas Mutual Insurance Company or its successor, and confidentiality provisions do not affect the authority of the comptroller with respect to the collection of certain economic development information.

Senate Bill 148
Effective: 5-3-05

Senate Author: Wentworth
House Sponsor: Swinford

Senate Bill 148 amends the Government Code to clarify that a peace officer photograph is an open record if the officer is a party in any civil service hearing. Previous law specified a "fire or police" civil service hearing, creating a question as to whether the provision applied to all types of peace officers.

Senate Bill 263
Effective: 9-1-05

Senate Author: Williams
House Sponsor: Otto

Senate Bill 263 amends the Tax Code to require anyone who obtains open records information relating to a taxpayer the comptroller is auditing or intends to audit, and who is not the taxpayer in question, to wait until at least the sixth day after the date the comptroller releases the information

before using it to solicit business or employment for pecuniary gain. The bill makes such use before that date subject to civil penalties of \$500 for a first violation, \$1,000 for a second violation, and \$3,000 for each subsequent violation. At the request of the comptroller or the person to whom the solicitation is addressed, the attorney general or the appropriate district or county attorney may bring an enforcement suit.

Senate Bill 286**Effective:** 1-1-06**Senate Author:** Wentworth**House Sponsor:** Baxter

Senate Bill 286 amends the Government Code to establish open meetings and open records training requirements for public officials. The training requirements apply to each elected or appointed official who is a member of a governmental body, and the open records training requirement applies also to the governing officer of a governmental body that is headed by a single officer and to the officer for public information of a governing body. A public official may designate a public coordinator to satisfy the open records training requirements if that coordinator is primarily responsible for administering open records responsibilities. However, designation does not relieve the official from the duty to comply with any other open records requirement. The bill requires the attorney general to ensure that training is made available, either by providing it directly or approving an acceptable course of training by another entity. It requires that at least one provided or approved course of training be available on videotape or a similar medium at no cost. The bill specifies compliance deadlines and training content. A certificate of training completion is admissible as evidence in a criminal prosecution under the open meetings or open records law, but it does not constitute prima facie evidence that a defendant knowingly violated such law.

Senate Bill 450**Effective:** 6-17-05**Senate Author:** Wentworth**House Sponsor:** Baxter

Senate Bill 450 amends the Government Code to add to the list of persons whose home address, home telephone number, social security number, and personal family information may be made confidential and nondisclosable under the open records law. The bill allows an employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matter to elect to restrict access to the information by notifying the governmental body that is a custodian of the information. The restriction on access does not apply to documents filed with a county clerk or district clerk or to information in an appraisal district's tax appraisal records.

Senate Bill 452**Effective:** 9-1-05**Senate Author:** Wentworth**House Sponsor:** Gattis

Senate Bill 452 amends the Government Code and the Labor Code to transfer the duties of the Texas Building and Procurement Commission relating to open records law administration, beyond its role as a member of the open records steering committee, to the attorney general.

Senate Bill 461**Effective:** 5-13-05**Senate Author:** Madla**House Sponsor:** Allen, Ray

Senate Bill 461 amends the Property Code to revise and clarify provisions designed to protect the confidentiality of personal information in an instrument that transfers an interest in real property to or from an individual and discloses the individual's social security or driver's license number. Previous law applied the provisions to a deed, mortgage, or deed of trust executed on or after January 1, 2004. The bill removes mortgages and the date limitation. It also stipulates

that previously required text in the instrument that alerts an individual to his or her right to strike either or both numbers from the document before it is filed in the public records must appear at the top of the first page. The bill amends the Local Government Code to exempt an instrument that has this text at the top of the first page from a fee increase for failure to satisfy a requirement of that code that a legal paper have a clearly identifying heading.

Senate Bill 541

Effective: 9-1-05

Senate Author: Seliger

House Sponsor: Keffer, Jim

Senate Bill 541 amends the Tax Code to prohibit posting on the Internet information in appraisal records consisting of a photograph, sketch, or floor plan of a residential improvement to property. The prohibition does not apply to an aerial photograph that depicts five or more separately owned buildings.

Senate Bill 623

Effective: 9-1-05

Senate Author: Hinojosa

House Sponsor: Pena

Under the Government Code, if an open records request will result in charges that exceed \$50 or \$100, depending on the number of full-time employees in the governmental body to whom the request is addressed, a bond or deposit may be required from the requestor for payment of anticipated costs. Senate Bill 623 amends the code to provide that a requestor who fails to post the bond or deposit before the 10th day after the bond or deposit is required is considered to have withdrawn the open records request.

Senate Bill 690

Effective: 6-17-05

Senate Author: Zaffirini

House Sponsor: Swinford

Senate Bill 690 amends the Government Code to provide that the mandate that a governmental body give written notice of a meeting does not require the governmental body that recesses an open meeting to the next regular business day to post notice of the continuation if the action is taken in good faith and not to circumvent the open meetings law. However, if the continuation on the next day is followed by a continuation to another day, new notice is required. The bill also provides that if a governmental body is prevented by a catastrophe from convening an open meeting for which notice was properly posted, the governmental body may convene the meeting within 72 hours via procedures for notice of an emergency meeting as long as the action is taken in good faith and not to circumvent the law. If the governmental body is unable to convene within that 72 hours, it may subsequently convene only by following standard meeting notice procedures. The bill defines the various types of catastrophes to which the provision applies.

Senate Bill 727

Effective: 9-1-05

Senate Author: Wentworth

House Sponsor: Gattis

Senate Bill 727 amends the Government Code to give an open records requestor 10 business days, rather than 10 calendar days, to complete examination of public information supplied under the law. If the requestor does not finish and does not request additional time, the request is considered to have been withdrawn. The bill gives a requestor 30 calendar days to respond to a written statement from a governmental body advising the requestor that the request will require extraordinary programming or other manipulation of data and associated extra costs. Absent a timely response, the request is considered to have been withdrawn. The bill requires a governmental body that refers a request to the attorney general's office for an open records opinion to send a copy of the comments submitted in conjunction with that referral to the requestor, with redactions if the comments disclose or contain the substance of the requested

information. Failure to send required information relating to the referral to the requestor creates a presumption that the requested information is public and forces release of the information unless there is a compelling reason to withhold it. Another person who submits written comments on the matter to the attorney general must provide copies of those comments to both the governmental body and the requestor, with redactions as necessary in the copy supplied to the requestor.

Senate Bill 727 transfers functions relating to open records from the Texas Building and Procurement Commission (TBPC) to the attorney general, comparable to Senate Bill 452. The bill revises the composition of the open records steering committee to replace the TBPC representative with a second representative of the attorney general's office and to provide for the attorney general to designate one of the office's two representatives as committee chair.

Senate Bill 1133
Effective: 1-1-06

Senate Author: Hinojosa
House Sponsor: Gonzales

Senate Bill 1133 amends the Government Code to require a county, municipality, school district, development corporation, or the governing body of a junior college or junior college district, if the entity has an Internet website, to post notice of a meeting on the website. Certain entities must also post the agenda for a meeting on the website. The bill does not apply to a deliberative body with rulemaking or quasi-judicial powers that is a sub-unit of a county or municipality.

Senate Bill 1485
Effective: 6-17-05

Senate Author: Williams
House Sponsor: Wong

Senate Bill 1485 amends the Government Code to except the social security number of a living person from public disclosure requirements under the open records law. The bill authorizes a governmental body to redact the social security number of a living person from any information it discloses under that law without having to request an open records decision from the attorney general.

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

- HB 1474 - Public Officials and Employees
- HB 2197 - Corrections
- SB 256 - Public Education

Parks and Wildlife

This chapter covers legislation on issues relating to parks and wildlife, including hunting, fishing, use and maintenance of public recreation areas, public safety, and the Parks and Wildlife Department. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 505

Effective: 9-1-05

House Author: Hilderbran et al.

Senate Sponsor: Madla

House Bill 505 amends the Parks and Wildlife Code to make it a Class C Parks and Wildlife Code misdemeanor offense to discharge a firearm across a property line while hunting or shooting recreationally, with certain exceptions.

House Bill 506

Effective: 9-1-05

House Author: Hilderbran

Senate Sponsor: Jackson, Mike

House Bill 506 amends the Parks and Wildlife Code to prohibit hunting or taking any wild animal or bird when on or over privately owned land that is submerged under public water and is clearly marked as private land.

House Bill 883

Effective: 5-27-05

House Author: Seaman et al.

Senate Sponsor: Armbrister

House Bill 883 amends the Transportation Code to provide a law enforcement agency with the option to dispose of abandoned watercraft by transferring it to the Parks and Wildlife Department for use in construction of artificial reefs or for other purposes. The bill amends the Parks and Wildlife Code to allow the department to authorize a person to place donated reef materials in a permitted zone in accordance with department rules and guidelines.

House Bill 942

Effective: 9-1-05

House Author: Geren

Senate Sponsor: Deuell

House Bill 942 amends the Parks and Wildlife Code to change the definition of “antique boat” to include a boat manufactured 35 years before the date on which a validation decal is issued, rather than before 1968.

House Bill 943

Effective: 6-17-05

House Author: Geren

Senate Sponsor: Deuell

House Bill 943 amends the Parks and Wildlife Code to provide that when administration of an estate is not required by law, an affidavit used to prove that a person is entitled to a certificate of title for a vessel or outboard motor must include a showing that administration of the estate is not required, a list of all heirs of the estate, and a statement by the heirs of the name that should appear on the certificate.

House Bill 1636

Effective: 6-18-05

House Author: Allen, Ray

Senate Sponsor: Armbrister

House Bill 1636 amends the Parks and Wildlife Code to authorize the Texas Parks and Wildlife Commission to prescribe the proof of residency required to obtain a Texas Parks and Wildlife Department permit or license and to adopt residency related rules for remote control hunting. The bill provides that a rule may prohibit remote control hunting by a class or classes

Parks and Wildlife

of persons as long as the prohibition is not based on residency status. The bill establishes that a violation of such a rule is a Class A Parks and Wildlife Code misdemeanor and that each animal hunted or caught is a separate violation.

House Bill 1959

Effective: 9-1-05

House Author: McReynolds

Senate Sponsor: Armbrister

House Bill 1959 amends the Parks and Wildlife Code to provide an enforcement tool to the Texas Parks and Wildlife Commission to deter the unlawful hunting of deer with dogs in 22 East Texas counties where the practice is most prevalent. The bill prohibits reckless hunting of deer with dogs and authorizes the commission to prescribe types of firearms that may be used when hunting with a dog on another person's property during open deer season. The bill authorizes the commission to allow use of a dog to track a wounded deer. The bill classifies a violation of the law or commission rules as a Class A Parks and Wildlife Code misdemeanor and provides penalties.

House Bill 2026

Effective: 6-18-05

House Author: Hilderbran

Senate Sponsor: Jackson, Mike

House Bill 2026 amends provisions of the Parks and Wildlife Code, Government Code, and Health and Safety Code relating to wildlife management.

The bill adds "exotic animals" to the list of game animals that the Texas Parks and Wildlife Department is authorized to confiscate with reason. Furthermore, the expense of any storage, care, feeding, or processing that results from the confiscation of an unlawfully possessed game animal may be assessed against the violator. The bill allows the department to auction confiscated live game to the highest bidder in a certain manner.

House Bill 2026 amends a number of provisions relating to the Game Breeder's License, the Game Bird Breeder's License, private bird hunting areas, and tagging requirements for breeders of game animals. The bill defines "game animal" and prohibits selling such an animal without a license. The bill eliminates the 8,000 acreage cap for a private bird hunting area. "Game birds" and "migratory game birds" are defined and game bird eggs are added to the regulatory scheme governing buying, selling, and possessing game birds.

House Bill 2026 prohibits a person from engaging in computer-assisted remote hunting or providing or operating facilities for computer-assisted remote hunting if the animal being hunted is located in Texas. The offense ranges from a Class B to a Class A Parks and Wildlife Code misdemeanor. Simply providing materials that can be used in the process of computer-assisted hunting, such as a computer or camera, does not constitute an offense.

The bill makes an exception in the statute that forbids a person from hunting wild animals and birds from a boat or watercraft on public water to allow for the hunting of alligators, frogs, and turtles. It eliminates the requirement to hold an alligator hunter's license when hunting alligator and prohibits a person from leaving any public or private water with potentially harmful aquatic plants clinging to the owner's vehicle, boat, or trailer.

The bill clarifies that regulations authorizing a taxidermist to sell, for cost recovery, unclaimed mounted or tanned game animals or birds apply to lawfully taken animals and birds, exclusive of migratory birds. It sets out the documentation requirements of such a sale. House Bill 2026 also provides that, in addition to damages, the actual cost of investigation, reasonable attorney's fees, and reasonable expert witness fees incurred by the department in a civil suit against a person who violates certain law and causes loss in the value of fish, shellfish, reptiles, amphibians, birds, or animals may be recovered. Additionally, the bill makes the Health and Safety Code chapter relating to regulation of animals inapplicable to certain cougar, bobcat, or coyote control activities in certain small counties.

House Bill 2027**Effective:** 9-1-05**House Author:** Hilderbran**Senate Sponsor:** Armbrister

House Bill 2027 amends the Parks and Wildlife Code to prohibit a person from firing a gun or shooting an arrow when on or in the bed or bank of a navigable river or stream located wholly or partly in Dimmit, Edwards, Frio, Kenedy, Llano, Maverick, Real, Uvalde, or Zavala County, or if the ammunition or arrow could come into contact with the bed or bank of one of these rivers or streams. The prohibition does not apply to a peace officer or Texas Parks and Wildlife Department employee acting in an official capacity or to discharge of shot from a shotgun.

House Bill 2032**Effective:** 9-1-05**House Author:** Hilderbran**Senate Sponsor:** Estes

House Bill 2032 amends the Parks and Wildlife Code to authorize the use of operation game thief fund money for relevant technology. The bill updates the requirements for applying for a reward under the fund and expands the scope of the fund to cover violations of statutes relating to, among other offenses, arson and property damage, theft, tampering with government records, boating while intoxicated, intoxication assault and manslaughter, and compromising water quality.

House Bill 2037**Effective:** 9-1-05**House Author:** Allen, Ray et al.**Senate Sponsor:** Seliger

House Bill 2037 amends the Parks and Wildlife Code to authorize a court, upon convicting a person of hunting or catching an animal on someone else's property without permission, to order the destruction or forfeiture of a weapon or other personal property, other than a vehicle, aircraft, or vessel, used in committing the offense. The bill provides guidelines for disposition of the forfeited property by the Texas Parks and Wildlife Department.

House Bill 2555**Effective:** 5-24-05**House Author:** Kuempel**Senate Sponsor:** Harris

House Bill 2555 amends the Parks and Wildlife Code to provide a defense to prosecution for illegal hunting if a person, for humane reasons, kills a game animal or game bird that is found mortally wounded or behaving in a manner that leads the person to believe it is a danger to itself or others. The bill authorizes the Parks and Wildlife Commission to establish rules governing the disposition of an animal that has been killed for humane reasons.

House Bill 2942**Effective:** 8-29-05**House Author:** Eiland**Senate Sponsor:** Jackson, Mike

House Bill 2942 amends the Parks and Wildlife Code to extend current limits on fee increases for wholesale and retail fish dealer's licenses, retail dealer's truck licenses, and commercial bay and commercial gulf shrimp boat licenses until September 1, 2007.

House Bill 3024**Effective:** 9-1-05**House Author:** Cook, Byron**Senate Sponsor:** Brimer

House Bill 3024 amends the Agriculture Code to provide that an aquaculture license is not required for the sale of fish by the owner of a private facility on private land if the fish are collected from the facility to manage the facility's fish population, the person collecting the fish and the buyer each hold an aquaculture license, and the fish are not on the Parks and Wildlife Department's list of exotic fish, shellfish, and aquatic plants. The bill requires the seller and the buyer to maintain a record of the sale for at least one year and requires the buyer to submit

Parks and Wildlife

a copy of the sale invoice to the Parks and Wildlife Department. The bill also exempts such a sale from department regulations relating to the sale and purchase of protected fish, certain freshwater fish, and fish from public fresh water.

House Bill 3144

Effective: 9-1-05

House Author: Hughes

Senate Sponsor: Eltife

House Bill 3144 amends the Parks and Wildlife Code to prohibit a person from using a boat or other floating device to hunt or access land to hunt any wild bird or wild animal on the part of Big Sandy Creek in Wood County that is east of Texas Farm-to-Market Highway 2869 and within 2.18 miles of that highway, or between Texas Farm-to-Market Highway 2869 and Texas Farm-to-Market Highway 49. The bill establishes penalties for violating this prohibition.

House Bill 3269

Effective: 6-18-05

House Author: Blake et al.

Senate Sponsor: Staples

House Bill 3269 amends the Government Code to require the Texas Historical Commission, in cooperation with the National Park Service, to administer and coordinate the efforts of state and local public and private entities to preserve El Camino Real de los Tejas National Historic Trail. The bill also requires the commission to develop educational and interpretative programs relating to the trail.

Senate Bill 272

Effective: 5-20-05

Senate Author: Williams et al.

House Sponsor: Seaman

Senate Bill 272 amends the Parks and Wildlife Code to establish an oyster license moratorium program, to be effective until September 1, 2010, to promote efficiency and economic stability in the oyster industry. The bill enumerates requirements for issuing and renewing a commercial oyster boat license and creates the Oyster License Moratorium Review Board and outlines the board's duties.

Senate Bill 454

Effective: 5-20-05

Senate Author: Armbrister

House Sponsor: Seaman

Senate Bill 454 amends the Parks and Wildlife Code to establish a gulf shrimp license moratorium program, to be effective until June 1, 2010, to promote efficiency and economic stability in the gulf shrimping industry. The bill enumerates requirements for issuing and renewing a commercial gulf shrimp boat license and creates the Gulf Shrimp License Moratorium Review Board and outlines the board's duties. It also makes changes in the design of a commercial shrimp boat license.

Senate Bill 489

Effective: 9-1-05

Senate Author: Estes

House Sponsor: Geren

Senate Bill 489 amends the Parks and Wildlife Code to authorize the Texas Parks and Wildlife Commission to adopt rules establishing license revocation and suspension procedures, prescribing license requirements, and prescribing license agreement forms relating to marine dealers, distributors, and manufacturers. The bill also requires a dealer, distributor, or manufacturer to enter into a license agreement with the Texas Parks and Wildlife Department and removes from the definition of "dealer" the language specifying that a dealer has an established or permanent place of business in Texas.

Senate Bill 804**Effective:** 6-17-05**Senate Author:** Averitt**House Sponsor:** Hilderbran

Senate Bill 804 amends the Parks and Wildlife Code to stipulate that money collected by a license deputy, or a license deputy's employee or agent, from the sale of a Texas Parks and Wildlife Department license, stamp, permit, or tag, minus the authorized sales commission, is held in trust for the state until the money is transferred to the state treasury. The bill establishes that a license deputy is liable to the department for the full amount of the money held in trust.

Senate Bill 1192**Effective:** 6-17-05**Senate Author:** Estes**House Sponsor:** Hilderbran

Senate Bill 1192 amends the Parks and Wildlife Code to reduce the number of stamps required to hunt birds from three to two by establishing the migratory and upland game bird stamp. The bill defines migratory and upland game birds and prohibits hunting them without the appropriate stamp and a hunting license, providing a penalty for a violation. The bill provides for the issuance, design, and cost of stamps and related stamp products and authorizes the revenue from the net proceeds of the stamps to be used for migratory and upland game bird research and management related activities. The bill also provides for funding the acquisition, lease, or development of appropriate habitats, including habitats in countries outside the United States that provide migratory habitat for the Central Flyway. The bill provides for reciprocal agreements with neighboring states and for the use of funds that remain in the white-winged dove, waterfowl, and turkey stamp accounts.

Senate Bill 1271**Effective:** 8-29-05**Senate Author:** Jackson, Mike**House Sponsor:** Eiland

Senate Bill 1271 amends the Parks and Wildlife Code to extend current limits on fee increases for wholesale and retail fish dealer's licenses, retail dealer's truck licenses, and commercial bay and commercial gulf shrimp boat licenses until September 1, 2007.

Senate Bill 1311**Effective:** See below**Senate Author:** Hinojosa**House Sponsor:** Hilderbran

Senate Bill 1311 amends the Parks and Wildlife Code to create an off-highway vehicle trail and recreational area program administered by the Texas Parks and Wildlife Department to establish and improve off-highway trails and sites and to foster responsible off-highway vehicle use. The bill sets out provisions relating to a required decal and fee, exemptions, disposition of fees, other revenue, grants, and the establishment and use of the off-highway vehicle trail and recreational area account. Additionally, the bill makes it a Class C Parks and Wildlife misdemeanor to operate a vehicle on such trails without the required decal. All provisions of Senate Bill 1311 take effect September 1, 2005, except the provision requiring the purchase of a decal, which takes effect January 1, 2006.

Senate Bill 1455**Effective:** 6-17-05**Senate Author:** Wentworth**House Sponsor:** Krusee

Senate Bill 1455 amends the Parks and Wildlife Code to extend the deadline to acquire a habitat preserve for a regional habitat conservation plan. The bill also delineates different requirements for the acquisition of land based on whether it is designated as a proposed habitat preserve before the date a federal permit is issued or designated on or after the date. The bill eliminates provisions prohibiting plan participants from applying for a federal permit if a filed grievance relating to the development of the plan has not been dismissed or appropriately

Parks and Wildlife

addressed according to a determination by the Texas Parks and Wildlife Commission. The bill authorizes, after notice and hearing by the governmental entities participating in a regional habitat conservation plan, the plan, including any mitigation fees, and the size of the proposed habitat preserve to be based partly on any criteria developed under a recovery plan in accordance with the federal Endangered Species Act and applicable to each endangered species to be protected under the plan.

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

HB 422 - Local Government

HB 1076 - Military Forces and Veterans

HB 2685 - Public Officials and Employees

SB 602 - Transportation

Probate and Guardianship

This chapter covers legislation on issues relating to matters of probate, guardianship, and trusts, including transfers of certain property, the incorporation of certain provisions from the Uniform Trust Code, and the management and administration of a guardianship or a trust. Related bills that are summarized in other chapters are listed at the end of this chapter.

House Bill 204

Effective: 9-1-05

House Author: Goodman

Senate Sponsor: Harris

House Bill 204 amends the Family Code and the Texas Probate Code to prohibit an individual adopted during adulthood from inheriting from or through the adult's biological parent through intestate succession.

House Bill 230

Effective: 9-1-05

House Author: Hartnett

Senate Sponsor: Harris

House Bill 230 amends the Texas Probate Code to add to the listing of grounds for removal of a guardian to include neglecting the ward.

House Bill 637

Effective: 9-1-05

House Author: Goolsby

Senate Sponsor: Zaffirini

House Bill 637 amends the Probate Code to allow a parent or managing conservator of a minor without guardianship or a guardian of a minor ward to apply to the court on behalf of the minor or ward for a home equity loan that is secured wholly or partly by a lien on a residence homestead in which the minor or ward has an ownership interest of not greater than \$100,000 and, in the case of a parent of a minor, in which the parent has a homestead interest. The bill requires that such a loan be used only to make improvements or repairs to the homestead, to pay for educational or medical expenses of the minor or ward, or to pay the outstanding balance of the loan. The bill requires the parent, managing conservator, or guardian to make an annual accounting of the loan with the court, including the expenditure of the loan proceeds, and prohibits the minor or ward from disaffirming the loan.

House Bill 934

Effective: 9-1-05

House Author: Taylor

Senate Sponsor: Hinojosa

House Bill 934 amends the Property Code to extend to 25 days the amount of time, prior to a hearing, that the attorney general must receive notice of any proceeding involving a charitable trust. The bill provides for the applicability of the notice requirement to certain proceedings under the Texas Probate Code.

House Bill 1186

Effective: 9-1-05

House Author: Hartnett

Senate Sponsor: West, Royce

House Bill 1186 amends provisions of the Texas Probate Code relating to testamentary and nontestamentary transfers of property and other benefits, as well as to the jurisdiction of courts over certain probate matters. The bill clarifies that, under certain circumstances, a party to a proceeding may file a motion for assignment of a statutory probate court judge before the matter becomes a contested probate matter. The bill provides that a devise or bequest of property in a will is void if made to certain attorneys involved in the preparation of the will and specified relatives or employees of that attorney. House Bill 1186 provides that the debt of an estate will attach to a devise unless it is specifically stated that the devise passes without being subject to

certain debts, although the rights of creditors are unaffected. The bill establishes that unless an affidavit is filed to the contrary, the court is required to set apart the homestead for the use and benefit of the surviving spouse and minor children, as well as certain other property of the estate. The bill sets out additional procedures for the handling of certain matured secured claims against an estate for a debt that would otherwise pass with the property securing the debt. The bill further provides that certain transfers of property or other benefits made by means of a living trust to a spouse are voided in the event of a divorce and sets out provisions relating to liability for certain payments, benefits, and property in connection with the transfers.

House Bill 1190
Effective: 1-1-06

House Author: Hartnett
Senate Sponsor: Harris

House Bill 1190 amends the Property Code to incorporate certain provisions of the Uniform Trust Code (UTC). The bill details provisions in the trust instrument that cannot be overridden by UTC rules, including the duty to account to first-tier beneficiaries and the power of a court to take action or exercise jurisdiction with respect to the trust. The bill revises the definition of “settlor” to include all contributors to a trust and defines “breach of trust” as a violation by a trustee of a duty the trustee owes to a beneficiary.

House Bill 1190 permits a person named as trustee to take limited actions to preserve or investigate trust property without accepting the trust. The bill clarifies existing law to assure that spendthrift trusts do not lose spendthrift protection because the trustee also is a beneficiary of the trust, so long as the authority to make distributions to a beneficiary is limited to an ascertainable standard such as health, education, maintenance, or support. It also clarifies existing law regarding spendthrift protection as it relates to certain powers of appointment. House Bill 1190 permits creating a trust to care for an animal that is alive during the settlor’s lifetime and provides a means for enforcing the trust should the settlor fail to provide that means expressly in the trust. The bill expands the ability of a court to modify or terminate an irrevocable trust under certain circumstances.

House Bill 1190 authorizes the division or combination of trusts for any reason, so long as the rights of beneficiaries are not impaired and the achievement of the purpose of the trust is not adversely affected. The bill permits the trustee to manage a distribution as a separate fund for the beneficiary, subject to the beneficiary’s continuing right to withdraw the distribution, and to make pro rata distributions and divisions of trust property. The bill also adds acting in good faith to the trustee’s general duty to administer the trust and makes it clear that a court may order a trustee to post a bond in an appropriate case even if the trust instrument does not require a bond. It provides that a trustee has a duty to keep beneficiaries reasonably informed concerning the administration of the trust and the material facts necessary for the beneficiaries to protect their interests. It also sets out procedures for an instance in which cotrustees are unable to reach a unanimous decision.

House Bill 1190 clarifies that when someone other than the trustee is given the power to modify or terminate a trust, the person acting in that capacity owes fiduciary duties to the beneficiaries. The bill sets out provisions relating to the exculpation of trustees and remedies for a breach of trust.

House Bill 1190 clarifies that a court may intervene in the administration of a trust to the extent its jurisdiction is properly invoked, but that a trust is not subject to continuing judicial supervision unless the court orders such supervision. The bill permits a guardian ad litem to consider the general benefit accruing to the living members of his client’s family.

House Bill 1190 removes the provision that an adjustment to a trust that reduces income in a qualified terminable interest property trust disqualifies the trust. The bill clarifies that a court that creates a trust under Section 142.005 of the Property Code has continuing jurisdiction and supervisory power over the trust and may construe, amend, revoke, modify, or terminate the trust.

House Bill 1191
Effective: 9-1-05

House Author: Hartnett
Senate Sponsor: Harris

House Bill 1191 amends the Texas Probate Code to clarify matters relating to guardianship. The bill provides that in reviewing whether a guardianship should be continued, modified, or terminated, a statutory probate court may review any report prepared by a guardian ad litem and clarifies provisions concerning the records relating to a transfer of an order of removal. The bill sets out procedures whereby a person appointed by the court investigates whether a ward is no longer an incapacitated person or whether a modification of the guardianship is necessary. House Bill 1191 shortens from 90 days to 30 days the time period within which a guardian is required to return the inventory of the property of the guardianship estate. The bill provides that when different persons have guardianship of a ward and the estate of a ward, the court's order setting a monthly allowance must specify the amount set by the court for the education and maintenance of the ward. The bill removes the mandatory notice requirement of a guardian when purchasing certain property from the estate. The bill requires a guardian to file a written application to invest in or sell securities under certain investment plans. House Bill 1191 further provides that a person for whom a certain temporary guardian is appointed may not be presumed to be incapacitated.

House Bill 1472
Effective: 9-1-05

House Author: Casteel
Senate Sponsor: Wentworth

House Bill 1472 amends the Texas Probate Code to expand the list of persons who may apply for the creation of a guardian management trust, known as an 867 trust, to include any person who is interested in the welfare of an alleged incapacitated person who does not have a guardian of his/her estate. The bill clarifies that an 867 trust can be created without the need to create a guardianship if the court finds it is in the person's best interest and sets out relevant court proceedings.

House Bill 1501
Effective: 9-1-05

House Author: Casteel
Senate Sponsor: Wentworth

House Bill 1501 amends the Texas Probate Code to authorize a court to allow the guardian of an estate to make tax-motivated gifts on an annual or other periodic basis, without subsequent application to the court, provided that the court finds that the gift would be and continues to be in the best interest of the ward and the ward's estate.

House Bill 3240
Effective: 1-1-06

House Author: Paxton
Senate Sponsor: Averitt

House Bill 3240 amends the Tax Code to clarify that a trust created by court order has the same effect as a qualifying trust in relation to certain residence homestead tax exemptions.

House Bill 3434
Effective: 6-17-05

House Author: Hartnett
Senate Sponsor: Wentworth

House Bill 3434 amends the Property Code and the Texas Probate Code to extend by three business days the time for a temporary administrator in the interest of an estate of a dependent to

Probate and Guardianship

file a bond with the county clerk. The bill also requires a court to appoint estate appraisers for good cause on its own motion or on the motion of an interested party. The bill further provides that a trustee is prohibited from prosecuting or asserting a claim for damages in a cause of action against a party who is not a beneficiary of the trust, under certain conditions.

Senate Bill 346

Effective: 4-27-05

Senate Author: Wentworth

House Sponsor: Naishtat

Senate Bill 346 amends the Texas Probate Code to require a guardian to file an inventory of the guardianship estate within 30, rather than 90, days of qualifying or be subject to removal as guardian to conform to previously enacted law.

Senate Bill 347

Effective: 9-1-05

Senate Author: Wentworth

House Sponsor: Hartnett

Senate Bill 347 amends the Texas Probate Code to provide that a court must show good cause before ordering an appraisal of the estate of a decedent or the estate of a ward.

The summary for the following bill is in the listed chapter:

HB 1404 - Courts

Property Interests

This chapter covers legislation on issues relating to property interests, including eminent domain, the landlord-tenant relationship, local government regulation, property owners' associations, public lands, and real property. Bills relating to property taxation are in the **Taxes and Tax Administration** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 1011
Effective: 9-1-05

House Author: Hilderbran
Senate Sponsor: Williams

House Bill 1011 amends the Health and Safety Code to authorize, rather than require, a district court, upon a petition by the property owner, to order the removal of a dedication of an abandoned or previously unknown cemetery. The bill also requires that the Texas Historical Commission and the local county historical commission be notified of such a petition and authorizes them to intervene and become parties to the suit.

House Bill 1045
Effective: 1-15-06

House Author: Goolsby
Senate Sponsor: Wentworth

House Bill 1045 amends the Texas Timeshare Act in the Property Code. It includes provisions relating to the duties of the Texas Real Estate Commission to administer the act, responsibilities of owners and developers, advertisements and promotions, disclosure statements, exempt offerings, contract requirements and the purchaser's right to cancel, liability of exchange companies, escrow and trust accounts, annual fees and expense statements, entities that manage multiple properties, and record retention.

House Bill 1919
Effective: 1-1-06

House Author: Allen, Ray
Senate Sponsor: Harris

House Bill 1919 amends the Property Code to establish a notice requirement for a seller of residential real property that is located in a municipality-established public improvement district and that consists of not more than one dwelling unit located in this state. The bill requires such a seller to give to the purchaser of the property a prescribed written notice relating to the purchaser's obligation to pay a public improvement district assessment, and it requires the notice to be delivered to the purchaser before the effective date of an executory contract binding the purchaser to purchase the property. It identifies certain transfers of property to which the notice requirement does not apply, and it allows the purchaser to terminate the contract within a specified period if the seller did not provide the notice at the time the parties entered into the contract. It provides that the purchaser's right to terminate the contract is the purchaser's exclusive remedy for the seller's failure to provide the notice.

House Bill 2921
Effective: 6-17-05

House Author: Pitts
Senate Sponsor: Averitt

House Bill 2921 limits a railroad company's condemnation power relating to property for a terminal switching railroad that handles a certain number of carloads a year and operates in a single county with a population of 110,000 or more that is not adjacent to the Texas border

Property Interests

and does not contain a portion of a national forest. The bill provides that this power does not apply to property used for or designated under zoning regulations for residential use, unless the proposed use conforms with local zoning or development regulations.

Senate Bill 7 (2nd C.S.)

Effective: 9-1-05

Senate Author: Janek et al.

House Sponsor: Woolley et al.

Senate Bill 7 amends the Education Code, Government Code, and Transportation Code to prohibit a governmental or private entity from taking private property through the power of eminent domain if the taking confers a private benefit on a particular private party or if the taking is for primarily economic development purposes. The bill enumerates exceptions to the prohibition and provides that a governmental or private entity's determination that a taking does not violate the prohibition does not create a presumption with respect to whether the taking violates the prohibition. The bill establishes an interim committee to study the use of the power of eminent domain, enumerates its research requirements, and sets out deadlines.

Senate Bill 224

Effective: 6-17-05

Senate Author: Ellis

House Sponsor: Wong

Senate Bill 224 amends the Special District Local Laws Code and other state statutes to expressly prohibit certain management, improvement, and development districts from exercising the power of eminent domain.

Senate Bill 439

Effective: 9-1-05

Senate Author: Gallegos

House Sponsor: Solis

Senate Bill 439 amends the Property Code to require that a citation in a lawsuit to recover possession of premises must include explicit and specific notice that failure to appear for trial may result in a default judgment being entered against the defendant.

Senate Bill 644

Effective: 5-17-05

Senate Author: Wentworth

House Sponsor: Casteel

Senate Bill 644 amends provisions of the Civil Practice and Remedies Code and Tax Code relating to a tax sale of real property. The law requires a person, for the person to be eligible to purchase real property at a tax sale, to obtain from the tax assessor-collector of the county in which the tax sale is being conducted a statement declaring that the purchaser has no delinquent local ad valorem taxes. This bill exempts a tax sale of real property in counties with a population of 250,000 or less from the provisions unless the county commissioners court has adopted the provisions requiring the purchaser to obtain the statement.

Senate Bill 1273

Effective: 9-1-05

Senate Author: Jackson, Mike

House Sponsor: Geren

Senate Bill 1273 creates the Texas farm and ranch lands conservation program, administered by the General Land Office, and the Texas farm and ranch lands conservation fund in the Natural Resources Code to enable and facilitate the purchase and donation of agricultural conservation easements. The bill also creates the Texas Farm and Ranch Lands Council to advise the commissioner of the General Land Office on the program, administer the fund, and select applicants to receive grants from the fund. The bill includes provisions relating to the terms of an agricultural conservation easement, termination of an easement and repurchase by a landowner, protected land and notice of taking, criteria for awarding grants, the effect of an easement on tax appraisal, and reporting a purchase of an easement to the Texas Department of Transportation.

Senate Bill 1589
Effective: 9-1-05

Senate Author: Carona
House Sponsor: Swinford

Senate Bill 1589 amends the Government Code to establish procedures to be followed by the secretary of state or a county clerk who believes in good faith that a filed document to create a lien is fraudulent. The bill directs the secretary of state to request assistance from the attorney general, and the county clerk to request assistance from the county or district attorney, to determine whether the document is fraudulent before filing or recording it. Both officials are required to request additional documentation supporting the existence of the lien from the prospective filer and to forward any resulting documentation to the attorney general or to the county or district attorney, as applicable.

Senate Joint Resolution 40
For Election: 11-8-05

Senate Author: Eltife
House Sponsor: Hughes

Senate Joint Resolution 40 proposes an amendment to the state constitution to relinquish and release any state claim to sovereign ownership or title to interest, including mineral rights, in certain tracts of land in Upshur and Smith Counties. The provisions of the amendment do not apply to certain types of land, including public rights-of-way, navigable waterways owned by a governmental entity, and land owned by a governmental entity for public use.

Landlord-Tenant

House Bill 62
Effective: 9-1-05

House Author: McClendon
Senate Sponsor: Eltife

House Bill 62 amends the Property Code to establish procedures for appealing a residential eviction suit. The bill authorizes a tenant in a residential eviction suit who is unable to pay the costs of appeal or file an appeal bond to appeal the judgment of the justice court by filing with the court a sworn pauper's affidavit containing certain information regarding the tenant's financial circumstances. The bill establishes deadlines for filing and contesting the affidavit and holding a hearing. The bill provides for payment of rent during any appeal of an eviction case for nonpayment of rent if the justice court enters judgment for the landlord, if the tenant appeals by filing a pauper's affidavit, if the tenant's rent during the rental agreement term has been paid wholly or partly by a government agency, and if the tenant objects to the justice court's ruling regarding the portion of rent that must be paid into the county court registry by the tenant. It also establishes procedures for issuing a writ of possession if the tenant fails to pay rent during appeal. If, during appeal, a government agency does not pay its portion of the tenant's rent, the bill authorizes the landlord to file a motion with the county court requesting that the tenant be required to pay the full amount of each rental period's rent. The bill requires the county court to grant the motion if the landlord establishes by credible evidence certain facts relating to the rent owed by the agency.

House Bill 1399
Effective: 1-1-06

House Author: Dutton
Senate Sponsor: Whitmire

House Bill 1399 amends the Property Code to require that a landlord in a multiunit complex provide tenants with a copy of the landlord's vehicle towing and parking rules and any subsequent rule changes. The bill provides the format for the rules if they are contained in or attached to the lease agreement and requires that they be signed by the tenant. The bill establishes that a landlord who violates this provision is liable for a \$100 civil penalty and for any towing or storage costs incurred by the tenant or any vehicle damage that results from the towing.

Property Interests

Senate Bill 399

Effective: 6-18-05

Senate Author: Madla

House Sponsor: Bohac

Senate Bill 399 amends the Property Code to establish liability for a fine imposed on a landlord by a governmental entity, and it amends the Local Government Code to establish liability for a violation of a county or municipal rule or ordinance for which a citation is issued. The bill prohibits a landlord or a landlord's manager or agent from charging or seeking reimbursement from the landlord's tenant for the amount of a fine imposed on the landlord by a governmental entity unless the tenant or another occupant of the tenant's dwelling actually caused the damage or other condition on which the fine is based. The bill provides that an individual who is an employee of the owner of real property for which a citation for a violation of county or municipal rule or ordinance is issued, or of a company that manages the property on behalf of the property owner, is not personally liable for criminal or civil penalties resulting from the violation if the individual provides the property owner's name, street address, and telephone number to the enforcement official. The bill also addresses applicability, service of the citation on the owner's agent, and the effect of other remedies provided by law.

Senate Bill 1186

Effective: See below

Senate Author: Nelson et al.

House Sponsor: Guillen et al.

Senate Bill 1186 amends the Property Code to allow a tenant to terminate a lease, vacate the dwelling before the end of the lease term, and avoid liability for future rent in certain situations involving family violence or a military deployment or transfer. In the case of a military deployment or transfer, a tenant who is a dependent of a servicemember also has these rights. In both cases the bill requires the tenant to deliver prescribed documentation to the landlord; specifies that a tenant is released from all liability for unpaid rent on the effective date of the lease termination if the lease does not contain certain language relating to these rights; establishes that a landlord who violates these rights is liable to the tenant for actual damages, a specified civil penalty, and attorney's fees; and provides that these rights may not be waived by a tenant. In the case of a military deployment or transfer, the bill also specifies when termination of a lease is effective, when a landlord must refund rent or other amounts paid in advance under the lease, and under what conditions a tenant and a landlord may agree that the tenant waives these rights.

Senate Bill 1186 takes effect June 17, 2005, except for provisions relating to termination of a lease due to family violence and to language that must be contained in a lease, which take effect January 1, 2006.

Local Government Regulation

House Bill 265

Effective: 9-1-05

House Author: Smith, Wayne

Senate Sponsor: Eltife

House Bill 265 amends the Local Government Code to require a municipality, not later than 45 days after submission of an application for a permit to erect or improve a building or structure in the municipality or its extraterritorial jurisdiction, to grant or deny the permit, provide written notice to the applicant explaining why a decision has not been made, or reach a written agreement with the applicant providing for a deadline for a decision. In a case in which notice is given, the bill requires the municipality to grant or deny the permit not later than 30 days after the notice is received. The bill also sets out monetary consequences to the municipality for not meeting a required deadline.

House Bill 266**Effective:** 9-1-05**House Author:** Smith, Wayne**Senate Sponsor:** Lindsay

House Bill 266 amends the Local Government Code to require a county with a population of 3.3 million or more, not later than 45 days after submission of an application for a construction or improvement permit for certain buildings or structures in the county, to grant or deny the permit, provide written notice to the applicant explaining why a decision has not been made, or reach a written agreement with the applicant providing for a deadline for a decision. In a case in which notice is given, the bill requires the county to grant or deny the permit not later than 30 days after the notice is received. The bill also sets out monetary consequences to the county for not meeting a required deadline.

House Bill 3101**Effective:** 9-1-05**House Author:** Casteel**Senate Sponsor:** Wentworth

House Bill 3101 amends the Property Code to require an individual filing a plat or replat of a subdivision of real property after September 1 of a year to include a tax receipt from each taxing unit with jurisdiction over the property indicating that the taxes for the current year have been paid or, if the taxes for the current year have not been calculated, a statement from the collector to that effect. The bill requires that if the tax certificate for a taxing unit does not cover the preceding year, a plat or replat must have a receipt issued by the collector indicating that the taxes for the preceding year have been paid. The bill also amends the Tax Code to provide for issuance of a statement that the taxes have not yet been calculated.

House Bill 3461**Effective:** 9-1-05**House Author:** Baxter et al.**Senate Sponsor:** Armbrister

House Bill 3461 amends the Local Government Code to expand the types of property development subject to a municipal moratorium on property development to include development of commercial property. The bill sets out provisions relating to justification for a moratorium on commercial property development and to limits on such a moratorium.

Senate Bill 200**Effective:** 6-17-05**Senate Author:** Gallegos**House Sponsor:** Smith, Wayne

Senate Bill 200 amends the Local Government Code to include gated communities in the provisions relating to county authority to regulate vehicular and pedestrian gates that restrict access to multi-unit housing projects.

Senate Bill 848**Effective:** 4-27-05**Senate Author:** Shapiro et al.**House Sponsor:** Kuempel

Chapter 245 of the Local Government Code requires each local regulatory agency to consider action on an application for a permit for a development project based only on orders, regulations, ordinances, or other requirements in effect at the time the original application is filed. Senate Bill 848 amends the Local Government Code to clarify that an original application is considered filed when it is filed for review for any purpose, including review for administrative completeness, or when a plan for development of real property or plat application is filed with a regulatory agency if the filing gives the regulatory agency fair notice of the project and the nature of the permit sought. The bill specifies what actions determine the date on which an application or plan is considered filed. The bill authorizes the regulatory agency to set a permit to expire on or after the 45th day after the filing date if it provides appropriate notice of requirements that have not been met and the applicant does not satisfy these requirements within the time allowed.

Property Interests

The bill further provides that the chapter does not prohibit a regulatory agency from requiring compliance with technical requirements relating to the form and content of an application that are in force at the time that the application is filed, even if the application is not the original application. Senate Bill 848 also includes among the types of permits covered by the chapter a contract or other agreement for construction related to, or provision of service from, a water or wastewater utility owned, operated, or controlled by a regulatory agency.

Property Owners' Associations

House Bill 638**Effective:** 9-1-05**House Author:** Hegar**Senate Sponsor:** Armbrister

House Bill 638 amends the Property Code to make provisions relating to procedures governing restrictive covenants in residential subdivisions applicable in a county with a population of 30,000 or more, rather than 190,000 or more, that is adjacent to a county with a population of 2,400,000.

House Bill 873**Effective:** 6-18-05**House Author:** Dukes**Senate Sponsor:** Lucio

House Bill 873 adds a new section to the Property Code to restrict regulation by a property owners' association of certain political displays on property in a residential subdivision. Except as otherwise provided, the bill prohibits a property owners' association from enforcing or adopting a restrictive covenant that prohibits a property owner from displaying on the owner's property within a specified time frame one or more signs advertising a political candidate or ballot item for an election. The bill specifies that it does not prohibit the enforcement or adoption of certain other covenants relating to the size, quantity, placement, type, or other manner of display of such signs. A property owners' association is authorized to remove a sign displayed in violation of a restrictive covenant permitted by the bill.

House Bill 1631**Effective:** 9-1-05**House Author:** Hilderbran**Senate Sponsor:** Fraser

House Bill 1631 amends the Property Code to establish a procedure to create, modify, or add to residential restrictions and to remove any unconstitutional restriction or provision related to race, religion, or national origin in a residential real estate subdivision located at least in part in the unincorporated area of a county with a population less than 65,000. The bill includes definitions and voting provisions.

House Bill 1632**Effective:** 9-1-05**House Author:** Hope**Senate Sponsor:** Staples

House Bill 1632 amends the Property Code to apply provisions governing the powers of a property owners' association relating to restrictive covenants to a residential real estate subdivision located wholly or partly in a county with a population of 275,000 or more that is adjacent to a county with a population of 3.3 million or more and contains part of a national forest.

Senate Bill 1018**Effective:** 9-1-05**Senate Author:** Staples**House Sponsor:** Brown, Betty

Senate Bill 1018 amends the Property Code to provide a procedure in certain counties for extending or modifying residential restrictions and to provide for the removal of any restriction

or other provision relating to race, religion, or national origin that is void and unenforceable. The bill provides for a petition procedure for circulating a proposal to extend or modify existing restrictions, sets forth notice requirements, and establishes that the proposal is adopted if owners of at least 66 percent of the real property in the subdivision vote in favor of the proposal. The bill requires the results of a vote to be certified by a written resolution.

Public Lands

House Bill 708

Effective: 5-13-05

House Author: Bonnen et al.

Senate Sponsor: Jackson, Mike

House Bill 708 amends provisions of the Natural Resources Code relating to coastal public land management to allow the School Land Board to grant permits authorizing the continued use of certain structures located within 1,000 feet of privately owned littoral property that is not residential, any federal or state wildlife sanctuary or refuge, or any federal, state, county, or city park bordering on coastal public land.

House Bill 932

Effective: 5-17-05

House Author: Taylor

Senate Sponsor: Lucio

Previous law allowed an owner of littoral property to build a pier without obtaining an easement from the School Land Board if certain restrictions were met. House Bill 932 amends the Natural Resources Code to authorize an owner of littoral property to build a pier and associated structure, such as a boat ramp or boat house, on adjacent coastal public land without obtaining an easement from the board, and it authorizes the board to adopt related rules that are consistent with the state's coastal public land management policies. The bill requires a description of the associated structure to be registered with the board.

House Bill 1740

Effective: 6-17-05

House Author: Seaman

Senate Sponsor: Armbrister

House Bill 1740 authorizes a real property exchange between the City of Aransas Pass and the General Land Office for the benefit of the Permanent School Fund and sets parameters of the exchange. The provisions of this bill expire if the authorized transaction does not occur before August 31, 2009.

House Bill 2217

Effective: 6-18-05

House Author: McCall

Senate Sponsor: Staples

House Bill 2217 amends provisions of the Natural Resources Code relating to the authority of the School Land Board and the General Land Office over public school land and the permanent school fund. The bill eliminates restrictions on the land office that prohibited the purchase of land for more than market value and the sale of land for less than market value. The bill redefines "market value" to use the Tax Code's definition and expands the land board's authority over public school land to include the full spectrum of management activities, including improvement of the land. The bill clarifies that permanent school fund land is under the exclusive jurisdiction of the land board and the commissioner of the land office and authorizes the land board to set such terms and conditions for land transactions and management as the board finds in the best interest of the fund. The land board is required to report to the Legislative Budget Board on an annual basis any sale of land for less than the appraisal value or any purchase that exceeds the appraisal value. The bill includes provisions for the land board to lease land that includes groundwater production. The bill provides a limit on the amount of the fund that can be used

Property Interests

for real estate investment. It also authorizes the land board to appoint investment managers and sets out provisions relating to appointment and compensation, ethics policy and training, conflict of interest and financial disclosure, reports of expenditures, and public information. The land board is required to submit two economic impact reports to the legislature on a biennial basis, one addressing anticipated impact and the other addressing return and economic impact of the investments.

House Bill 3340

Effective: 9-1-05

House Author: Hughes

Senate Sponsor: Estes

House Bill 3340 amends the Natural Resources Code to clarify that once the Commissioner of the General Land Office accepts a survey of public land for filing in the official records, a new survey is not required if corrections in the field notes must be made.

Senate Bill 1103

Effective: 6-17-05

Senate Author: Eltife

House Sponsor: Hughes

Senate Bill 1103 amends the Natural Resources Code to streamline the procedures for selling and leasing certain vacant public land. The bill expands the powers of the commissioner of the General Land Office related to the sale and lease of vacancies; among other things, the commissioner is authorized to terminate a vacancy application under certain circumstances and to grant extensions in the application process. The bill establishes shorter deadlines for determining whether a vacancy application is administratively complete and delineates subsequent commissioner actions, based on whether it is found complete or incomplete. The commissioner is required to appoint an attorney ad litem if an applicant fails to provide sufficient evidence to establish the applicant's ownership of all interests in land surrounding the land claimed to be vacant. In addition, the bill shifts the responsibility to give notice to necessary parties from the claimant to the commissioner except in certain circumstances.

Senate Bill 1103 includes other provisions relating to the filing of exceptions to an application, investigating an application, surveying the land, holding a hearing if a final order is not issued within one year of the application date, the commissioner's final order, appeals of certain orders, determination of good-faith-claimant status, a good-faith-claimant's preferential right, and the purchase or lease of vacant land by an applicant.

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

HB 81 - Family Law and Juvenile Justice

HB 506 - Parks and Wildlife

HB 951 - Energy Resources

HB 957 - State Government

HB 1772 - Local Government

HB 2491 - Taxes and Tax Administration

HB 3333 - Transportation

SB 734 - Local Government

SB 1455 - Parks and Wildlife

Public Education

This chapter covers issues relating to the state's public school system, including school finance and school district, campus, and charter school operations. It includes legislation 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 relating to students and school curricula. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 25

Effective: 5-27-05

House Author: Delisi et al.

Senate Sponsor: Van de Putte

House Bill 25 amends provisions of the Education Code relating to transfer students in the public school system. The bill requires the Texas Education Agency to improve student record transfers and to develop and promote policies and practices that facilitate a military dependent's transition into a new school and assist the student in planning for postsecondary study. The Texas Education Agency must provide a progress report on its efforts to help military dependents to the presiding officers of certain standing legislative committees not later than January 1, 2006.

The bill requires a school district to admit an out of district student if the student's grandparent resides in the school district and provides substantial after school care for the student. The bill also requires a school district to furnish certain student records to the receiving district within a certain time period. The commissioner of education is required to adopt alternative nationally recognized assessment instruments of a certain rigor to be administered to a student to qualify for a high school diploma if the student enrolls, after January 1 of the year the student would graduate, in a Texas public school for the first time or after a four-year absence.

House Bill 126

Effective: 6-18-05

House Author: Berman

Senate Sponsor: Eltife

Current Penal Code provisions make it a Class A misdemeanor in most cases to tamper with a governmental record. House Bill 126 amends the Penal Code to make it a Class C misdemeanor to tamper with a governmental record that is required for enrollment of a student in a school district and used to establish the residency of the student.

House Bill 283

Effective: 6-18-05

House Author: Hope et al.

Senate Sponsor: Zaffirini

House Bill 283 amends the Education Code to allow a student victimized by bullying to be transferred to another classroom or school campus within the school district. The bill requires a school district's board of trustees or its designee to transfer the student, on the request of the student's parent or other person authorized to act on the student's behalf, to another classroom or to another campus within the district. It also requires a district's code of conduct to prohibit bullying, harassment, and the making of hit lists; to ensure that district employees enforce those prohibitions; and to provide grade-level appropriate methods for managing students in the classroom and on school grounds, disciplining students, and preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists. The bill requires that the methods prohibit disciplining a student enrolled in a special education program for bullying until the student's admission, review, and dismissal committee has met to review the conduct.

The bill requires a school district's discipline management program to provide for prevention of and education concerning unwanted physical or verbal aggression, sexual harassment, and other forms of bullying in school, on school grounds, and in school vehicles.

The bill also requires a school district to admit a nonresident student into the district's schools if the student's grandparent resides in the district and provides a substantial amount of after-school care for the student, as determined by the board.

House Bill 308

Effective: 6-18-05

House Author: Hope

Senate Sponsor: Staples

House Bill 308 amends the Education Code to prevent a student who has sexually assaulted another student from attending school at the same campus as the victim of that assault. The bill requires a school district's board of trustees, on the request of the parent or other person authorized to act on behalf of a student who has been the victim of a sexual assault or aggravated sexual assault, to transfer that student to a campus other than the campus to which the student who committed the assault is assigned or to another district if there is only one campus in the district serving the grade level in which the student who is a victim is enrolled, or, if the student who is a victim does not wish to transfer, to transfer the student who committed the assault to another campus or to the district's disciplinary alternative education program (DAEP) or juvenile justice alternative education program (JJAEP) if there is only one campus in the district serving the grade level in which the student who committed the assault is enrolled. The bill exempts the placement of a student in a DAEP or a JJAEP under these circumstances from any limitation otherwise imposed on the length of such placements.

House Bill 492

Effective: 9-1-05

House Author: Woolley et al.

Senate Sponsor: Shapleigh

House Bill 492 amends the Education Code to require that the Texas essential knowledge and skills include instruction in personal financial literacy in one or more courses required for high school graduation. The bill requires school districts and open-enrollment charter schools, beginning with the 2006-2007 school year, to incorporate such instruction into any course that meets a requirement for economics credit, and it requires the State Board of Education to adopt essential knowledge and skills for a course that includes the required instruction in personal financial literacy not later than the 2008-2009 school year.

The bill requires the board to adopt rules relating to personal finance education not later than March 1, 2006, and the rules must require each school district and open-enrollment charter school to provide such instruction as a condition for accreditation, beginning with the 2006-2007 school year.

House Bill 603

Effective: 6-17-05

House Author: Eissler et al.

Senate Sponsor: Lindsay

House Bill 603 amends the Education Code to require a school district's student code of conduct to specify whether consideration is given, in a decision to undertake certain disciplinary actions against a student, to intent or lack thereof at the time of the misconduct, the student's disciplinary history, or a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct. If a teacher removes a student from class for engaging in certain violent offenses against the teacher, the bill prohibits that student's return to the teacher's classroom without the teacher's consent, and it prohibits the teacher from being coerced to consent.

The bill also requires that each educator involved in the instruction of a student be informed of any misconduct in which the student has engaged that requires or allows the student's removal from the classroom or expulsion from school. In each case, the bill requires each educator so informed to keep that information confidential from any person not entitled to that information, other than the student's parent or guardian, and it allows the State Board for Educator Certification to revoke or suspend an educator's certification for an intentional violation of this confidentiality requirement. The bill also requires each educator who will be involved in the instruction of a student in a disciplinary alternative education program to be informed of the contents of the placement order.

House Bill 1111
Effective: 9-1-05

House Author: King, Phil et al.
Senate Sponsor: Brimer

House Bill 1111 amends the Education Code to allow an open-enrollment charter school that specializes in performing arts to provide in its charter for an admissions policy that requires a student to demonstrate artistic ability. The bill also allows an open-enrollment charter school that specializes in one or more performing arts to require an applicant to audition for admission to the school.

House Bill 1826
Effective: 6-18-05

House Author: Grusendorf
Senate Sponsor: West, Royce

House Bill 1826 amends the Education Code to prohibit a school district board of trustees from authorizing the use of district employees, property, or resources for the provision of materials or labor for the design, construction, or renovation of improvements to real property not owned or leased by the district.

House Bill 2808
Effective: 9-1-05

House Author: Morrison
Senate Sponsor: West, Royce

House Bill 2808 amends the Education Code to clarify and consolidate various statutory provisions relating to the P-16 Council. The bill also increases the council's membership from four to five members with the addition of the commissioner of assistive and rehabilitative services; designates the commissioner of higher education and the commissioner of education as co-chairs of the council; and allows the co-chairs to appoint three additional members from certain sectors of the community to serve two-year terms.

In addition to the council's ongoing charges, the bill requires the council, on or before January 1, 2007, to (1) review existing school district programs that allow high school students to enroll in advanced academic courses offered through dual credit and concurrent enrollment programs; (2) review the recommended high school program curriculum; and (3) study the feasibility of offering a revised curriculum that would provide graduating high school students with at least 12 hours of advanced academic courses or college-level coursework through dual credit and concurrent enrollment programs.

The bill also requires the Legislative Budget Board to study the resource needs of certain high-quality early childhood care and education programs.

House Bill 3297
Effective: 6-18-05

House Author: Bohac
Senate Sponsor: Staples

House Bill 3297 amends the Education Code to require the first student grade report card that a school district provides to a student's parent during a school year to include the most recent performance rating of the campus where the student is enrolled and a definition of each of the four possible performance ratings under the public school accountability system. The

Public Education

bill also requires a district that maintains an Internet website to post on its website not later than the 10th day after the start of the school year the information contained in the most recent campus reports and district performance report, the district's most recent performance rating, and a definition and explanation of each possible rating.

Senate Bill 144
Effective: 6-17-05

Senate Author: Wentworth
House Sponsor: McClendon

Senate Bill 144 amends the Education Code to authorize the State Board of Education to appoint military officers to the boards of trustees of a military reservation school district.

Senate Bill 188
Effective: 6-17-05

Senate Author: Zaffirini
House Sponsor: Hochberg

Senate Bill 188 amends the Education Code to require the Texas Education Agency and the Texas School for the Blind and Visually Impaired, in their memorandum of understanding, to establish a process for the agency to assign the school an accreditation status, annually reevaluate that status, and, if necessary, make on-site accreditation investigations.

Senate Bill 189
Effective: 6-17-05

Senate Author: Zaffirini
House Sponsor: Hochberg

Senate Bill 189 amends the Education Code to allow the Texas School for the Blind and Visually Impaired to charge a reasonable fee for assessing a student's educational or related needs related to visual impairment at the request of a school district or other educational entity. The bill includes assignment stipends in the requirement that the school's salary structure provide salaries equal, on a daily rate basis, to salaries paid Austin Independent School District (AISD) employees in comparable positions, and it allows the school to pay a teacher, employee, or supervisor in a supplemental program a salary that, on a daily rate basis, does not exceed the salary paid to an AISD employee in a comparable position during the regular school year.

The bill also puts the school superintendent's salary on an annual basis and exempts employees of the school from a prohibition against a state agency entering into an employment contract with former or retired employees within one year of their departure from the agency if they are to be paid with appropriated funds.

Senate Bill 256
Effective: 6-17-05

Senate Author: Williams
House Sponsor: Brown, Fred

Senate Bill 256 amends the Education Code to require a school district to provide each district student's parent a written notice of the provisions of the federal Family Educational Rights and Privacy Act (FERPA) regarding the release of directory information about the student and written notice of the parent's right under that act to object to the release of such information. The bill sets forth specific content and format requirements for the notice and requires the notice to include a form such as a check-off list or similar mechanism that allows a parent to record the parent's (1) objection to the release of any or all of the directory information if district policy permits the parent to object to one or more specific categories of information, (2) objection to the release of certain information to a military recruiter or college or university, or (3) consent to the release of information for a limited school-sponsored purpose under certain conditions.

The bill allows a district to designate as directory information any or all information defined as such by FERPA, provides that directory information not designated as such by the district is exempted from disclosure under the state's public information laws, and similarly protects directory information whose release for limited school-sponsored purposes has been approved by a parent.

Senate Bill 387**Effective:** 6-17-05**Senate Author:** Wentworth**House Sponsor:** Eissler

Senate Bill 387 amends the Education Code to require a school district to provide each current employee notice of a job opening that requires a certificate or license by posting the vacancy on a bulletin board at a place convenient to the public in the district's central administrative office and at the central administrative office of each campus in the district as well as on the district's website, if the district has a website. The bill also requires a district's employment policy to include a provision for affording each employee an opportunity to participate in a process for transferring to another school or position within the district.

Senate Bill 483**Effective:** 9-1-05**Senate Author:** Staples et al.**House Sponsor:** Branch

Senate Bill 483 amends the Government Code to allow the Texas State Library and Archives Commission to designate public school libraries that may participate in group purchasing agreements provided to the TexShare library consortium. The bill requires the commission to establish criteria for participation by designated public school libraries and allows the commission to limit their participation in a group purchasing agreement if necessary to ensure that services to consortium members are not reduced.

Senate Bill 493**Effective:** 6-17-05**Senate Author:** Van de Putte**House Sponsor:** Hamilton

Senate Bill 493 amends the Education Code to require the commissioner of education at least once each even-numbered year to review and reduce, to the maximum extent practicable, school district reporting and paperwork requirements and to adopt a policy that limits the written reports and other paperwork that the Texas Education Agency may require of a principal or classroom teacher. The bill allows the commissioner to authorize special accreditation investigations in response to repeated complaints to the agency about excessive paperwork requirements imposed on classroom teachers.

Senate Bill 658**Effective:** 6-17-05**Senate Author:** Madla**House Sponsor:** Reyna

Senate Bill 658 amends the Education Code to require the State Board of Education to prohibit participation in a University Interscholastic League (UIL) area, regional, or state competition on the days immediately preceding and during the primary administration of the statewide standardized tests. The bill also prohibits school district waivers or exemptions from this ban.

Senate Bill 776**Effective:** 6-17-05**Senate Author:** Van de Putte**House Sponsor:** Noriega, Melissa

Senate Bill 776 amends the Education Code to allow the adjutant general's department to administer high school equivalency examinations to students 16 years of age or older who are enrolled in the department's Seaborne ChalleNGe Corps.

Senate Bill 851**Effective:** 6-17-05**Senate Author:** Shapleigh**House Sponsor:** Woolley

Senate Bill 851 amends the Education Code to establish a financial literacy pilot program administered by the Texas Education Agency to provide students in participating school districts with the knowledge and skills necessary for them as self-supporting adults to make critical

decisions relating to financial matters. The bill sets out content requirements for the curriculum and instructional material development, limits selection of program participants to not more than 25 participating districts, and makes the program's implementation contingent on the availability of sufficient funding.

Programs for At-Risk Students

House Bill 3468

Effective: 9-1-05

House Author: Isett

Senate Sponsor: Van de Putte

House Bill 3468 amends the Education Code to allow the commissioner of education to establish an intensive reading and language intervention pilot program for campuses that have failed to improve student performance in reading. The campus would be required to test each student selected to participate in the pilot program before and after the student's participation, and student progress as measured by those tests would have to be reported to the legislature not later than December 31, 2006. The bill allows the commissioner to fund the program using not more than \$6 million of the funding appropriated for the accelerated instruction provided students who fail any portion of the statewide standardized tests under the public school accountability system.

Senate Bill 1146

Effective: 6-17-05

Senate Author: Shapiro et al.

House Sponsor: Morrison

Senate Bill 1146 amends the Education Code to convert the current middle college education pilot program for students in grades 11 and 12 who are at risk of dropping out of school or who want to accelerate high school completion into a permanent program called the Early College Education Program and to expand participation eligibility to include students in grades 9 and 10. The bill allows participating students, on or before the fifth anniversary of the date of the student's first day of high school, to receive either an associate degree or at least 60 semester credit hours toward a bachelor's degree in addition to the high school diploma. The bill specifies the issues that each articulation agreement with an institution of higher education participating in the program must address and requires the P-16 Council to provide guidance in case of any conflict that arises between parties to an articulation agreement. Senate Bill 1146 also sets out the rulemaking authority of the commissioner of education and the Texas Higher Education Coordinating Board in relation to the program.

Senate Bill 1395

Effective: 6-17-05

Senate Author: Shapiro

House Sponsor: Grusendorf

Senate Bill 1395 amends the Education Code to allow a Job Corps training program under contract with the U.S. Department of Labor to establish a high school diploma program to serve certain at-risk students. The program may offer a secondary school curriculum, a Texas high school diploma program, and a general educational development program. The bill sets out the governance, limitation on powers, and duties of the program and prohibits a program from imposing a tax. Senate Bill 1395 also sets out provisions relating to accountability, eligibility for certain programs and services, grants and federal funds, operating costs, program employees, and an exception to compulsory school attendance for students 16 years of age and older who are enrolled in a high school program described above.

School Finance

House Bill 573

Effective: 6-18-05

House Author: Flynn

Senate Sponsor: Duncan

For a bank to secure a deposit of public funds, the Government Code requires a collateral deposit in the form of an eligible security whose value is at least equal to the amount of the public funds to be secured, except that the value of an eligible security described by Section 45.201(4)(D) to secure a deposit of school district funds must be at least 110 percent of the amount of the funds to be deposited. House Bill 573 amends that Education Code provision to restrict those approved securities requiring the higher collateral weighting under Subdivision (4)(D) to reducing principal balance securities only, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or of the United States.

House Bill 1106

Effective: 6-18-05

House Author: Howard

Senate Sponsor: Janek

House Bill 1106 repeals the Public School Facilities Funding Act that authorized the Bond Review Board to issue bonds guaranteed by the permanent school fund and income from that fund and to place the bond proceeds in the school facilities aid fund, the purpose of which was to allow the state to purchase school district bonds, to make capital improvement loans to qualifying school districts, and to help school districts in their issuance of bonds.

Senate Bill 1693

Effective: 6-17-05

Senate Author: Duncan

House Sponsor: Flynn

Section 2257.022 of the Government Code allows a financial institution to secure a deposit of public school district funds by pledging as collateral certain obligations described by Section 45.201(4)(D), Education Code, which include reducing principal balance securities, provided that the total value of such securities is not less than 110 percent of the amount of the deposit. Senate Bill 1693 amends the Education Code to remove other obligations from the description in Section 45.201(4)(D) so that the requirement that the total value of the securities pledged as collateral be not less than 110 percent of the deposit applies only to reducing principal balance securities.

Student Health and Health Education

House Bill 984

Effective: 6-18-05

House Author: Reyna et al.

Senate Sponsor: Duncan et al.

House Bill 984 amends the Health and Safety Code to require the development and implementation of a diabetes management and treatment plan for each student who will seek care for diabetes while at school or while participating in a school activity. The bill requires the plan to be developed by the student's parent or guardian and the physician treating the diabetes and submitted to the school for review, and it requires the development of an individualized health care plan to meet the student's unique health care needs in a school setting.

The bill also requires the principal of each school in which a student with diabetes is enrolled to seek school employees who are not health care professionals to serve as unlicensed diabetes care assistants and to ensure that the school has at least one such assistant if there is a full-time nurse at the school or at least three such assistants if there is no full-time nurse, and it establishes specific training requirements for becoming an unlicensed diabetes care assistant.

Public Education

If a school nurse is not assigned to a campus, the bill requires either that the assistant have access to a physician, registered nurse, certified diabetes educator, or licensed dietitian expert in the care of diabetic individuals or that the principal have access to the student's physician. The bill also prohibits a district from restricting the assignment of a student with diabetes to a particular campus on the basis that the campus does not have the required assistants.

House Bill 3563

Effective: 6-18-05

House Author: King, Phil et al.

Senate Sponsor: Staples

House Bill 3563, relating to anabolic steroids, amends the Education Code to require the Texas Education Agency in conjunction with the Department of State Health Services to develop information about the use of, and health risks associated with, such steroids, and to distribute that information to school districts. Each school district, at appropriate grade levels determined by the State Board of Education, must provide the information to students, especially those involved in extracurricular athletics. Additionally, the bill requires the University Interscholastic League (UIL) to develop an educational program regarding the health effects of steroid use, targeting student athletes, their parents, and coaches. The educational program must be made available to school districts, and the UIL must cooperate with an appropriate entity to study its effectiveness. The bill requires the UIL during the 2005-2006 school year to conduct a survey regarding the extent of illegal steroid use by high school students. It mandates the UIL to adopt rules that prohibit a student from participating in a UIL athletic competition unless the UIL obtains from the parent a signed statement making specified acknowledgments regarding steroids, and unless the student agrees not to use steroids except as dispensed, prescribed, delivered, and administered by a medical practitioner for a valid medical purpose. The UIL must develop a plan for testing students engaged in extracurricular UIL athletics for illegal bodily steroids and must report to the legislature not later than December 1, 2006, regarding its testing plan, the survey results, and the educational program effectiveness study. If the legislature determines, based on the report, that the educational program has not significantly reduced the use of illegal steroids by student athletes, it may require the UIL to implement the testing plan. The bill authorizes the UIL to increase school district membership fees to offset the cost of its various activities under the legislation.

Senate Bill 42

Effective: 6-17-05

Senate Author: Nelson et al.

House Sponsor: Delisi

Senate Bill 42 amends the Education Code and the Health and Safety Code relating to health education, physical activity, and food products in public and primary schools. The bill requires the health curriculum for certain school districts to emphasize proper nutrition and exercise, authorizes the State Board of Education to expand the requirement for student participation in physical activity and certain coordinated health programs designed to prevent obesity, cardiovascular disease, and Type 2 diabetes to include middle and junior high school students through the eighth-grade level, requires compliance by certain health programs with United States Department of Agriculture guidelines relating to foods with minimal nutritional value, and requires each school district to report certain health and physical activity information to the Texas Education Agency. The bill also establishes the school health advisory committee to assist the State Health Services Council to assist in the support, delivery, and coordination of school health programs and services.

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

- HB 1 (1st C.S.) - Appropriations
- HB 468 - Transportation
- HB 664 - Local Government
- HB 1058 - Military Forces and Veterans
- HB 1970 - Family Law and Juvenile Justice
- HB 2109 - Higher Education
- HB 2701 - Higher Education
- HB 2837 - Corrections
- SB 11 - Emergency Response
- SB 23 - Human Services
- SB 567 - Taxes and Tax Administration
- SB 882 - Human Services

Public Officials and Employees

This chapter covers legislation relating to the qualifications, rights, responsibilities, and benefits of elected and appointed officials and public employees, including reporting and disclosure requirements for certain charitable or political activities. The chapter also includes provisions affecting public retirement systems, pension funds, and death benefit programs. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 297**Effective:** 9-1-05**House Author:** McClendon**Senate Sponsor:** Wentworth

House Bill 297 changes the title of assistant secretary of state to deputy secretary of state.

House Bill 860**Effective:** 6-18-05**House Author:** Casteel**Senate Sponsor:** Ellis

House Bill 860 amends the Natural Resources Code to allow employee charitable contributions to the General Land Office (GLO) for administration of its Adopt-a-Beach program. In provisions relating to state employee contributions to the GLO, the bill amends references to the agency's Adopt-a-Map/Adopt-a-Document program to refer instead to the Save Texas History program, in keeping with a 2004 administrative name change.

House Bill 952**Effective:** 9-1-05**House Author:** Delisi**Senate Sponsor:** Barrientos

House Bill 952 requires the Employees Retirement System of Texas (ERS) to implement a pilot program to make available to state employees a licensed advanced practice nurse to provide on-site health services. The pilot program is required to provide for a nurse, either as an employee of the state or by contract, necessary space and equipment, and a licensed physician to perform supervisory functions, to be located at a state office complex, beginning at the headquarters of the Texas Commission on Environmental Quality. House Bill 952 permits ERS to finance the expenses associated with the program directly or through an interagency agreement that provides for reimbursement as expenses are incurred by a participating agency. Not later than December 21, 2006, ERS is required to issue a report that contains employee participation rates, a cost-benefit analysis, and recommendations relating to the future of the program.

House Bill 1139**Effective:** 5-24-05**House Author:** McReynolds**Senate Sponsor:** Staples

House Bill 1139 repeals the Natural Resources Code provision requiring a receiver for the General Land Office to execute a bond for \$25,000 and a provision prescribing the manner of execution of bonds by employees of the General Land Office.

House Bill 1928**Effective:** 9-1-05**House Author:** Moreno, Joe E. et al.**Senate Sponsor:** Gallegos

House Bill 1928 amends the Government Code to include detention officers and county jailers within the definition of "public safety employee" to allow such employees to receive benefits and treatment when exposed to certain contagious diseases.

Public Officials and Employees

House Bill 2336

Effective: 9-1-05

House Author: Corte

Senate Sponsor: Van de Putte

House Bill 2336 amends the Government Code to entitle a member of the Texas Military Facilities Commission to reimbursement for meals, lodging, and transportation and incidental expenses related to commission duties.

House Bill 2685

Effective: 9-1-05

House Author: Gallego

Senate Sponsor: Madla

House Bill 2685 amends the Parks and Wildlife, Penal, and Government Codes to authorize employees of the state parks division of the Texas Parks and Wildlife Department (TPWD) who serve food or beverages in an establishment operated by TPWD to accept gratuities.

House Bill 3113

Effective: 9-1-05

House Author: Corte

Senate Sponsor: Seliger

House Bill 3113 amends the Government Code to authorize a state agency to make a performance incentive award to a state employee who provides services to veterans if the employee meets certain requirements.

Senate Bill 164

Effective: 6-17-05

Senate Author: Wentworth

House Sponsor: Hunter

The term of office and residency requirements for statewide elected officials are set out in the Texas Constitution. Senate Bill 164 amends the Natural Resources Code to remove a duplicative provision relating to the commissioner of the General Land Office.

Senate Bill 220

Effective: 9-1-05

Senate Author: Carona

House Sponsor: Grusendorf

Senate Bill 220 amends Government Code recordkeeping requirements applicable to a notary public, other than a court clerk notarizing court instruments, to authorize the notary public to maintain the required records electronically in a computer or other storage device.

Senate Bill 1533

Effective: 6-18-05

Senate Author: Barrientos

House Sponsor: Uresti

Senate Bill 1533 amends the Government Code to require that a lease of a state-owned parking lot or garage for private commercial uses outside regular business hours include a provision allowing free evening and weekend parking for any state employee with proper identification. The bill exempts a lease to an institution of higher education under which all parking spaces are leased for a time certain if parking in an alternate state-owned lot or garage is available.

Senate Bill 1787

Effective: 9-1-05

Senate Author: Duncan

House Sponsor: Hilderbran et al.

Senate Bill 1787 amends the Government Code to establish the position of state historian. The bill sets out provisions relating to appointment, term of office, duties, and available agency resources. The bill provides that state historian is an unpaid position that does not receive reimbursement for expenses.

Ethics, Reporting, and Disclosure

House Bill 762

Effective: 9-1-05

House Author: Nixon et al.

Senate Sponsor: Ellis et al.

House Bill 762 amends the Government Code to allow state officers and state employees to solicit or recommend contributions to certain tax-exempt and nonpolitical charitable organizations and to governmental entities. The bill requires that such contributions be made directly to the organization and sets out allowable methods of payment, which include payroll deduction. The bill establishes that such contributions are not considered political contributions or expenditures and are not subject to the gift provisions of the Penal Code.

House Bill 1508

Effective: 9-1-05

House Author: Denny

Senate Sponsor: Harris

House Bill 1508 amends the Government Code to require a registered lobbyist to report as a gift any expenditure for food or beverages that has a value of \$50 or less, is intended as a gift for a member of the legislative or executive branch, and is delivered by first-class U.S. mail or by common or contract carrier outside the Capitol Complex. The bill also establishes time frames for including an expenditure in an activities report.

House Bill 1708

Effective: 9-1-05

House Author: Baxter et al.

Senate Sponsor: Wentworth

House Bill 1708 amends the Transportation Code to require a director of a regional mobility authority (RMA) who is not a state officer to file with the Texas Ethics Commission the type of financial statement required of state officers. The bill exempts from the requirement the directors of an RMA in which each participating county has a population of less than 200,000, but authorizes the commissioners courts of the counties to jointly adopt a process for the disclosure of the RMA directors' personal financial activity. The bill requires a director who is a municipal or county officer subject to filing a financial statement under the Local Government Code to file a copy of the statement with the Texas Ethics Commission. Failure to file a statement as required constitutes a Class B misdemeanor.

In addition, House Bill 1708 specifies that an RMA director is regarded as a local public official for purposes of conflict of interest laws and a public official for purposes of nepotism laws. The bill provides that a director, in connection with a vote or decision by the board, is considered to have a substantial interest in a business entity if a person related to the director in the second degree by consanguinity—a parent, child, brother, sister, grandparent, or grandchild has a substantial interest in the business entity. Finally, the bill provides that a director or officer indemnified by an authority and subsequently convicted of an offense relating to the indemnification is liable to the authority for the amount of indemnification paid, including the legal rate of interest.

The change relating to the filing of financial statements applies beginning January 1, 2006, and a director filing such a statement is not required to include activity that occurred before January 1, 2005.

House Bill 1800

Effective: 9-1-05

House Author: Denny et al.

Senate Sponsor: Harris

House Bill 1800 amends Government Code provisions relating to corrected reports, registrations, and statements filed with the Texas Ethics Commission. The bill exempts a registered lobbyist from a civil penalty for the late filing of a registration or report other than

an activities report if the registrant files a corrected or amended registration or report within 14 business days after the date the registrant becomes aware of the error or omission in the original report. The bill adds to the conditions under which a statement, registration, or report is exempt from late filing penalties the condition that the error or omission was made in good faith. In addition, the bill requires the commission to determine whether certain reports filed near elections substantially comply with state ethics laws. For other types of reports, the bill establishes that a report does not comply with the requirements for timely filing if it contains an error or omission other than one of the following: an obvious typographical error; the omission of administrative information; inaccurately reported or unreported contributions or expenditures that, taken together, total less than certain limits; an incorrectly reported total amount that is within certain limits; or an error or omission determined by the commission to be minor.

House Bill 2202

Effective: 9-1-05

House Author: Hughes

Senate Sponsor: Harris

House Bill 2202 amends provisions of the Government Code that prohibit registered lobbyists from representing a client in communicating directly with a member of the legislative or executive branch to influence legislation or an administrative action if the representation would be adverse to the interests of another client of that lobbyist. The bill authorizes a lobbyist to represent such a client if the lobbyist provides the required written notice and statement of disclosure and if each affected client consents to the conflict and grants the lobbyist permission to continue the representation.

House Bill 2511

Effective: 6-17-05

House Author: Denny

Senate Sponsor: Harris

House Bill 2511 amends the Government Code to establish that an appointed officer of a state agency who resigns, whose term of office expires, whose functions are transferred to another state agency, or whose state agency is abolished is not required to file the personal financial statement that is ordinarily due because of service in that office after the date the resignation is effective, the term expires, the functions are transferred, or the agency is abolished. The bill also requires an officer who resigns or whose term expires and who does not intend to participate in the functions of the agency to give written notice of the intention to the governor and the Texas Ethics Commission.

House Bill 2826

Effective: 6-18-05

House Author: Truitt

Senate Sponsor: Brimer

House Bill 2826 amends the Government Code to allow a person to file a sworn complaint with the Texas Ethics Commission alleging that a complaint relating to the person filed with the commission is frivolous or brought in bad faith regardless of whether the complaint has been resolved. The bill requires the commission to act on the complaint according to established procedures.

Senate Bill 1011

Effective: 9-1-05

Senate Author: Harris

House Sponsor: Swinford

Senate Bill 1011 amends provisions of the Government Code relating to the reporting requirements for expenditures made by registered lobbyists. The bill adds guests invited by elected or appointed state officials or by employees of legislative or executive agencies to the list of categories in which lobbyist expenditures attributable to a member of the legislative or executive branch must be reported. The bill revises the list of prohibited expenditures by a

registered lobbyist or a person acting on the lobbyist's behalf to provide that the prohibitions against loans or gifts of cash or of certain types of negotiable instruments apply to elected or appointed state officials and legislative and executive branch employees and that the prohibitions against certain expenditures relating to transportation, lodging, entertainment, gifts, awards, and mementos apply to these same individuals plus immediate family or guests. Previous law simply applied all of the prohibitions to "a member of the legislative or executive branch." The bill specifies that permitted expenditures for travel or lodging made in connection with a trip to explore matters directly related to the duties of a legislative or executive member include attendance at an informational conference, seminar, educational program, or similar event, and adds expenses for food, beverages, and entertainment to the permitted expenditures made in connection with such an event in which the member renders more than perfunctory services.

Peace Officers and Firefighters

House Bill 148

Effective: 9-1-05

House Author: Harper-Brown

Senate Sponsor: Carona

House Bill 148 amends the Local Government Code to allow the Fire Fighters' and Police Officers' Civil Service Commission, in municipalities having a population of less than 1.9 million, to extend the probationary period for a newly hired firefighter, police officer, or academy trainee who is not employed by a department which has or once had a collective bargaining or meet-and-confer agreement. These individuals are required to attend a basic training academy necessary for initial certification by the Texas Commission on Fire Protection or the Commission on Law Enforcement Officer Standards and Education.

House Bill 233

Effective: 6-17-05

House Author: Martinez et al.

Senate Sponsor: Lucio

House Bill 233 amends the Health and Safety Code to allow certain mutual assistance agreements between municipalities or between a municipality and a county that authorize police officers employed by a municipality to secure the scene of an emergency, accident, fire, or disaster outside the municipality when the municipality's emergency ambulance service responds under the agreement.

House Bill 263

Effective: 5-24-05

House Author: Madden

Senate Sponsor: Shapiro

House Bill 263 amends the Local Government Code to confer civil service status on certain nonclassified fire department employees currently employed by a municipality with a population of 220,000 or more and to waive the requirement for such employees to take a competitive examination to remain in their positions, provided they were employed in those positions on or before May 1, 2005, and the municipality amends its classification of fire department employees to include such positions. However, the bill places certain restrictions on such employees relating to their promotion, their supervision or evaluation of other classified civil service personnel, and their transfer to other operations. The bill requires that any position vacated by such an employee must be filled in accordance with the standard competitive civil service procedures.

House Bill 304

Effective: 9-1-05

House Author: Talton et al.

Senate Sponsor: Deuell et al.

House Bill 304 amends the Local Government Code to establish local control of police officer employment matters in certain municipalities. The bill includes provisions relating to

Public Officials and Employees

a petition for recognition by a governing body, a certification election, an election to authorize operation, change or modification of recognition, the prohibition of strikes, recognition of a police officers association, general information relating to agreements, selection of a bargaining agent and bargaining unit, protected rights of police officers, open records, open deliberations, ratification and enforceability of an agreement, action or election to repeal authorization or an agreement, preemption of other law, and an agreement's effect on existing benefits and rights.

House Bill 304 also authorizes certain municipalities to adopt rules for police officers relating to converting vacation and sick leave days to hours and sets out certain provisions concerning payment for such hours.

House Bill 639

Effective: 9-1-05

House Author: Bailey et al.

Senate Sponsor: Barrientos

House Bill 639 amends the Government Code to clarify the applicability of certain statutes that address complaints against certain public employees. The bill adds detention officers and county jailers to the list of persons subject to the statute's regulation and excludes a peace officer or fire fighter employed by a political subdivision that is covered by a meet and confer or collective bargaining agreement that includes certain provisions relating to complaint resolution. House Bill 639 also provides that certain law enforcement officers, fire fighters, detention officers, county jailers, or peace officers may not be indefinitely suspended nor terminated from employment based on a complaint unless the complaint is investigated and evidence exists to prove the allegation of misconduct.

House Bill 1007

Effective: 5-27-05

House Author: Ritter et al.

Senate Sponsor: Lucio

House Bill 1007 amends the Government Code to expand the Fire Fighter and Police Home Loan Program to extend program eligibility to certain corrections officers, county jailers, and public security officers and accordingly changes the name of the program to the Fire Fighter and Law Enforcement or Security Officer Home Loan Program. The bill also amends the program's income eligibility requirements to allow persons in those positions who have an income of not more than 115 percent of the area median family income, adjusted for family size, or the maximum amount permitted by Section 143(f), Internal Revenue Code of 1986, whichever is greater, to receive a loan under this section. The bill provides clarification relating to the source of funding for the home loan program.

House Bill 1213

Effective: 9-1-05

House Author: Harper-Brown

Senate Sponsor: Deuell

House Bill 1213 amends the Local Government Code to authorize fitness incentive pay in certain municipalities for each firefighter or police officer who successfully meets certain clearly established criteria.

House Bill 1267

Effective: 9-1-05

House Author: Cook, Robby

Senate Sponsor: Armbrister

House Bill 1267 amends the Health and Safety Code and the Transportation Code to change the name of the Texas Industrial Fire Training Board of the State Firemen's and Fire Marshals' Association of Texas to the Texas Industrial Emergency Services Board of the State Firemen's and Fire Marshals' Association of Texas.

House Bill 1428

Effective: 6-17-05

House Author: Isett et al.

Senate Sponsor: Seliger

House Bill 1428 amends the Government Code to provide that certain peace officers are entitled to injury leave without being required to use any accrued compensatory time or any other type of leave and without any salary deductions, as long as the injury resulted from certain assaultive offenses that occurred during the course of performing their duties. The bill also authorizes an injured officer to receive workers' compensation benefits while on injury leave, but provides that the officer is ineligible for certain disability retirement benefits while on injury leave.

House Bill 1913

Effective: 5-27-05

House Author: Olivo

Senate Sponsor: Barrientos

House Bill 1913 amends the Local Government Code to provide that municipalities with a population of 10,000 or more are eligible for civil service if they have either a paid fire department or a paid police department, rather than both.

House Bill 2457

Effective: 6-17-05

House Author: Talton

Senate Sponsor: Whitmire

House Bill 2457 amends the Local Government Code to authorize the police department in certain municipalities to take into account a person's previous experience as a police officer in applying for a beginning position in the police department and to adjust training requirements and longevity pay accordingly.

House Bill 2640

Effective: 9-1-05

House Author: Jones, Delwin et al.

Senate Sponsor: Duncan

House Bill 2640 amends the Local Government Code to specify that the term "fire fighter" applies only to fire department employees who are certified under state law and perform delineated fire fighting duties. The bill excludes those employees who perform certain administrative duties.

House Bill 2892

Effective: 9-1-05

House Author: Luna et al.

Senate Sponsor: Gallegos

House Bill 2892 amends the Local Government Code to establish local control of firefighter employment matters in certain municipalities. The bill includes provisions relating to a petition for recognition by a governing body, a certification election, an election to authorize operation, change or modification of recognition, the prohibition of strikes, recognition of a firefighters association, general information relating to agreements, selection of a bargaining agent and bargaining unit, protected rights of firefighters, open records, open deliberations, ratification and enforceability of an agreement, action or election to repeal authorization or an agreement, preemption of other law, and an agreement's effect on existing benefits.

House Bill 3409

Effective: 6-18-05

House Author: Rose

Senate Sponsor: Harris

House Bill 3409 amends the Local Government Code to specify that the population category that allows a municipality to adopt civil service for police officers and firefighters is determined by the most recent annual population estimate by the state demographer or by the most recent federal decennial census.

Senate Bill 716

Effective: 9-1-05

Senate Author: Gallegos

House Sponsor: Talton

Senate Bill 716 amends the Local Government Code to allow certain municipalities to make a payroll deduction for membership dues to a bona fide employees' association when requested by an employee who is a peace officer in a police department not covered by a collective bargaining or meet-and-confer agreement and when the municipality permits certain other deductions.

Senate Bill 863

Effective: 6-17-05

Senate Author: Van de Putte

House Sponsor: Corte

Senate Bill 863 amends the Local Government Code to authorize the administration of a promotional examination to an eligible police officer or firefighter who is serving on active military duty in a location that makes it unreasonable to return for the examination.

Senate Bill 879

Effective: 5-20-05

Senate Author: Gallegos et al.

House Sponsor: Menendez

Senate Bill 879 amends the Government Code to permit the Texas Commission on Fire Protection to make nonsubstantive clerical changes to a rule without review by the Fire Fighter Advisory Committee. The bill prohibits the commission from approving an application for scholarships, grants, loans, or other financial assistance if the applicant provides fire suppression services and the applicant does not routinely and consistently report incidents to the Texas Fire Incident Reporting System and participate in the National Incident Management System in accordance with the Federal Emergency Management Agency timeline. The bill also requires an applicant to furnish sufficient proof of compliance with the reporting requirements with the application.

Senate Bill 1050

Effective: 9-1-05

Senate Author: Van de Putte

House Sponsor: Bailey

Senate Bill 1050 amends the Local Government Code to clarify provisions relating to the promotional system for certain municipal civil service fire fighters and police officers. The bill delineates the status of certain fire department employees with regard to the classification system, supervisory and transfer rules, and promotion procedures. The bill provides that in a municipality with a population of less than 1.9 million, the probationary period of a fire fighter, police officer, or academy trainee may be extended under certain circumstances. Senate Bill 1050 clarifies that a vacancy occurs in a nonentry fire fighter position on the date the person resigns, retires, dies, is promoted, or is indefinitely suspended.

Senate Bill 1421

Effective: 6-17-05

Senate Author: Gallegos

House Sponsor: Bailey

Senate Bill 1421 amends the Local Government Code to delete the restriction on a person who is 36 years of age or older and under 45 years from being certified eligible for a beginning position in a police department. The bill also requires that priority be given to an applicant who is a child of a fire fighter killed in the line of duty. Such applicants who receive a minimum passing grade on the eligibility exam and satisfy all other eligibility requirements are to be placed at the top of the eligibility list for a beginning position in a fire department to which the individual applies.

Senate Bill 1433
Effective: Vetoed

Senate Author: Madla
House Sponsor: Rodriguez

Senate Bill 1433 amends the Local Government Code to add provisions relating to the conditions of employment for firefighters employed either in an emergency services district with a population of 30,000 or more or an entity created by an interlocal agreement between two or more political subdivisions. The bill does not apply to a volunteer fire department. The bill includes provisions entitling firefighters in these districts or entities to longevity and classification pay, payroll deductions, certain benefits, and working conditions similar to those afforded firefighters employed by a municipality and establishing procedures for the administration and appeal of disciplinary actions.

Reason Given for Veto: “Senate Bill No. 1433 would mandate Emergency Service Districts serving populations of 30,000 or more to provide the same civil service system to their firefighters that cities provide municipal firefighters. Civil service system benefits – including longevity and classification pay – would increase the cost to these districts, and voters would have no ability to vote on the civil service system provided by this bill. Because emergency service districts are more limited in their ability to raise revenue than cities, the districts would face difficulty meeting the increased costs associated with a civil service system.

“Furthermore, the bill would require districts that drop below the 30,000 population threshold to continue the civil service system, even though they would have a lower tax base to fund the system. The appeal and grievance procedures required by the bill may result in legal and administrative costs beyond the district’s capability to manage, thus negatively impacting their operation, and that is a concern expressed by emergency service districts about this bill.

“It is my intent to work with Emergency Service Districts so that in the 80th legislative session we can provide employment protections for our firefighters while also resolving how to address entities whose populations may drop below the 30,000 threshold.”

Senate Bill 1673
Effective: 9-1-05

Senate Author: Barrientos
House Sponsor: Olivo et al.

Senate Bill 1673 amends the Local Government Code to provide that certain counties with a population of 200,000 or more may create a civil service system for the sheriff’s department only and sets out procedures for the creation of the system.

Retirement Systems

House Bill 70
Effective: 5-30-05

House Author: McClendon et al.
Senate Sponsor: Wentworth

House Bill 70 amends the Government Code to require the board of trustees of the Employees Retirement System of Texas to adopt by rule no later than November 1, 2005, procedures that provide for the payment of the \$5,000 lump-sum death benefit for a retired member no later than the seventh day after the board receives the required proof of the member’s death.

House Bill 604
Effective: 9-1-05

House Author: Hopson
Senate Sponsor: Staples

House Bill 604 allows a person to participate as an annuitant under the Texas Employees Group Benefits Act if the individual was initially employed on or after September 1, 2001, and before September 10, 2001, by a school district that operates schools for inmates of Texas Department of Criminal Justice facilities; was continuously employed by the school district until at least September 1, 2005; and meets certain other eligibility requirements for retired state employees. The provisions of the bill expire December 31, 2011.

House Bill 617

Effective: 9-1-05

House Author: McCall et al.

Senate Sponsor: Duncan

House Bill 617 amends the Government Code to establish that a member of the Judicial Retirement System of Texas Plan Two (JRS2) who has served at least 12 years on a state appellate court and whose age and amount of service credited in the retirement system equals or exceeds the number 70 may cease to contribute to the plan but is considered a contributing member for all other purposes or may continue making contributions for up to 10 subsequent years of accrued service credit by filing an application with the retirement system. The effect of House Bill 617 is to increase the maximum retirement benefit of JRS2 judges from 60 to 80 percent of state salary at the time of retirement.

House Bill 633

Effective: See below

House Author: Kuempel et al.

Senate Sponsor: Armbrister

House Bill 633 makes various changes in the Government Code relating to the Texas County and District Retirement System (TCDRS). The bill allows voluntary or involuntary termination of participation in TCDRS by a subdivision other than a county and requires TCDRS to make proportional payouts to beneficiaries following specified procedures. The bill authorizes the governing body of a subdivision, with board approval, to assume the pension liabilities of a subdivision that has not been voluntarily or involuntarily terminated if the subdivision no longer exists, is in the process of dissolution, is changing its operational form, or no longer has employees.

House Bill 633 allows a political subdivision to participate in TCDRS if it is not eligible to participate or is not currently participating in another statewide retirement system established by the legislature. The bill eliminates from the definition of “employee” a requirement that the person hold a position requiring at least 900 hours of service per year. It allows a qualified person to “retire in place” by continuing to receive an annuity if the member returns to work after one month for the same employer and contributes to a new retirement account. The bill allows the board to establish an increased cost-of-living increase and for such an increase to be up to 100 percent, rather than 80 percent, of the change in the consumer price index. The bill allows employers to match employee contributions in any increment of five percent, rather than 25 percent, up to 150 percent.

The bill takes effect January 1, 2006, except changes relating to the determination of multiple matching credits, which take effect December 31, 2006.

House Bill 831

Effective: 9-1-05

House Author: Gonzales et al.

Senate Sponsor: Lucio

House Bill 831 amends the Government Code to provide that a member of the Judicial Retirement System of Texas Plan One or Plan Two is eligible to retire and receive a service retirement annuity if the member has served at least 12 years on an appellate court and the sum of the member’s age and amount of service credited in the retirement system equals or exceeds the number 70, regardless of whether the member currently holds a judicial office.

House Bill 1079

Effective: 9-1-05

House Author: West, George “Buddy”

Senate Sponsor: Seliger

House Bill 1079 amends the Government Code to remove a requirement that a judge who is a member of the Judicial Retirement System of Texas Plan Two and who has at least 20 years of service credited in the retirement system must be at least 55 years old in order to be eligible to retire and receive a service retirement annuity.

House Bill 1114

Effective: 9-1-05

House Author: Nixon

Senate Sponsor: Duncan

House Bill 1114 amends the Government Code to allow a member of the Judicial Retirement System of Texas Plan One (JRS1) or Plan Two (JRS2) who accrued at least 20 years of service credit before September 1, 2005, to continue making monthly contributions to the retirement system for up to an additional 10 years of service credit by filing an application with the retirement system. The effect of House Bill 1114 is to increase the maximum retirement of certain JRS1 and JRS2 judges from 60 to 80 percent of state salary (as adjusted from time to time for JRS1 retirees and at the time of retirement for JRS2 retirees).

House Bill 1474

Effective: 6-17-05

House Author: Eiland

Senate Sponsor: Janek

House Bill 1474 amends the Government Code to prohibit the disclosure of certain confidential information relating to individual members, retirees, annuitants, or beneficiaries of the Texas County and District Retirement System that is maintained in the custody of a governmental entity other than the retirement system or of an administrator or carrier acting in cooperation with or on behalf of the retirement system.

House Bill 2374

Effective: 10-1-05

House Author: McClendon

Senate Sponsor: Madla

House Bill 2374 amends provisions of law relating to the administration and benefits of a police and firefighter retirement system in a municipality with a population of at least 1.14 million and not more than 1.18 million, including a change in the computation of a lump-sum benefit from the system and an increase in eligibility for a cost-of-living increase. The bill allows a service retiree who marries after retirement to elect a reduced annuity payable after the retiree's death to the surviving spouse and specifies that a surviving spouse who is entitled to a death annuity is not entitled to a lump-sum death benefit. The bill increases the death benefit payment to the estate of an active member or retiree.

House Bill 2374 provides that a meeting of less than a quorum of trustees is not subject to the open meetings law if no formal discussion or action takes place relating to public business. The bill provides for the confidentiality of certain records in the board's custody relating to current or former members, current or deceased retirees, beneficiaries, or alternate payees, and makes other administrative changes.

House Bill 2772

Effective: 6-17-05

House Author: Farabee

Senate Sponsor: Duncan

House Bill 2772 requires the Employees Retirement System of Texas (ERS) to evaluate the long-term impact of implementing a health reimbursement account program or a health savings account and high-deductible health plan program as part of the group benefits program. The bill sets out the issues to be addressed by the evaluation and requires ERS to submit a report of the evaluation results, findings, and recommendations no later than December 31, 2006. The provisions of the bill expire January 1, 2007.

House Bill 3169

Effective: See below

House Author: Crownover

Senate Sponsor: Duncan

House Bill 3169 amends the Government Code to repeal a provision that allowed members of the Teacher Retirement System of Texas (TRS) with at least seven years of credit for actual membership service to purchase up to three years of service credit unrelated to actual employment

Public Officials and Employees

by paying the full actuarial present value of the additional benefits gained. The change does not apply to an agreement to purchase credit that exists immediately before January 1, 2006, unless the agreement is terminated before all the payments are made. The provision's repeal is effective January 1, 2006, and there are other effective dates for changes in related provisions that will become obsolete on repeal of the provision and expiration of related agreements.

House Bill 3200

Effective: 6-18-05

House Author: Madden et al.

Senate Sponsor: Shapiro

House Bill 3200 amends the Government Code to specify that a person who is a public employee, officer, or retiree of a single governmental employer that participates in the Texas Municipal Retirement System or the Texas County and District Retirement System and that also sponsors one or more supplemental plans established before January 1, 2005, funded by the employer or the employee or both, and with combined benefits that comply with federal tax laws, does not receive benefits for the same service under more than one public retirement system or program. The bill provides that acts and proceedings of a political entity to establish, finance, or administer a supplemental plan that occur before the bill's effective date are validated as of the dates they occurred.

Senate Bill 262

Effective: 9-1-05

Senate Author: Williams

House Sponsor: Eiland

Senate Bill 262 amends Government Code provisions relating to certain benefits for law enforcement officers who are members of the Employees Retirement System of Texas. The bill removes from eligibility for those benefits a law enforcement officer hired by the State Board of Pharmacy on or after the effective date of this bill.

Senate Bill 310

Effective: 9-1-05

Senate Author: Deuell et al.

House Sponsor: Bohac

Senate Bill 310 amends the Government Code to establish that a paid or volunteer firefighter or an emergency medical technician employed by a political subdivision is presumed to have suffered a disability or death during the course of employment if any of certain medical conditions resulted from the employee's exposure to harmful agents while performing work duties. The medical conditions covered by such a presumption include tuberculosis and other respiratory illnesses, certain types of cancer, a heart attack or stroke, and an injury resulting from an immunization against smallpox or another disease. The presumption applies only to firefighters and emergency personnel who have been employed for at least five years, have had a previous physical examination that showed no evidence of the claimed medical condition, and sought benefits for the condition during their employment, and applies to the determination of benefits or compensation provided under another benefit, law, or plan. The presumption does not create a cause of action or entitle the employee to additional benefits and does not apply to a determination of benefits for the employee's survivors, to a cause of action brought in a state or federal court, to a life or disability insurance policy, or to an employee or spouse who used tobacco products if the disease can be traced to such use. The bill allows a presumption to be rebutted if a preponderance of evidence shows that the condition resulted from a factor unrelated to the employee's service.

Senate Bill 522**Effective:** 9-1-05**Senate Author:** Armbrister**House Sponsor:** Eiland

Senate Bill 522 repeals the Texas Statewide Emergency Services Retirement Act and amends the Government Code to create the Texas Emergency Services Retirement System (TESRS) to administer retirement, disability, and death benefits for volunteer and auxiliary personnel of emergency services departments. The bill removes from the previous provisions specific requirements relating to eligibility for pension benefits and allows the TESRS board of directors to establish by rule the allowed periods for full and partial vesting of benefits, a minimum and maximum contribution level, a multiplier or other formula to be used in computing benefits, the method of providing an increase in benefits for service in excess of the vesting period, an increase in local contributions for the purpose of funding the plan's unfunded actuarial accrued liability within 30 years, a lump-sum payment for certain annuities for purposes of cost-efficiency or to maintain actuarial soundness, an administrative fee charged to governing bodies for administering benefits to retirees who are transferred from another retirement system, and other administrative requirements. The bill prohibits a department that joins the system after September 1, 2005, from revoking participation.

Senate Bill 1176**Effective:** See below**Senate Author:** Armbrister**House Sponsor:** Eiland

Senate Bill 1176 amends provisions of the Government and Insurance Codes relating to the Employees Retirement System of Texas (ERS). The bill continues the 90-day waiting period for membership of newly hired employees, raises the interest rate for purchasing refunded service from five to 10 percent, and prohibits former employees who participate in the optional retirement program and do not have an open ERS account from purchasing service credits. It reduces from 60 months to 36 months the amount of service credit a member may purchase without performing additional employment. The bill allows ERS to make a lump-sum payment to a retiree or beneficiary if the actuarial value of the annuity does not exceed \$20,000, restricts disability annuity and death benefit retirement eligibility to members who are currently contributing to ERS, and allows ERS to reduce an annuity for a nonoccupational disability retirement based on actuarial tables adopted by the ERS board for members who retire before they reach the eligible age. The bill makes other administrative changes.

Senate Bill 1176 allows a member with at least 25 years of service credit who has served as executive head of a legislative agency to elect to retire in the elected class and requires that such election be made before September 1, 2008.

The bill's general provisions take effect September 1, 2005, except that the reduction in service credit that may be purchased and a reduced computation of insurance contributions for part-time employees take effect January 1, 2006, and the increased interest rate for purchasing refunded service takes effect September 1, 2006.

Senate Bill 1691**Effective:** See below**Senate Author:** Duncan**House Sponsor:** Eiland

Senate Bill 1691 amends provisions of the Education, Government, and Insurance Codes relating to the Teacher Retirement System of Texas (TRS). The bill reduces the annuity of a member who is hired on or after September 1, 2006, or September 1, 2007, and bases a retirement annuity on the member's highest five years of salary, rather than the highest three years, as provided under previous law. The bill modifies a provision that allows a member to purchase additional service credit for up to five years by requiring the member purchasing such credits for out-of-state service to pay the actuarial present value of the additional benefits granted. It

Public Officials and Employees

allows a member who earned service in another state before January 1, 2006, to buy that time under current rates at any time in the future. The bill prohibits a school district from offering financial or other incentives for early retirement and requires that the sum of a member's age and amount of service prospectively equal the number 90 to qualify for a partial lump-sum payment at retirement. The bill requires a retiree to elect to participate in the TRS deferred retirement option plan (DROP) no later than December 31, 2005, and allows a member currently in the plan to withdraw before that date.

The bill transfers responsibility for supplemental payments, such as the health insurance pass-through, from TRS to the Texas Education Agency (TEA) and outlines procedures for distributing and using the payments. As of September 1, 2005, the bill requires employers to pay TRS for new members the amount the state would have contributed to TRS during a new employee's 90-day waiting period. It requires a school district that hires a retired TRS member to pay both the state and employee's share of TRS contributions as if the retiree were an active employee, as well as the difference between the retiree's required payment to TRS-Care and the full cost of the retiree's participation in the program, with certain exceptions. The bill increases the amount an active employee must contribute to TRS-Care from 0.5 percent to 0.65 percent of the employee's salary. The bill raises the requirements for new retirees to participate in the retired school employees' health insurance program. Finally, the bill requires TEA to notify TRS if a school's charter is revoked, denied, or surrendered, or if a charter school no longer receives state funds within 10 business days after such action and also to notify TRS within that time if funding is restored.

The bill generally takes effect September 1, 2005.

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

- HB 912 - State Government
- HB 914 - Government Purchasing
- HB 2866 - Local Government
- SB 286 - Open Government and Privacy
- SB 308 - Emergency Response
- SB 450 - Open Government and Privacy
- SB 1345 - Military Forces and Veterans

State Government

This chapter covers legislation on state agencies, state laws, state assets, state commemorations, and state fiscal management, and electronic access by the public to state government services and information. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 22

Effective: 5-24-05

House Author: Brown, Fred

Senate Sponsor: Shapiro

House Bill 22 amends the Government Code to include nonprofit organizations that provide affordable housing among the assistance organizations and other entities that are eligible to purchase surplus state agency property before it is offered to the public for sale. The bill also allows state agencies, university systems, and institutions of higher education, as an alternative to destroying property that has no resale value or that remains after other disposal procedures are exhausted, to donate the property to an eligible assistance organization.

House Bill 67

Effective: 5-9-05

House Author: McClendon et al.

Senate Sponsor: Van de Putte

House Bill 67 amends the Government Code to designate August 26 as Women's Independence Day to commemorate the 1920 ratification of the 19th Amendment to the U.S. Constitution, which guaranteed women the right to vote. The bill requires that Women's Independence Day be observed with programs in public schools and other places to emphasize the importance of women's suffrage.

House Bill 1099

Effective: 9-1-05

House Author: Chavez et al.

Senate Sponsor: Lucio

House Bill 1099 amends the Health and Safety Code and the Government Code to transfer from the Health and Human Services Commission and the Department of State Health Services to the Texas Department of Housing and Community Affairs (TDHCA) all powers and duties relating to the inspection and licensing of migrant labor housing facilities, including all rules, policies, procedures, decisions, actions, and proceedings. The bill requires TDHCA to adopt statutorily required fees, rules, and standards not later than January 1, 2006. It also requires TDHCA to survey and research the quantity, availability, need, and quality of migrant labor housing facilities in the state and to produce reports of its findings to the legislature not later than September 1, 2006. The bill increases the fee for a migrant labor housing facility license from an amount not to exceed \$100 to an amount not to exceed \$250. It provides that in addition to TDHCA, a migrant agricultural worker or the worker's representative may file suit for injunctive relief to stop a violation, and it specifies that a district court may issue an injunction against a person who owns or controls a migrant labor housing facility in such cases.

House Bill 1820

Effective: 6-18-05

House Author: Otto

Senate Sponsor: Eltife

House Bill 1820 amends the Government Code to require state agencies to report certain technological innovations to the lieutenant governor and the speaker of the house of representatives rather than to the attorney general. The bill amends the Tax Code to eliminate

a requirement that the governing body of a municipality send the attorney general a copy of its report regarding property taxes in a reinvestment zone and also eliminates a requirement that the Nueces River Authority provide the attorney general with a copy of its audit report.

House Bill 2018

Effective: 9-1-05

House Author: Swinford

Senate Sponsor: West, Royce

House Bill 2018 contains nonsubstantive additions and corrections to existing codes, including new codifications and conforming amendments, to reflect changes enacted by the 78th Legislature in 2003.

House Bill 2025

Effective: 6-18-05

House Author: Hilderbran et al.

Senate Sponsor: Fraser

House Bill 2025 amends the Government Code and Parks and Wildlife Code to authorize the transfer of jurisdiction over a historical site from the Texas Parks and Wildlife Department to the Texas Historical Commission by interagency agreement. The bill provides for contracting out the administration of a site. The bill changes the name of the Fleet Admiral Chester Nimitz Memorial Naval Museum to the National Museum of the Pacific War and transfers jurisdiction over the administration of the museum from the department to the commission. Additionally, the bill establishes the National Museum of the Pacific War account within the state's general revenue fund and provides for museum funding, including grants, gifts, and revenue bonds.

House Bill 2196

Effective: 6-17-05

House Author: Madden

Senate Sponsor: Whitmire

House Bill 2196 amends the Government Code to clarify that the Texas Department of Criminal Justice may receive surplus or salvage data processing equipment from a state agency or any political subdivision. The bill provides that acceptance by the Texas Board of Criminal Justice is not necessary for the department to receive the equipment.

House Bill 2208

Effective: 9-1-05

House Author: Phillips

Senate Sponsor: Zaffirini

House Bill 2208 amends the Government Code to require the Texas Commission on the Arts to establish and administer a program to designate cultural and fine arts districts.

House Bill 2753

Effective: 6-17-05

House Author: Pitts

Senate Sponsor: Ogden

House Bill 2753 amends the Government Code and other laws to authorize the Legislative Budget Board (LBB) to develop and perform certain criminal justice functions relating to policy analysis if the governor does not designate an executive branch agency or institution of higher education to do so. Such functions include serving as the state's statistical analysis center on the subject and acting as liaison with the federal government on criminal justice issues of interest relating to data, information systems, and research. The bill gives the LBB the same access to databases of the Department of Public Safety and Texas Department of Criminal Justice as federal and state criminal justice agencies now have. It expands that access for both the LBB and criminal justice agencies to include access to databases of the Texas Juvenile Probation Commission and Texas Youth Commission. The bill establishes an exception to the open records law for communications between a legislator and an LBB employee or assistant. Exceptions are also extended to information the LBB compiles in conducting a performance review of a school district or institution of higher education or a review of state agency efficiency and effectiveness until the review is completed. The bill requires LBB meetings conducted by conference call to

be based in Austin. It eliminates LBB board members' involvement in hiring agency personnel, setting their salaries, and approving expenses. The bill repeals provisions relating to biennial LBB studies of public education funding elements, to LBB impact statements for legislation imposing court costs on criminal defendants, and to reports or notifications by state agencies to the LBB regarding lawsuits filed against the state, training expenditures, certain membership dues, and nonresident contract bidders.

House Bill 2900**Effective:** 6-17-05**House Author:** Hilderbran**Senate Sponsor:** Van de Putte

House Bill 2900 amends the Government Code to revise eligibility for burial in the state cemetery for certain unmarried children of eligible persons residing in a state institution, by replacing the requirement that such a child have resided in a state institution with a requirement that the child, because of a chronic physical or mental condition that was manifest during a parent's lifetime, at the time of death was dependent upon someone else for care or support.

House Bill 2902**Effective:** 9-1-05**House Author:** Hilderbran**Senate Sponsor:** Fraser

House Bill 2902 amends the Government Code to expand the Historic Courthouse Preservation Program to include a maintenance program. The bill also increases funding for the program.

House Bill 3112**Effective:** 9-1-05**House Author:** Corte**Senate Sponsor:** Wentworth

House Bill 3112 amends the Government Code to establish the Texas Computer Network System, through which the Department of Information Resources is required to provide network security services to state agencies. The bill allows such security services to be provided to the legislature and related agencies, special districts, including school and hospital districts, essential utility-related independent organizations, and institutions of higher education, under certain conditions. The bill provides for equipping the network system, what constitutes confidential network security information, and the release of that information. The bill specifies the department's responsibility in an internal or external security threat to a state agency's network. House Bill 3112 also requires the department to establish a secure network security center facility, through which the department will provide the system's managed security services, and sets out provisions relating to the center's duties and operation. The bill requires the department to protect all networks, particularly criminal justice and homeland security networks. In addition, House Bill 3112 requires the department to report biennially on implementing the network security system and to conduct a study on the interoperability of certain network security features.

Senate Bill 255**Effective:** 9-1-05**Senate Author:** Carona**House Sponsor:** Uresti

Senate Bill 255 amends the Government Code to require a state agency to permanently remove data from data processing equipment before disposing of or transferring the equipment to any entity other than the state. The bill requires the Department of Information Resources to adopt rules to govern data removal.

Senate Bill 318**Effective:** 6-17-05**Senate Author:** Staples**House Sponsor:** Hopson

Senate Bill 318 amends the Government Code to designate the third Saturday in September of each year as Texian Navy Day in remembrance of the Texian Navy. The bill requires Texian Navy Day to be regularly observed by appropriate ceremonies and activities.

Senate Bill 1377

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Cook, Byron

Senate Bill 1377 amends the Government Code to increase from \$10 to \$15 the fee imposed by the secretary of state for each official certificate, except for an apostille requested for use in proceedings related to the adoption of a child in another country. The bill keeps the fee for an apostille at \$10 and, moreover, limits the total fees that the secretary of state may charge for all documents issued in connection with such an adoption to \$100.

Senate Bill 1491

Effective: 6-17-05

Senate Author: Williams

House Sponsor: Hughes et al.

Senate Bill 1491 amends the Government Code to remove the provision that the fees set by the state law library for services provided by the library staff do not apply to a public agency.

Senate Bill 1686

Effective: 9-1-05

Senate Author: Estes

House Sponsor: Hardcastle

Senate Bill 1686 amends the Government Code to modify the composition of the interagency work group on rural issues to reflect state agency changes, including the legislative reorganization in 2003 of health and human service agencies. The bill also authorizes the governor to designate a representative to the work group from the entity that provides mediation service to the state under its federally authorized state agricultural loan mediation program.

Agencies

House Bill 905

Effective: 6-18-05

House Author: Delisi

Senate Sponsor: Williams

Previous law allowed state agencies or certain nonprofit corporations that are dedicated to the benefit of a state agency to employ a private auditor if authorized by statute or through a delegation of authority from the state auditor. House Bill 905 amends the Government Code to eliminate the reference to authorization by statute. The bill also requires contracts of constitutional and statutory state agencies outside the legislative and judicial branches, excluding the governor's office, lieutenant governor's office, and advisory committees, to include a provision that, under the direction of the legislative audit committee, an entity that is the subject of a state auditor investigation or audit must provide the state auditor access to any information the state auditor considers relevant to the investigation or audit.

House Bill 912

Effective: 5-30-05

House Author: Isett

Senate Sponsor: Ellis

House Bill 912 amends Government Code provisions allowing state agencies to use appropriations to purchase awards to be presented to employees for professional achievement or outstanding service to increase the cost limitation for such awards from \$50 to \$100 for an individual employee.

House Bill 1116

Effective: 9-1-05

House Author: Solomons et al.

Senate Sponsor: Nelson

House Bill 1116 revises the sunset review process of more than 20 state agencies, boards, committees, and other entities. It continues the Texas Education Agency and the Texas Alcoholic Beverage Commission, which were recently reviewed and previously scheduled for 2005 abolishment, until 2007 and directs the Sunset Advisory Commission (SAC) to conduct a limited review of each.

The bill changes the sunset date for the Texas Lottery Commission from 2005 to 2011 and changes the sunset dates of the State Preservation Board, Texas Department of Agriculture, Board of Directors of the Official Cotton Growers' Boll Weevil Eradication Foundation, Texas Israel Exchange Fund Board, and Prescribed Burning Board from 2007 to 2011. The sunset dates for the Texas Department of Criminal Justice, Texas Board of Criminal Justice, and Correctional Managed Health Committee are changed from 2011 to 2007, and the bill directs the SAC, as part of its upcoming review of criminal justice agencies, to study certain criminal court costs and fees as well as parole, probation, and community supervision fees. Changed from 2007 to 2009 are the sunset dates for the Texas Department of Insurance, Office of Public Insurance Counsel, and Texas Military Preparedness Commission, and changed from 2011 to 2009 are those for the Texas Council for Developmental Disabilities, Governor's Committee on People with Disabilities, and Texas Cancer Council. The sunset date for the Texas Board of Professional Geoscientists is changed from 2013 to 2015.

The bill eliminates the sunset dates for the State Board for Educator Certification, regional education service centers, Electric Utility Restructuring Legislative Oversight Committee, Property and Casualty Insurance Legislative Oversight Committee, Texas Incentive and Productivity Commission, Criminal Justice Policy Council, and State Aircraft Pooling Board.

House Bill 2379
Effective: 9-1-05

House Author: Swinford
Senate Sponsor: Ellis

House Bill 2379 amends the Government Code to replace a requirement that the Texas Building and Procurement Commission limit the allocation of usable office space for most nonlegislative state agencies to an average of 135 square feet per agency employee with a requirement that the commission adopt rules consistent with private sector standards and industry best practices to govern allocation of office space. The bill provides for exemption of certain sites from the rules.

House Bill 2466
Effective: 9-1-05

House Author: Swinford
Senate Sponsor: Ellis

House Bill 2466 dissolves the Recycling Market Development Board, which consisted of the chair of the Texas Commission on Environmental Quality (TCEQ), the executive director of the Texas Building and Procurement Commission (TBPC), and the chief executives of any additional agencies that they designated as necessary to assist in performing board duties. The bill amends the Health and Safety Code to reassign the duty to coordinate recycling activities of state agencies and to pursue an economic development strategy that focuses on waste management priorities to the TCEQ, TBPC, and other consenting state agencies as appropriate, and to reassign most other functions of the board to the TCEQ and TBPC jointly. The TCEQ and TBPC are required to use the pollution prevention advisory committee in carrying out these functions. Dissolving the board leaves the TBPC with sole responsibility, under the Government Code, for identifying recycled and environmentally friendly goods and services and designating purchasing goals for state agency procurement of such goods and services.

House Bill 2819
Effective: 9-1-05

House Author: Rose et al.
Senate Sponsor: Madla

House Bill 2819 amends the Government Code to require each state agency, in developing, procuring, maintaining, or using electronic and information resources, to ensure that state employees with disabilities have access to and use of those resources comparable to that available to state employees without disabilities. Similarly, it requires each state agency to

State Government

provide disabled members of the public who are seeking agency information or services with access to and use of such resources comparable to that available to members of the public without disabilities. An exception applies, in each case, if compliance imposes a significant difficulty or expense on the agency, in which case the agency may pursue an alternative access method. The agency's executive director determines whether the exception applies, and that determination cannot be appealed. The bill elaborates on the extent of the new requirements and specifies certain other exceptions. It does not create a cause of action and does not add to federal requirements under the Americans with Disabilities Act of 1990. The bill requires the Department of Information Resources (DIR) to adopt rules relating to implementation, emerging technologies and available commercial products relevant to the new law, compliance training and technical assistance, the development and monitoring of agency websites for accessibility to the disabled, an annual survey of agencies regarding electronic and information resources, state agency reporting requirements, the exceptions that apply in the case of agency difficulty or expense, and the exemption of agencies from the new requirements in other special circumstances. In developing implementation rules, the DIR must consider specified federal regulations. The bill requires the DIR to develop a process by which the public may provide information on compliance with the new law. It repeals certain predecessor law relating to the inclusion of a technology access clause in state agency computer acquisition contracts.

House Bill 3227

Effective: 6-17-05

House Author: Swinford

Senate Sponsor: Lucio

State law requires the office of vehicle fleet management at the Texas Building and Procurement Commission to develop a management plan to improve the administration and operation of the state vehicle fleet for nonlegislative state agencies, university systems, and institutions of higher education. House Bill 3227 amends the Government Code to require those entities to submit reports on a quarterly, rather than monthly, basis and to set a specific deadline for the reports. The bill provides that, for institutions of higher education, any plan criteria relating to minimum vehicle use do not apply, the plan is limited to vehicles purchased with appropriated money, and a waiver from any limit on the number of the vehicles an institution may own that are subject to the plan may be granted by the office.

Electronic Government

House Bill 26

Effective: 6-17-05

House Author: Delisi

Senate Sponsor: Zaffirini

Previous law required the Department of Information Resources to both establish and manage the electronic infrastructure of an electronic marketplace. House Bill 26 amends the Government Code to reassign the function of establishing the electronic infrastructure to the Texas Building and Procurement Commission. The bill requires each state agency, excluding certain higher education entities, to provide copies of each major contract entered into by the agency and each request for proposal or other solicitation for major contract to the commission for posting on the electronic procurement marketplace. The bill also provides for how the information is to be organized and presented and what information is required to be accessible to governmental entities and to the public.

House Bill 423**Effective:** 9-1-05**House Author:** Delisi**Senate Sponsor:** Eltife

House Bill 423 amends the Government Code to require a state agency that distributes a physical version of an agency publication to subscribers at no cost to make the publication available in electronic format on the agency's website. The bill requires the agency to inform subscribers to the publication of the electronic alternative and provides for notifying subscribers who opt to access the electronic version each time the publication becomes available.

House Bill 2048**Effective:** 6-18-05**House Author:** Uresti**Senate Sponsor:** Ellis

House Bill 2048 amends provisions of the Government Code, Local Government Code, and Transportation Code related to TexasOnline services and fees. Provisions of this bill prevail where they conflict with provisions of another bill.

The bill abolishes the TexasOnline Authority and shifts its responsibilities to the Department of Information Resources.

House Bill 2048 requires each state agency to advertise the options for completing transactions with the agency online and prohibits the department from charging a licensing entity a subscription fee until the service for which the fee is charged is available on the Internet. The bill requires the department to set fees that a state agency, including the department, or a local government may charge for a transaction that uses the TexasOnline project and specifies parameters of the fee, including limitations on the fee, use of fees collected, and fee exemptions. It also sets out a specific due date, a distribution list, and additional content for the department's biennial financial report, and requires a vendor of the TexasOnline project to have an annual independent audit of the vendor's finances associated with the operation or management of the project.

House Bill 2048 authorizes the Department of Public Safety to require vehicle inspection stations to use TexasOnline services. The bill expands the Texas Information and Referral Network System, which is administered by the Health and Human Services Commission, to include electronic access to child-care and education services referral information provided by each local workforce development board, the Texas Head Start State Collaboration Office, and each school district.

House Bill 2473**Effective:** 9-1-05**House Author:** Delisi**Senate Sponsor:** Ellis

House Bill 2473 amends the Government Code to update provisions relating to state publications maintained by the Texas State Library and Archives Commission to cover material in electronic formats. The bill specifies that the Texas Records and Information Locator system is to allow Internet access to state publications and modifies state publication production, description, distribution, and access guidelines to provide for electronic and Internet publications and traditional publications.

House Bill 2593**Effective:** 6-18-05**House Author:** Baxter**Senate Sponsor:** Janek

House Bill 2593 amends provisions of the Government Code and Transportation Code related to TexasOnline services and fees. The bill prohibits the TexasOnline Authority from charging a licensing entity a subscription fee until the service for which the fee is charged is available on the Internet. It requires the authority to set fees that a state agency, including the

authority, or a local government may charge for a transaction that uses the TexasOnline project and specifies parameters of the fee, including limitations on the fee, the use of fees collected, and fee exemptions. House Bill 2593 also sets out provisions governing the distribution of fees collected by a private vendor or governmental entity. It sets out a specific due date, a distribution list, and additional content for the authority's biennial financial report, and requires a vendor of the TexasOnline project to have an annual independent audit of the vendor's finances associated with the operation or management of the project.

House Bill 2593 authorizes the Department of Public Safety to require vehicle inspection stations to use TexasOnline services. Additionally, the bill eliminates provisions relating to the TexasOnline division within the Department of Information Resources and shifts certain division responsibilities to the department.

Senate Bill 96

Effective: 9-1-05

Senate Author: Shapleigh

House Sponsor: Solomons

The TexasOnline Authority in the Department of Information Resources hosts the TexasOnline website, which serves as a portal to Texas governmental information. Senate Bill 96 amends the Government Code to require each agency with occupational licensing jurisdiction to develop, in cooperation with the TexasOnline Authority, a link through the authority's portal that provides streamlined access to each of the occupational licenses listed on the TexasOnline website. The bill also requires a state agency in the executive or judicial branch to make available, on its website, each of its forms that is used by the public.

Senate Bill 213

Effective: 9-1-05

Senate Author: Shapleigh

House Sponsor: Martinez Fischer

Senate Bill 213 amends the Information Resources Management Act to require state agencies in the executive and judicial branches, including university systems and institutions of higher education, to make a reasonable effort to ensure meaningful online access to agency information by Spanish-speaking persons of limited English proficiency. The bill establishes criteria to evaluate whether an agency is providing meaningful access to such individuals. The criteria include the importance of the agency's programs, the number or proportion of such individuals in the agency's eligible service population, the frequency with which those individuals seek information about the agency's programs, and available agency resources. An agency must avoid unreasonably delaying the provision of Spanish-language information, or limiting its scope, and must avoid providing information, including forms, notices, and correspondence, in English only. In implementing the bill, an agency must examine its online public information and provide an adequate opportunity for input by interested parties and organizations, including persons of limited English proficiency.

Senate Bill 1002

Effective: 9-1-05

Senate Author: Madla

House Sponsor: Delisi

Senate Bill 1002 amends the Government Code to require the Department of Information Resources to establish a grants assistance project to develop a website, accessible through TexasOnline, for state grant assistance opportunities, information, and applications. The bill requires the department, through the project and in coordination with the governor's office, to assist state agencies in standardizing a reporting system for grant assistance announcements, summaries, and applications, and improving interagency and intergovernmental information collection and distribution.

Fiscal Management and Auditing

House Bill 256

Effective: 9-1-05

House Author: Hopson

Senate Sponsor: Estes

House Bill 256 amends the Government Code to provide that a certificate of deposit or share certificate is an authorized investment for governmental entities in Texas if it is issued by a depository institution that has its main office or a branch office in Texas, rather than issued by a state or national bank, savings bank, or state or federal credit union domiciled in Texas. The bill also provides that an investment in certificates of deposit is an authorized investment if made in accordance with certain conditions relating to the location and functions of a depository institution and its affiliation with an investment entity, insurance of the principal and accrued interest, and liquidity of a depository institution.

House Bill 957

Effective: 5-27-05

House Author: Pickett

Senate Sponsor: Staples

Current law requires the asset management division of the General Land Office to review the real property of each state agency every four years. House Bill 957 amends the Natural Resources Code to streamline the process by requiring the division to provide the market value of property and current market conditions only if a real estate transaction is recommended for the property; if no transaction is recommended, evidence of the property value is to be provided in a form determined by the commissioner of the General Land Office.

Senate Bill 1569

Effective: 6-17-05

Senate Author: Williams

House Sponsor: Smith, Todd

Senate Bill 1569 amends the Government Code to require the comptroller to contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors and to recommend improvements for state agency accounting. The bill enumerates authorized contract provisions and provides for the handling of confidential information by a contractor. The bill requires recovery audits of agencies with more than \$100 million during a biennium in vendor expenditures; however, the comptroller is authorized to exempt agencies with a low proportion of expenditures made to vendors. The bill requires agencies to use recovered money to pay the audit consultant responsible for the recovery and to return or expend recovered federal money according to the rules of the federal program through which the agency received the money. The bill requires the comptroller to forward the audit reports to the governor, the state auditor's office, and the Legislative Budget Board and to issue a summary report to the legislature on a biennial basis.

Senate Bill 1605

Effective: 6-18-05

Senate Author: Ogden

House Sponsor: Luna

Senate Bill 1605 updates the "funds sweep" accounting mechanism in the Government Code to provide that dedicated revenues on August 31, 2007, that are estimated to exceed the amount appropriated by the General Appropriations Act and other enactments of the 79th Legislature are available temporarily for spending for general governmental purposes and for appropriations certification by the comptroller.

Senate Bill 1605 provides that a fund or account created or re-created in the state treasury by an act of the 79th Legislature, or a dedication or rededication of revenue by an act of the 79th Legislature, is abolished on the later of August 29, 2005, or the effective date of such act.

The statutory dedications, funds, accounts, fee increases, or other dedicated revenues that were enacted before the 79th Legislature, Regular Session, 2005, convened, or that remain exempt under a former provision of the Government Code, are exempt from abolishment.

The following funds and accounts that are created or re-created, or revenue that is dedicated or rededicated, by an act of the 79th Legislature, Regular Session, 2005, are also exempt from abolishment: general revenue accounts created or re-created under Senate Bill 1863; dedications or rededications made by Senate Bill 1863 or House Bill 7; the Texas emerging technology fund; the convenience switch recovery account; the childhood immunization account; the employment and training investment holding fund; State Highway Fund 0006; Game, Fish, and Water Safety Account 0009; Texas Department of Insurance Operating Account 0036; Clean Air Account 0151; Coastal Protection Account 0027; Water Resource Management Account 0153; Unemployment Compensation Special Administration Account 0165; specified federal, trust, bond, constitutional, architectural, scholarship, and treasury funds and license plate fee revenues.

Senate Bill 1863

Effective: See below

Senate Author: Ogden

House Sponsor: Pitts

Senate Bill 1863 addresses fiscal matters involving governmental entities. Among other fee provisions, the bill increases registration fees for lobbyists other than those who represent tax-exempt organizations. It increases petroleum product delivery fees for the next fiscal biennium and makes changes to the reimbursement program that uses those fees to pay for the cleanup of contamination from petroleum storage tank leaks. The bill reduces the per-barrel fees imposed on vessels that transfer oil to or from a marine terminal, reduces the ceiling above which collection of coastal protection fund fees is halted, and reduces the floor below which fee collection is reactivated. It continues the quality assurance fees that intermediate care facilities for the mentally retarded are charged. Under previous law, those fees were scheduled to expire in 2005. The bill continues the telecommunications infrastructure fund (TIF) until September 1, 2011, and repeals provisions setting a maximum on TIF assessment collections.

Health care provisions of the bill shorten the period of continuous coverage for children who are recipients of Medicaid or Children's Health Insurance Program (CHIP) assistance, requiring that eligibility be reestablished every six months. The bill authorizes the Health and Human Services Commission to enter into agreements with other states for joint bulk purchasing of prescription drugs for Medicaid, CHIP, and other programs. Amendments to the Texas Employees Group Benefits Act authorize incentives for state employees or retirees to opt for alternatives to state-government health coverage.

For public school employees who contribute to the retired school employees group insurance fund, administered by the Teacher Retirement System of Texas (TRS), the bill increases the annual employee contribution from 0.50 percent to 0.65 percent of the employee's salary. For TRS generally, it changes the annual state contribution from eight percent to a range of six to 10 percent of the aggregate annual compensation of TRS members. (The General Appropriations Act—Senate Bill 1—establishes a 6.22 percent contribution for FY2006 and FY2007.) A temporary law from 2003, which provided that a new public school employee did not become a TRS member until the 91st day of employment, expired September 1, 2005, so that membership begins immediately with job commencement, and for individuals newly employed on or after that date, Senate Bill 1863 requires the school district or other employer, for the first 90 days of employment, to contribute an amount equal to the state contribution rate. Other provisions transfer the compensation supplementation program from TRS to the Texas Education Agency. Compensation supplementation does not begin until the 91st day of employment.

Provisions relating to the system benefit fund, which supports discounts of 10 to 20 percent on the electric bills of low-income utility customers, stipulate that if the supportive fee paid by utilities is set at the maximum 65 cents per megawatt-hour, or if the Public Utility Commission of Texas (PUC) determines that appropriations are insufficient to fund a 10 percent discount, the PUC may reduce the discount to less than 10 percent. Other provisions of the bill transfer certain FY2006 and FY2007 receipts from the Texas Mobility Fund to the general revenue fund, increase state employee longevity and hazardous duty pay, address compensation for certain state employees returning to state government, require specified local governments to implement a program to improve the collection of criminal court costs, fees, and fines, and address interest on tax refunds, recovery of state agency overpayments, the school district existing debt allotment, and other matters. The bill takes effect August 29, 2005, except that the lobbyist registration fee increase takes effect December 1, 2005, and provisions relating to petroleum storage tanks, the TIF, the 0.65 percent public school employee contribution, the 90-day TRS contribution by employers, the compensation supplementation program, the Texas Mobility Fund, state employees, and interest on tax refunds, all take effect September 1, 2005.

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

HB 2336 - Public Officials and Employees

HB 3147 - Government Purchasing

SB 827 - Border Affairs

SB 1533 - Public Officials and Employees

Taxes and Tax Administration

This chapter covers legislation on the property, sales and use, motor vehicle sales and use, and hotel occupancy taxes. It also includes legislation relating to requirements and procedures for appraisal of real property and appraisal appeal procedures. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 1471

Effective: 9-1-05

House Author: Hegar

Senate Sponsor: Deuell

House Bill 1471 amends the Local Government Code to transfer from the county clerk to the county tax assessor-collector all of the duties associated with the collection and maintenance of occupation taxes owed to a county. The bill also allows the county tax assessor-collector to submit the monthly report relating to licenses issued on taxes paid to the state to the comptroller electronically if the comptroller authorizes such electronic submissions.

Senate Bill 1570

Effective: 9-1-05

Senate Author: Williams

House Sponsor: Isett

Legislation from 1999 entitled a taxpayer to interest on a tax refund for a report period due on or after January 1, 2000, at a rate equal to the prime rate plus one percent. Senate Bill 1570 amends the Tax Code to change the rate for a refund claimed on or after September 1, 2005, to the lesser of the prime rate plus one percent or the annual rate of interest earned on state treasury deposits during December of the previous calendar year.

Hotel Occupancy Tax

House Bill 214

Effective: 6-18-05

House Author: Casteel

Senate Sponsor: Fraser

House Bill 214 amends the Tax Code to authorize the commissioners court of a county with a population of less than 22,000 and in which the birthplace of a president of the United States is located to impose a hotel occupancy tax. The bill adds to the list of counties where a county hotel occupancy tax does not apply to a hotel located within a municipality that imposes a municipal hotel occupancy tax. It also makes a county hotel occupancy tax in a county with a population of 34,000 or more and bordering Lake Buchanan inapplicable to a hotel located within a municipality's extraterritorial jurisdiction after a municipal hotel occupancy tax becomes applicable to that hotel.

House Bill 352

Effective: 9-1-05

House Author: Goodman

Senate Sponsor: Brimer

House Bill 352 amends Tax Code provisions relating to a hotel operator who is required to collect a municipal hotel occupancy tax and who fails to pay the tax or file a tax report when due. The bill allows a municipality's attorney to determine the amount of tax due by conducting an audit of each hotel for which the person did not file a tax report or by using the tax report filed with the comptroller for the appropriate reporting period. If the hotel operator fails to file the required report with the comptroller, the bill allows the attorney to estimate the amount of tax due by using the tax reports filed during the previous calendar year, and it provides that such an

estimate is prima facie evidence of the amount due for the applicable period. If the amount of tax due is determined by audit, and the tax has been delinquent for at least two fiscal quarters, the hotel operator is liable for the cost of the audit.

House Bill 1734
Effective: 6-18-05

House Author: Krusee
Senate Sponsor: Ogden

House Bill 1734 amends the Tax Code to allow a municipality in a county with a population of one million or less, rather than 290,000 or less, to use municipal hotel occupancy tax revenue to pay expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at area hotels and motels. The bill also allows certain municipalities, defined by both their municipal population and the population of the counties in which they are located, to use the tax revenue to enhance and upgrade existing city-owned sports facilities if those facilities have hosted a combined total of more than 10 district, state, regional, or national sports tournaments in the preceding calendar year. The bill requires a municipality using its hotel occupancy tax to upgrade existing city-owned sports facilities to determine the amount of municipal hotel occupancy tax revenue generated by hotel activity attributable to sporting events at the upgraded facilities for five years after the date the upgrades are completed, and it prohibits the municipality from spending more hotel occupancy tax revenue on the upgrades than is generated by those upgrades.

The bill also amends the Local Government Code to exempt from the requirement for prior voter approval the sale or lease of a public square or municipal park for the acquisition, construction, or renovation of an approved sports and community venue project.

House Bill 1773
Effective: 6-18-05

House Author: Miller
Senate Sponsor: Averitt

House Bill 1773 amends the Tax Code to allow certain counties that previously were prohibited from imposing a county hotel occupancy tax at a hotel that is subject to a municipal hotel occupancy tax to impose the county tax at such a hotel.

Property Tax Appraisals and Protests

House Bill 182
Effective: 9-1-05

House Author: Mowery et al.
Senate Sponsor: Janek

House Bill 182 amends the Tax Code to allow a property owner to appeal an appraisal review board's determination, in a protest concerning the appraised or market value of real property, through binding arbitration instead of through judicial review by a district court if the property's appraised or market value is \$1 million or less and the appeal does not involve any matter in dispute other than the property's appraised or market value. The bill establishes notice requirements to inform a property owner of the property owner's right to appeal through binding arbitration and establishes procedures and deadlines for a property owner requesting arbitration and for an appraisal district processing a request. The bill requires the comptroller to prescribe a form for requesting arbitration in such cases and to maintain a registry of qualified arbitrators from which the property owner and the appraisal district may select an arbitrator or from which the comptroller may select an arbitrator if the two parties are unable to agree. The bill establishes procedures for the appointment of an arbitrator, for the conduct of and representation at an arbitration hearing, and for the making of an arbitration award and payment of the arbitrator's fee. Parties to the arbitration may represent themselves or be represented by an appraisal district employee, a licensed attorney, a licensed real estate broker or salesperson, a

licensed or certified real estate appraiser, or a registered property tax consultant. The bill provides that the pendency of an appeal through binding arbitration does not affect the delinquency date of the taxes due on the property subject to the appeal and prohibits a property owner from filing an appeal if the taxes on that property are delinquent.

House Bill 312**Effective:** 9-1-05**House Author:** McReynolds**Senate Sponsor:** Staples

The Tax Code imposes an additional tax on land that is appraised for property tax purposes at its timberland value if the use of the land changes from timberland. House Bill 312 amends the code to provide that the use of the land does not change solely because the owner claims the land as part of the owner's homestead. The bill also provides that the additional tax sanction does not apply to land owned by a religious organization if, within five years, the organization converts the land to a use for which the land is eligible for a religious organization exemption. The additional tax sanction also does not apply to a change in use if the land is owned by a nonprofit cemetery organization, it does not exceed five acres, it is located in an unincorporated area of a county with a population of less than 100,000, it is adjacent to a cemetery that is more than a century old, the cemetery organization dedicates it for a cemetery purpose, and the cemetery organization has not dedicated more than five acres of land in the county for a cemetery purpose in the five years preceding the new dedication. The changes made by the bill relating to appraisal of timberland match provisions in current law that apply to appraisal of agricultural land.

House Bill 1984**Effective:** 1-1-06**House Author:** Bohac**Senate Sponsor:** Janek

House Bill 1984 amends the Tax Code to require the chief appraiser to include in each notice of appraised value for real property a statement of the difference, expressed as a percent increase or decrease, between the property's appraised value for the current tax year and its appraised value for the fifth tax year before the current tax year. The bill also requires a tax bill for real property to include a similar statement of the percent increase or decrease in the property's appraised value and in the amount of taxes imposed on that property. If any of the information required for the comparison is unavailable, House Bill 1984 requires the tax bill to include a statement to that effect.

Senate Bill 760**Effective:** 1-1-06**Senate Author:** Armbrister**House Sponsor:** Straus

Senate Bill 760 amends the Tax Code to require the chief appraiser in each appraisal district to determine the categories into which open-space land in the district is classified, and, in classifying land according to those categories, to distinguish between irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste, and to divide each category further according to soil type, soil capability, irrigation, general topography, geographical factors, and other factors that affect the category's productive capacity. The bill allows the chief appraiser to establish additional categories.

Senate Bill 828**Effective:** 1-1-06**Senate Author:** Janek**House Sponsor:** Eiland

Senate Bill 828 amends the Tax Code to permit late filing of a notice of protest with an appraisal review board for a property owner who was working for a period of at least 20 days in the Gulf of Mexico on an offshore drilling or production facility or on a vessel or who was

serving on full-time active duty in the U.S. armed forces outside the United States at the time the filing deadline passed. The bill requires the property owner to submit appropriate evidence of that fact to the appraisal review board and to file the notice of protest before the taxes on the property become delinquent.

Senate Bill 1351

Effective: 9-1-05

Senate Author: Williams et al.

House Sponsor: Hill et al.

Senate Bill 1351 amends the Tax Code to allow a property owner to appeal an appraisal review board's determination, in a protest concerning the appraised or market value of real property, through binding arbitration instead of through judicial review by a district court if the property's appraised or market value is \$1 million or less and the appeal does not involve any matter in dispute other than the property's appraised or market value. The bill establishes notice requirements to inform a property owner of the property owner's right to appeal through binding arbitration and establishes procedures and deadlines for a property owner requesting arbitration and for an appraisal district processing a request. The bill requires the comptroller to prescribe a form for requesting arbitration in such cases and to maintain a registry of qualified arbitrators from which the property owner and the appraisal district may select an arbitrator or from which the comptroller may select an arbitrator if the two parties are unable to agree. The bill establishes procedures for the appointment of an arbitrator, for the conduct of and representation at an arbitration hearing, and for the making of an arbitration award and payment of the arbitrator's fee. Parties to the arbitration may be represented by a licensed attorney, a licensed real estate broker or salesperson, a licensed or certified real estate appraiser, or a registered property tax consultant; the appraisal district may be represented by a district employee. The bill provides that the pendency of an appeal through binding arbitration does not affect the delinquency date of the taxes due on the property subject to the appeal and prohibits a property owner from filing an appeal if the taxes on that property are delinquent.

Property Taxes

House Bill 809

Effective: 1-1-06

House Author: Hilderbran et al.

Senate Sponsor: Staples

House Bill 809 amends the Tax Code to provide that an owner of one or more passenger cars or light trucks who is the primary operator in the course of his or her occupation or profession and who also operates the vehicles for personal activities that do not involve the production of income does not have to render the vehicles for property tax purposes.

House Bill 2080

Effective: 6-17-05

House Author: Paxton et al.

Senate Sponsor: Fraser et al.

Certain charitable organizations are exempt from property taxation if they provide independent living services, assisted living services, and nursing services in conformity with certain Tax Code requirements. House Bill 2080 amends the code to provide that a license to occupy a dwelling unit in such an exempt retirement community does not constitute a taxable leasehold or a possessory interest in real property.

House Bill 2254

Effective: 9-1-05

House Author: Rose et al.

Senate Sponsor: Armbrister

House Bill 2254 amends the Tax Code to reduce the penalty for failure by a disabled or elderly homeowner to make a timely installment payment of the property taxes due on the person's homestead from 12 percent to six percent of the amount due.

House Bill 2491

Effective: 9-1-05

House Author: Puente et al.

Senate Sponsor: Armbrister

House Bill 2491 amends the Tax Code to update and clarify numerous provisions relating to the administration and collection of property taxes. The bill:

- clarifies that a change of address and a request that notices, tax bills, and other communications be sent to a property owner's fiduciary must be filed with the appraisal district and that a revocation of the request described above must be made in writing by the taxpayer.
- requires the application form for a homestead exemption to include a space for the applicant's date of birth and eliminates the need for an elderly homeowner to apply for the additional exemptions to which the homeowner is entitled upon reaching the age of 65 if that information is shown in the appraisal district's records.
- clarifies the duties of an appraisal district's chief appraiser and the assessor and collector for each taxing unit participating in the district with regard to the imposition, collection, and allocation of a penalty for a delinquent rendition statement or property report.
- requires a chief appraiser, when appraising land included in a habitat preserve and subject to a conservation easement, to consider the effect of such restrictions on the land's value. It also requires a chief appraiser, when appraising agricultural land, to determine the categories into which land in the appraisal district is classified, to distinguish among various types of land use in classifying land according to categories, and to further divide each category according to certain factors that influence productive capacity of land in that category.
- provides for the attachment of a tax lien to property to secure payment by a property owner of a late-correction penalty assessed as a result of a change in an appraisal roll.
- provides that payment of taxes that have been prorated because of the property's acquisition by a governmental entity absolves a taxing unit of liability for a tax refund for the year in which the property is transferred.
- clarifies provisions relating to the application of certain discounts adopted by a taxing unit and to the collection of discounted taxes when one taxing unit collects taxes for another taxing unit that has adopted such discounts.
- gives a tax lien priority over any lien held by an association of property owners, homeowners, condominium unit owners, or similar group under a restrictive covenant, condominium declaration, master deed, or other instrument that secures maintenance fees, dues, interest, fines, costs, attorney's fees, or other charges against property. The bill provides that, in an action to enforce collection of delinquent property taxes, such an association is not a necessary party to the action unless certain conditions apply, and that a tax sale of the property extinguishes the association's lien. It also provides that a restrictive covenant, declaration, or master deed that provides for such lien does not by itself constitute notice to a taxing unit of the lien.
- substantially revises provisions that allow a property owner to contract with a third party to pay delinquent property taxes on the owner's behalf and that result in the transfer of

a corresponding tax lien from a taxing unit to that party on payment of the delinquent property taxes. The bill clarifies procedures and requirements for the transfer of such liens and the rights and obligations of various parties involved in or affected by the transfer, including the property owner, the transferee, the collector, and any mortgage servicer of a preexisting lien. In the event of a foreclosure, the bill entitles the person whose property is sold or the mortgage servicer to redeem the property from the buyer by paying the buyer 125 percent of the purchase price within the first year of the redemption period or 150 percent of the purchase price during the second year of the redemption period, except that the redemption period for property other than a homestead, agricultural land, or mineral interest is only 180 days rather than two years. The bill also requires a contract for foreclosure of a tax lien to provide for power of sale and foreclosure and to include provisions for recording of certain documents and service of notice of foreclosure and notice of sale. The bill allows a mortgage servicer, upon a default and notice of acceleration, to obtain a release of the transferred tax lien by paying the amount owed by the property owner to the transferee or lienholder.

- makes a waiver of penalties and interest on delinquent taxes on property acquired by a religious organization contingent on the payment of the taxes due, qualification of the property for the appropriate exemption within one year of the acquisition, and timely submission of a written waiver request.
- entitles a collector to recovery of attorney fees incurred in a seizure of property under a tax warrant.
- requires a tax bill or other notice that specifically threatens a lawsuit to collect delinquent taxes to include an advisory that an elderly or disabled homeowner may be entitled to an abatement or postponement in the payment of those taxes.
- allows a taxing unit or appraisal district, under certain conditions, to impose an additional penalty before July 1 to defray the cost of collecting taxes on personal property that become delinquent after February 1 but, if the unit or district imposes that early penalty, it is prohibited from also recovering attorney's fees in a suit to collect those taxes or another penalty.
- provides requirements and a method for the execution of a writ of possession following foreclosure of a tax lien and subsequent sale of real property. The bill also provides an alternate streamlined procedure for foreclosure by one or more taxing units on property when the total amount of delinquent taxes, penalties, interest, and attorney's fees owed exceeds the property's appraised value or when there are 10 or more years' worth of delinquent taxes. These provisions allow the filing of a single petition by one or more taxing units in a foreclosure suit involving multiple parcels of property and multiple property owners.
- provides that, in a judicial review, each party to an appeal is considered a party seeking affirmative relief for discovery purposes regarding expert witnesses if, within 120 days after the date the appeal is filed, the property owner makes a written settlement offer, requests alternative dispute resolution, and designates which cause of action is the basis for the appeal.

The bill also amends the Property Code to prohibit withdrawal of money deposited by an entity with eminent domain authority as a prerequisite to taking possession of condemned property pending litigation unless the petitioner for the money shows that there are no delinquent property taxes, penalties, interests, or costs owing on the property and that, in the case of a whole taking after the date the tax bill for the property is sent, all taxes on the property have

been paid. The bill also amends the Civil Practice and Remedies Code to make the secretary of state an agent for service of process in a property tax collection suit for a non-resident defendant holding a lien against property in the state subject to suit.

House Bill 2926**Effective:** 6-18-05**House Author:** Hamric**Senate Sponsor:** Wentworth

House Bill 2926 amends the Tax Code to require an officer who conducts the sale of real property that has been seized under a tax warrant or ordered sold pursuant to foreclosure of a tax lien to provide a copy of the officer's return to the county assessor-collector for each county in which the real property is located if, within six months of the sale, the successful bidder fails to present the officer with an unexpired statement indicating whether there are any delinquent taxes owed by the bidder. The bill requires the county assessor-collector to file the copy of the return with the appropriate county clerk, and it requires the county clerk to record the return and to index and cross-index it in the name of the successful bidder and each former owner of the property.

House Bill 3016**Effective:** Vetoed**House Author:** Hill**Senate Sponsor:** Staples

House Bill 3016 amends the Tax Code to require a chief appraiser to exclude the value of certain surplus drug supplies from the market value of a licensed wholesale drug distributor's inventory of drugs held for normal market purposes. The bill defines these "drug supplies held in surplus" to mean drugs in the inventory of a wholesale drug distributor, other than a drug manufacturer or pharmacy, that are held for less than 60 days for use in responding to a terrorist attack, bioterrorism event, and catastrophic man-made or natural disaster, but only that percentage of the inventory needed by attending physicians or other emergency health care personnel to treat victims of the attack, event, or disaster. The bill caps the percentage of a drug distributor's inventory that may be considered for exclusion at 10 percent and specifies the method to be used in calculating the number of days supplies are held in an inventory for rendition purposes.

Reason Given for Veto: "House Bill No. 3016 would exclude from taxation excess drug supplies maintained by wholesale drug distributors for less than 60 days. The bill gives the impression that this exception should be made because these drugs would be used in the event of a homeland security situation. However, the Department of Homeland Security operates the Strategic National Stockpile, and it is those massive quantities of medicine and medical supplies that states and communities will be able to access in response to a public health emergency.

"The bill would also allow wholesale drug distributors to exclude excess drug supplies for responses to general public health care emergency needs without paying taxes on them, but does not provide other entities like drug manufacturers or pharmacies with the same exclusion. This bill unnecessarily uses the guise of national security to establish an unfair tax break."

Senate Bill 18**Effective:** 6-18-05**Senate Author:** Williams et al.**House Sponsor:** Ritter

Senate Bill 18 amends the Tax Code to require a record vote if the governing body of a taxing unit adopts a tax rate exceeding the effective tax rate. If the taxing unit imposes a maintenance and operating tax amount in excess of that for the previous year, its website, if any, and the ordinance, resolution, or order adopting the tax rate, must include specified language. The bill adds to the content of the tax bill or statement that a taxing unit mails to a property owner or agent. It requires the inclusion, for real property, of certain information for the current and preceding five years relating to appraised and taxable value, the tax rate, the amount of imposed taxes, and certain percentage changes. The tax bill or statement must provide notice if certain of that information is not available.

For taxing units other than school districts, the bill resets the threshold contemplated tax rate that triggers a hearing requirement. Previous law required a hearing before adopting a rate that exceeded the rollback tax rate or 103 percent of the effective tax rate. The bill changes that threshold to a rate exceeding the rollback tax rate or the effective tax rate, and requires two hearings rather than just one. It also revises related hearing notice requirements. For those taxing units, other than school districts, with a contemplated maintenance and operation levy of \$5 million or more, the bill reduces from 10 percent to seven percent of registered voters the minimum signature requirement for a petition for a rollback election.

Senate Bill 267
Effective: 4-22-05

Senate Author: Williams
House Sponsor: Eissler

Senate Bill 267 amends the Health and Safety Code to provide for the exclusion of territory contained within certain planned communities from the taxing jurisdiction of an emergency services district if (1) property within the territory is subject to annual variable budget-based assessments levied on behalf of such communities; and (2) the district's board finds that the entity levying those assessments provides or contracts for services substantially the same as those provided by the district.

Senate Bill 567
Effective: 6-17-05

Senate Author: Deuell
House Sponsor: Keffer, Jim

Senate Bill 567 amends Tax Code and Education Code provisions relating to a taxing unit's required hearing on a tax increase and a school district's required meeting on budget and tax rate adoption. The bill requires the notices for such hearings and meetings to contrast the preceding year's budget and the proposed one, showing percentage increases or decreases for maintenance and operations, debt service, and total expenditures. It requires such notices to show also the total appraised value and total taxable value of all property for both the preceding and current tax years. Finally, the bill requires the notice to contain a statement of the taxing unit's or school district's total outstanding and unpaid bonded indebtedness.

Senate Bill 898
Effective: 9-1-05

Senate Author: Carona
House Sponsor: Hill

Senate Bill 898 amends the Tax Code to require the assessor for each taxing unit to prepare and mail a tax bill to both the property owner and the person's authorized agent, rather than to either the owner or the agent. The bill also extinguishes a taxing unit's lien on property and absolves the property's purchaser of a tax liability for that property if the transfer of property is accompanied by a tax certificate that fails to include that property because of its omission from an appraisal roll. The bill provides that the person who owns or acquires the property on January 1 of the year for which the tax on the property would have been imposed had it not been omitted remains personally liable for the tax on the omitted property.

Senate Bill 1203
Effective: Vetoed

Senate Author: Madla
House Sponsor: Homer

Senate Bill 1203 amends the Tax Code to allow a property owner to direct an appraisal district or a taxing unit to deliver tax refunds relating to the property to a specified person other than the property owner or to that person's agent. The bill requires the person or agent to notify the property owner that a refund was delivered to the person or agent not later than the 30th day after the date of the refund delivery. The bill also provides that, in the event of a late application of a homestead exemption or a correction of the tax roll, a person is not required to apply for a refund to receive the refund.

Reason Given for Veto: “Senate Bill No. 1203 would authorize property owners to designate an agent to receive tax refunds on their behalf, but would fail to protect property owners from unreasonable charges, which often amount to as much as 50 percent of the refund owed the taxpayer.

“This bill furthermore would direct appraisal districts and taxing entities to send tax refunds to third-party agents rather than directly to the taxpayers. As such, this bill is tantamount to establishing a fee-collection system for third-party agents. While these collection firms claim to provide a public service, it should be incumbent upon appraisal districts and taxing entities to provide sufficient information to property owners on how to obtain a refund at no cost, and to make it easier for property owners to obtain those refunds.”

Senate Bill 1587
Effective: 9-1-05

Senate Author: Carona
House Sponsor: Paxton

The Tax Code allows a property owner to authorize another person to pay the taxes on that property and provides for the subsequent transfer of the taxing unit’s tax lien to the person paying the taxes. Senate Bill 1587 amends the Tax Code to require the person to whom a tax lien on real property has been transferred, or any successor in interest, to notify the holders of all recorded liens before foreclosure in the same manner and within the same time frame as the lienholder must notify the property owner. The bill also requires any contract for foreclosure of a tax lien to include a requirement for such notice.

Senate Bill 1652
Effective: See below

Senate Author: Staples
House Sponsor: Hill

Senate Bill 1652 amends the Government and Tax Codes to clarify or update various provisions relating to property tax administration and school district property values. The bill requires the comptroller, in the event of a protest regarding the value of property included in the comptroller’s study of school district property values, to certify to the commissioner of education the changes in the values of the district that brought the protest or that was named by the property owner or appraisal district that brought the protest, and it prohibits the comptroller from ordering a change in a school district’s property values as a result of a protest brought by another school district, a property owner in the other district, or an appraisal district that appraises property for the other district. The bill replaces requirements that the comptroller prepare and issue certain publications with a more general authorization to prepare and issue publications relating to property appraisal and tax administration or to approve other publications relating to those matters. The bill also changes the schedule for the comptroller’s submission of a report to the legislature regarding certain tax refunds applied for and paid by the comptroller to a biennial, rather than an annual, basis, with the report due not later than December 31 of each even-numbered year.

The bill requires an appraisal office every two years to develop a written plan for the periodic reappraisal of all property within the appraisal district and to hold a public hearing to consider the proposed plan, requires the plan to provide for specific activities to be conducted at least once every three years, and includes personal property as well as real property within the scope of those activities.

The bill clarifies provisions relating to tax exemptions for machinery and equipment used in farming, ranching, or timber production and considered implements of husbandry and for motor vehicles that, under certain conditions, do not have taxable situs in a taxing unit. The bill also repeals a provision that was set to expire on August 31, 2007, and that provided compensation for school funding losses attributable to electric utility restructuring and the consequent reduction of generating facility property value.

Senate Bill 1652 takes effect September 1, 2005, except for those provisions relating to the exemption of implements of husbandry, which take effect January 1, 2006.

Senate Bill 1730

Effective: 6-17-05

Senate Author: Janek

House Sponsor: Haggerty

Senate Bill 1730 amends the Local Government Code to allow the governing body of a municipality or county that imposes a hotel occupancy tax to hold an election on the issue of using property tax revenue, in addition to hotel occupancy tax revenue, to finance a sports or community venue project. If a majority of the votes cast favor such use of property tax revenue, the bill requires the municipality or county to deposit property tax revenue in its venue project fund in an amount not to exceed the amount authorized by the voters.

Sales and Use Taxes

House Bill 132

Effective: 6-17-05

House Author: Hilderbran

Senate Sponsor: Fraser

House Bill 132 amends the Tax Code to allow a county with a population of 50,000 or fewer inhabitants to increase its county health services sales and use tax rate in one or more increments of one-eighths of one percent up to a maximum of one percent or to decrease that tax rate in similar increments to a minimum of one-half of one percent.

House Bill 3195

Effective: 9-1-05

House Author: Smith, Todd

Senate Sponsor: Seliger

House Bill 3195 amends the Tax Code to allow a municipality to use a combined ballot proposition to lower or repeal any dedicated or special purpose municipal tax and raise or adopt another dedicated or special purpose municipal sales tax rather than using a separate ballot proposition for each tax to be lowered, repealed, raised, or adopted.

Senate Bill 338

Effective: 9-1-05

Senate Author: Carona

House Sponsor: Keffer, Jim

Under current law, when a new Texas resident brings into the state a motor vehicle that has been registered or leased in his or her name in another state or nation, the new resident is subject to a use tax of \$90 per motor vehicle. Senate Bill 338 amends the Tax Code to establish a use tax amount equal to the lesser of \$90 or 6.25 percent of the total consideration for certain vehicles that are not used for regular transportation. This amount applies to former military vehicles, and to cars, trucks, and motorcycles that are at least 25 years old, if they do not carry advertising and are collector's items used exclusively for exhibitions, parades, and similar functions.

Senate Bill 867

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Otto

Legislation enacted in 2001 imposed an emissions reduction surcharge on on-road diesel motor vehicles heavier than 14,000 pounds that are sold, leased, or used in Texas. Senate Bill 867 amends the Tax Code to exempt from the surcharge a recreational vehicle that is not held or used for the production of income. The exemption applies to vehicles, including travel trailers, camping trailers, truck campers, and motor homes, that are primarily designed as temporary living quarters for recreational camping or travel use.

Senate Bill 1199**Effective:** 5-20-05**Senate Author:** Ellis**House Sponsor:** Coleman

Senate Bill 1199 amends the Tax Code to allow the governing body of a municipality to dedicate a portion or the amount of the increase in municipal sales tax receipts attributable to a tax increment reinvestment zone for deposit into the tax increment fund for the zone. The bill allows the municipality, before issuing a bond, note, or other obligation pledging the payment of sales tax receipts into the tax increment fund, to enter into an agreement authorizing and directing the comptroller to (1) withhold from any payment to which the municipality may be entitled the amount of the tax increment payment designated above; (2) deposit that amount into the tax increment fund; and (3) continue withholding and making additional payments into the tax increment fund until the fund is sufficient to satisfy certain obligations of the fund. The bill restricts disbursement of sales and use taxes deposited into the fund to payment of (1) bonds, notes, or other obligations issued to finance reinvestment zone projects; (2) the cost of projects within the zone; and (3) any other cost in accordance with an agreement between the board of directors of the reinvestment zone and the municipality's governing body. The bill also allows a local government transportation corporation that has contracted with a reinvestment zone and a municipality to be a party to such agreements.

Senate Bill 1253**Effective:** 9-1-05**Senate Author:** Brimer et al.**House Sponsor:** Goodman

Senate Bill 1253 amends the Local Government Code to allow a municipality or county hosting or assisting in the presentation of a special event to use a portion of the sales tax revenue generated by the event to pay certain expenses incurred in connection with the event. The bill requires a prospective host community to submit an economic impact study to the comptroller for certification, and it requires the comptroller to certify the study if it accurately estimates the increase in tax receipts to the state or to submit a preliminary determination to the host community with an opportunity to respond or submit a new or amended study if the study does not accurately estimate tax receipts.

The bill requires a host community requesting money to submit a special event plan to the Texas Economic Development and Tourism Office (TEDTO), including a copy of the certified economic impact study, a detailed justification of each expense that each political subdivision within the host community expects to incur, an estimate of the total anticipated expenses, and a request that a specified amount of money be deposited by the comptroller into a special event trust fund for the host community. The bill requires TEDTO to submit the plan to the governor, lieutenant governor, and speaker of the house of representatives for approval and, if it is approved and the community is selected to host the event, requires the comptroller to deposit the amount requested into a fund established by the comptroller for the host community. The bill also limits the use of money in the fund to specific purposes and prohibits the host community from using such funds to construct a facility.

Senate Bill 1440**Effective:** Vetoed**Senate Author:** Hinojosa**House Sponsor:** Luna

Senate Bill 1440 amends the Government Code and the Tax Code to allow the use of municipal sales and use tax revenue to pay or secure payment of public securities issued by or on behalf of the municipality to finance any public work or other project located wholly or in part in a tax increment reinvestment zone, an enterprise zone, a municipal management district, a public improvement district, an empowerment zone or enterprise community, or a renewal community.

Taxes and Tax Administration

Reason Given for Veto: “Senate Bill No. 1440 would allow a municipality to use sales tax dollars to pay for bonds and other financing mechanisms related to tax increment reinvestment zones, designated enterprise or empowerment zones, and other economic development entities. No local vote would be required to approve this change.

“I am vetoing Senate Bill No. 1440 because these alternative economic development financing options are designed to be self-supporting, where the development pays for itself through increased property tax revenue from property improvements. Sales tax dollars should not be used to subsidize this development without the consent of the citizens.”

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

- HB 3240 - Probate and Guardianship
- SB 269 - Alcoholic Beverages
- SB 541 - Open Government and Privacy
- SB 580 - Military Forces and Veterans
- SB 692 - Water Districts

Transportation

This chapter covers legislation relating to transportation, including the financing, planning, and administration of transportation systems, driver's licenses, motor vehicles, rules of the road, transportation districts and authorities, and the state highway system. Related bills that are summarized in other chapters are listed at the end of this chapter.

Driver's Licenses

House Bill 370

Effective: 9-1-05

House Author: Farabee

Senate Sponsor: Madla

House Bill 370 amends the Code of Criminal Procedure relating to driving safety courses. The law requires a person to have a valid Texas driver's license to be eligible to complete a driving safety course or motorcycle operator training course in lieu of a fine for certain traffic offenses. House Bill 370 expands the list of those eligible for such a course to include a member of the military on active duty who does not have a valid Texas driver's license or permit and who has not completed such a course in another state within the 12 months preceding the offense date. The bill also gives such military personnel 90 days to present to the court an affidavit stating that the defendant has not taken a driving safety course within the 12 months preceding the offense date.

House Bill 468

Effective: 9-1-05

House Author: Hegar

Senate Sponsor: Jackson, Mike

House Bill 468 amends provisions of the Education Code relating to driver education course certificates. Previous law required the Texas Education Agency to print and supply uniform certificates of course completion to a licensed driver education course provider. House Bill 468 requires the agency to provide course completion certificate serial numbers to enable the provider to print and issue agency-approved certificates of completion. The bill requires the course provider to implement a system of printing and issuance of certificates in a manner that prevents the unauthorized production or misuse of the certificates. The bill adds to the offenses of unauthorized possession or transfer of a certificate of course completion, the transfer or possession of a course completion certificate number.

House Bill 699

Effective: 9-1-05

House Author: McCall et al.

Senate Sponsor: Carona

House Bill 699 amends the Transportation Code to increase the penalty for misusing a driver's license or certificate, using a fake or altered driver's license or certificate, or giving false information or concealing information on an application for a driver's license or certificate from a Class B misdemeanor to a Class A misdemeanor. The bill provides that when a person engages in conduct that constitutes the offense described above and the offense of misrepresentation of age by a minor as found in the Alcoholic Beverage Code, the person may be prosecuted only for the Alcoholic Beverage Code offense.

House Bill 703

Effective: 9-1-05

House Author: Elkins

Senate Sponsor: Lindsay

House Bill 703 amends the Code of Criminal Procedure to authorize a judge to require certain defendants who request to take a driving safety or motorcycle operator training course for dismissal of a traffic offense to pay a \$10 fee, in addition to any other fee, for a copy of the

Transportation

defendant's driving record, and the judge may obtain a copy of the record from the Department of Public Safety electronic database. The bill requires the judge to allow the defendant to complete the appropriate driving safety course if the defendant's driving record shows that the defendant has not completed a certain driving safety course within 12 months before the offense date. The bill requires the custodian of a municipal or county treasury who receives such a fee to keep a record of the fee and, without deduction, to forward the fee to the comptroller and requires the comptroller to credit the fees received to the department.

House Bill 1137

Effective: 6-18-05

House Author: Smith, Wayne

Senate Sponsor: Seliger

House Bill 1137 amends the Transportation Code to authorize the Department of Public Safety (DPS) to enter into an agreement with certain foreign countries so that persons 18 years of age or older who have been licensed to drive by the foreign country and who present certain documentation to DPS may receive a similar driver's license from DPS.

House Bill 1789

Effective: 9-1-05

House Author: Callegari

Senate Sponsor: Lindsay

House Bill 1789 amends the Transportation Code to delete references to the disability health condition identification certificate issued by the Department of Public Safety. The bill also eliminates the procedure that allows a person to submit a written notice of a change of address in lieu of applying for a duplicate driver's license or a personal identification certificate.

House Bill 2337

Effective: 9-1-05

House Author: Corte et al.

Senate Sponsor: Staples

House Bill 2337 amends the Transportation Code to require the Department of Public Safety to establish an image verification system to authenticate the facial image and thumbprints or fingerprints provided by an applicant for a driver's license, driver's permit, or personal identification certificate to prevent fraud. The bill requires an original driver's license application to include a photograph and signature of the applicant. The bill provides for use of the image verification system, within the limits of the Motor Vehicle Records Disclosure Act, to aid other law enforcement agencies in identifying a victim of a crime or disaster or in conducting a criminal investigation. The bill requires the department to report the error rate of the system to the legislature annually until 2010.

Senate Bill 217

Effective: 9-1-05

Senate Author: Shapiro

House Sponsor: Driver

Senate Bill 217 amends provisions of the Transportation Code relating to the alcohol and drug testing of a holder of a commercial driver's license. Current law requires a trucking company to perform alcohol and drug tests on all its drivers but does not include other holders of a commercial driver's license, such as bus drivers. Senate Bill 217 requires an employer who is required by federal safety regulations to conduct alcohol and drug tests on employees holding a commercial driver's license to report a valid positive test result, a license holder's refusal to provide a specimen for the test, or the provision of an adulterated, diluted, or substituted specimen to the Department of Public Safety (DPS). The bill requires DPS to maintain the information and makes the information confidential and subject to release only to certain persons.

Senate Bill 1257
Effective: 9-1-05

Senate Author: Lindsay
House Sponsor: Callegari

Senate Bill 1257 brings state law into compliance with the new federal motor carrier regulations. The bill amends the Transportation Code to remove a violation of a restriction or an endorsement imposed on the use of a license from the list of determinations that require the Department of Public Safety to suspend a person's driver's license. The bill exempts a military vehicle operated by personnel serving in the United States Coast Guard from provisions governing commercial driver's licenses, provides that a person who holds a commercial driver's license is disqualified from operating a commercial motor vehicle if the person's driving is determined to constitute an imminent hazard under federal law, and prohibits certain persons under 18 years of age, during the six-month period following the issuance of an original license, from operating a vehicle while using a wireless communications device. The bill amends the Code of Criminal Procedure to exempt an offense committed by a person who held a commercial driver's license when the offense was committed from certain procedures for justice and municipal courts, including driving safety course dismissal procedures.

Senate Bill 1258
Effective: 9-1-05

Senate Author: Lindsay
House Sponsor: Callegari

Senate Bill 1258 amends the Transportation Code to comply with federal regulations requiring a security threat assessment for commercial driver's licenses with a hazardous materials endorsement. The bill also provides that a commercial driver's license and commercial driver learner's permit expire in five years, rather than six, with certain exceptions.

Senate Bill 1465
Effective: 9-1-05

Senate Author: Whitmire
House Sponsor: Ritter

Senate Bill 1465 amends the Health and Safety Code to authorize a person to use a transaction scan device to access electronically readable information on a driver's license, commercial driver's license, or identification certificate for the purpose of complying with the law prohibiting the sale of cigarettes or tobacco products to persons younger than 18 years of age. The bill prohibits the information from being sold or otherwise disseminated to a third party for any purpose and provides that the information may be obtained by court order or on proper request by the comptroller, a law enforcement officer, or a law enforcement agency. It makes an offense under this provision a Class A misdemeanor and prescribes circumstances that are an affirmative defense to prosecution. The bill amends the Alcoholic Beverage Code to provide for the use of a transaction scan device in provisions relating to the sale of alcohol to minors and to the use of electronically readable information for the purpose of complying with the Alcoholic Beverage Code and rules promulgated by the Alcoholic Beverage Commission.

Finance, Planning, and Administration of Transportation Systems

House Bill 962
Effective: 9-1-05

House Author: Krusee
Senate Sponsor: Staples

House Bill 962 amends the Transportation Code to require the Texas Department of Transportation (TxDOT) to adopt and include in the unified transportation program a list of transportation projects in each TxDOT district that are eligible and feasible for tolling. The bill specifies that a transportation project on the list is not required to be operated as a toll project.

House Bill 1036

Effective: 9-1-05

House Author: Rose et al.

Senate Sponsor: Barrientos

House Bill 1036 amends the Transportation Code to provide that, for purposes of regulating conflicts of interest of local government officers, a member of the policy board of a metropolitan planning organization is considered to be a local public official. The bill also provides that if a policy board member must abstain from participation in a vote or decision because of a conflict of interest, then the member's proxy also may not participate in the vote or decision and specifies that the appointment of a proxy does not excuse the member from filing the required affidavit stating the nature and extent of the interest.

House Bill 1107

Effective: 9-1-05

House Author: Chavez et al.

Senate Sponsor: Shapleigh

House Bill 1107 amends the Transportation Code to require the Texas Transportation Commission to annually certify a county as economically disadvantaged, for purposes of obtaining relief from local matching funds requirements for highway projects, as soon as possible after the comptroller issues related economic indicators. The bill also requires the commission to determine whether to adjust a county's certification at the time a political subdivision in the county submits a highway project. The bill authorizes the commission to delegate these duties to the director of the Texas Department of Transportation or the director's designee.

House Bill 1339

Effective: 6-17-05

House Author: Strama

Senate Sponsor: Barrientos

House Bill 1339 amends the Transportation Code to provide that a legislative policy board member of a metropolitan planning organization may only appoint certain specified individuals as voting proxies.

House Bill 1546

Effective: See below

House Author: McClendon et al.

Senate Sponsor: Staples et al.

House Bill 1546 amends the Transportation Code to provide for the administration and use of the Texas rail relocation and improvement fund and the issuance of bonds and other public securities to finance the relocation, rehabilitation, and expansion of freight or passenger rail facilities, including commuter rail, intercity rail, and high speed rail. The bill requires the comptroller to hold the fund, and the Texas Transportation Commission, through the Texas Department of Transportation, to manage and administer the fund. The bill authorizes the commission to issue obligations secured by a lien on all or part of the money in the fund and to guarantee the payment of any obligations and related credit agreements by pledging the full faith and credit of the state. It specifies the purposes for which obligations may be issued and authorizes the department to acquire by purchase property for one or more of the purposes. House Bill 1546 limits the issuance of short-term and long-term obligations to certain conditions certified by the comptroller and prohibits the commission from issuing obligations before the department has developed a strategic plan for the fund. The bill authorizes money in the fund to be invested in the same investments as those permitted by law for the state highway fund.

This bill takes effect contingent on voter approval of a constitutional amendment proposed by House Joint Resolution 54.

House Bill 1672**Effective:** See below**House Author:** Howard**Senate Sponsor:** Janek

House Bill 1672 amends the Transportation Code to provide that in a county with a population of 3.3 million or more the money collected as court costs in connection with the unauthorized use of toll roads is to be deposited in the county treasury in a special fund to be administered by the county or district attorney. The bill requires a county with a population of less than 3.3 million to deposit the money collected from these costs in the general fund of the county. The bill authorizes a county with a population of 3.3 million or more that is authorized to collect certain tolls and charges to impose, in addition to other costs, a \$1 administrative cost in connection with collecting the tolls and charges for each event of nonpayment. The bill requires the money to be deposited in the county treasury in a special fund administered by the county attorney to be used solely to defray the salaries and expenses of the county attorney's office.

The provisions of House Bill 1672 relating to the additional administrative cost in certain counties take effect September 1, 2005; all other provisions take effect June 18, 2005.

House Bill 1814**Effective:** 6-17-05**House Author:** Casteel**Senate Sponsor:** Barrientos

House Bill 1814 amends the Transportation Code to revise the provision requiring the Texas Department of Transportation to take certain actions to increase women and minority hiring. The bill requires the department to post all positions compensated at or above the amount prescribed by the General Appropriations Act for salary group B17, rather than for step 1, salary group 21.

House Bill 2134**Effective:** 6-18-05**House Author:** Phillips**Senate Sponsor:** Shapleigh

House Bill 2134 amends Transportation Code provisions relating to administration of the state infrastructure bank. The bill adds certain state funds to the funds that are authorized to be deposited into the bank and removes the authorization for money saved as a result of certain contracting with a private entity. It clarifies that, notwithstanding the law governing use of the state highway fund, money deposited in the bank may be used to encourage investment in transportation facilities both within and outside of the state highway system. The bill limits financial assistance from the bank to a qualified project that is consistent with the transportation plan developed by the applicable metropolitan planning organization. In addition, House Bill 2134 authorizes the Texas Transportation Commission to create one or more additional subaccounts in the bank that are capitalized with state funds only and are not subject to federal law.

House Bill 2139**Effective:** 6-18-05**House Author:** Phillips**Senate Sponsor:** Wentworth

House Bill 2139 amends the Transportation Code to expand the provisions authorizing an agreement between the Texas Department of Transportation and a public or private entity that provides for the payment of pass-through tolls as reimbursement for the construction, maintenance, or operation of a toll or nontoll facility on the state highway system. The bill authorizes the department to delegate the full responsibility for design, bidding, and construction, including oversight and inspection, to a municipality, county, regional mobility authority, or regional tollway authority with whom the department enters into such an agreement. The bill requires the agreement to provide that the public entity receiving the delegation be required to meet state design criteria, construction specifications, and contract administration procedures

Transportation

unless the department grants an exception. It specifies that the agreement must prescribe the roles and responsibilities of the parties and establish time frames for any department reviews or approvals. The bill authorizes a public entity to contract with a private entity to act as its agent in carrying out the duties under the agreement with the department.

The bill requires the private entity to comply with all laws relating to engineering practices, procuring engineering services, and construction bidding that apply to the public entity and authorizes the public entity to assign the entity's right to payment of pass-through tolls to the private entity.

House Bill 2650
Effective: 9-1-05

House Author: Krusee
Senate Sponsor: Brimer

House Bill 2650 amends the Transportation Code to authorize a local government to enter into an agreement with the Texas Department of Transportation, a regional mobility authority, or a private entity under which the local government assists in the financing of the construction, maintenance, and operation of a turnpike project located in the local government's jurisdiction in return for a percentage of the revenue from the project. The bill authorizes a local government to use any revenue available for road purposes to provide the financing, and it requires revenue received by a local government under such an agreement to be used for transportation purposes.

House Bill 2653
Effective: 6-18-05

House Author: Krusee
Senate Sponsor: Barrientos

House Bill 2653 amends the Tax Code to clarify and expand the provision authorizing the board of directors of a reinvestment zone and the governing body of a municipality that creates a reinvestment zone to each enter into agreements to implement the project plan and reinvestment zone financing plan for the zone. The bill specifies the conditions under which such an agreement may dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay the costs of acquiring land, or the development rights or a conservation easement in land, located outside the reinvestment zone. Among the conditions is that the zone is or will be served by a rail transportation project or bus rapid transit project. The bill prohibits property acquired under this provision from being acquired through condemnation.

House Bill 2659
Effective: 6-17-05

House Author: Krusee
Senate Sponsor: Lindsay

House Bill 2659 amends the Transportation Code to clarify that the provision authorizing an alternative to certain general requirements for performance bonds under a private maintenance contract also applies to payment bonds under such a contract. The bill removes language relating solely to a performance bond. The bill specifies that a claim against a performance or payment bond issued under a private maintenance contract must be filed against the bond in effect on the date the basis for the claim arose.

House Bill 2702
Effective: 6-14-05

House Author: Krusee
Senate Sponsor: Staples

House Bill 2702 is an omnibus bill addressing transportation facilities and other transportation issues in this state.

Article 1, Rail Facilities, amends the Transportation Code to transfer all powers and duties of the Railroad Commission of Texas that relate primarily to railroads and the regulation of railroads to the Texas Department of Transportation, effective October 1, 2005. It authorizes

the department to enter into comprehensive development agreements for rail facilities and to combine a rail facility and a toll project in an agreement. It prohibits the department from spending money from the general revenue fund for rail facilities except pursuant to a line-item appropriation, rather than setting the limit on annual disbursements from the state highway fund for rail facilities at \$12.5 million. It authorizes the department to enter into an agreement with a public or private entity that provides for the payment of certain fees to the entity as reimbursement for designing, building, and operating a passenger or freight rail facility.

Article 2, Highways, prohibits obligations from the Texas Mobility Fund if the Texas Transportation Commission or the department requires that toll roads be included in a regional mobility plan in order for a local transportation authority to receive an allocation from the fund. It authorizes the commission to acquire property necessary or convenient to a state highway to provide a location for an ancillary facility, including a gas station, garage, store, hotel, restaurant, or other commercial facility, that is anticipated to generate revenue for a toll project. It requires the department, to pay the value of the property acquired and, if an acquisition of real property for a state highway severs an owner's real property, to pay the damages to the remainder of the owner's property, including damages caused by the inaccessibility of one tract from the other. It specifies that if the remaining property is agriculture or open space land outside the municipal limits or extraterritorial jurisdiction of a municipality with a population of 25,000 or more, the commission is required to consider the loss of reasonable access to or from the remaining property in determining the damage to the property owner. It requires a utility to relocate a utility facility at state expense if the relocation is required by improvement of a segment of the state highway system that was designated by the commission as a turnpike project or toll project before September 1, 2005, and it requires the department and the utility to share the relocation cost under certain circumstances. It provides that money granted by the department each year for constructing toll facilities may not exceed an amount that, together with the money granted for the preceding four fiscal years, results in an average annual expenditure of \$2 billion, rather than \$800 million. It authorizes the department to enter into a comprehensive development agreement with a private entity to design, build, operate, and expand a facility on the Trans-Texas Corridor (TTC) and certain other projects, and it establishes a process for entering into the agreements. It provides that if the department enters into a comprehensive development agreement with a private participant that includes the collection of tolls, the private participant must submit the methodology for setting and increasing the tolls to the department for approval, and it provides that such an agreement may not be for a term longer than 50 years. It provides that property within the TTC that is licensed or leased to a private entity for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards. It requires the department to ensure that at each intersection of the TTC and an interstate, state, or United States highway, the corridor and the highway are directly accessible to each other, and it requires the department to make every reasonable effort to connect the TTC with significant farm-to-market roads and certain other roads. It prohibits the department from pumping or extracting groundwater from the right-of-way of the TTC unless the groundwater is needed for a state highway or other transportation facility, other than a public utility facility. The bill also provides that if a well drilled and operated on the TTC is located inside the boundaries of a groundwater conservation or subsidence district, the well is subject to the rules of the district. Regarding right-of-way acquisition for the TTC, the bill prohibits the commission from acquiring property for an ancillary facility that will be used for commercial purposes except to acquire property for a gas station, convenience store, or similar facility in a specified location. It prohibits the commission from condemning property contiguous to an existing or planned segment of the TTC for an ancillary facility. It authorizes the department

Transportation

to lease property or rights on the TTC, unless the lease is under a comprehensive development agreement, only if each agreement has been approved by the local county commissioners court. It requires toll revenue from a state highway toll project to be deposited in the state highway fund unless it is to be used to repay toll revenue bonds. It specifies when the department may operate a nontolled state highway or a segment of a nontolled state highway as a toll project and requires a local election to approve conversion of a state highway or a segment of a highway to a toll project. The bill provides for a regional mobility authority to construct, own, operate, maintain, and acquire a transit system. It amends the Government Code to authorize a county to issue bonds for a toll or nontoll project or facility on the state highway system located in the county or, as a continuation of the project or facility, in an adjacent county.

Article 3, Vehicles, authorizes the department to seek funding from public and private sources to establish and operate hydrogen-fueled vehicles and refueling stations and to establish the refueling stations on the TTC.

Article 4, Coordination of Public Transportation for Health and Human Services Programs, amends the Transportation Code, the Health and Safety Code, and the Human Resources Code to authorize the department to deliver public transportation services to clients of eligible programs.

Article 5, Regional Transit System Review Committee, creates the committee to study the implications of implementing regional transit service in a certain region of the state.

Article 6, Carriers Transporting Household Goods, prohibits a motor carrier from operating a vehicle, regardless of the vehicle's size, to transport household goods for compensation unless the carrier registers with the department.

Article 7, Texas Department of Transportation Motor Vehicle Division, amends the Occupations Code to provide that a reference in law to the motor vehicle board of the department means the director of the division unless the reference relates to the adoption of rules.

Article 8, Transition Provisions and Effective Date, abolishes the State Aircraft Pooling Board and transfers its powers and duties to the department.

House Joint Resolution 54

For Election: 11-8-05

House Author: McClendon et al.

Senate Sponsor: Staples et al.

House Joint Resolution 54 proposes a constitutional amendment to create the Texas rail relocation and improvement fund and authorize grants of money and issuance of obligations for financing the relocation, rehabilitation, and expansion of rail facilities. The proposed amendment creates the fund in the state treasury and requires it to be administered by the Texas Transportation Commission to provide a method of financing the relocation and improvement of privately and publicly owned passenger and freight rail facilities to achieve certain purposes. It authorizes the commission to issue and sell bonds and other public securities secured by money in the fund and specifies how the proceeds must be used. The proposed amendment authorizes the legislature to dedicate a source of revenue for the fund and provides for payment of obligations and credit agreements issued and executed by the commission.

Senate Bill 573

Effective: 9-1-05

Senate Author: Brimer

House Sponsor: Casteel

Senate Bill 573 amends the Transportation Code to provide that the law governing bids and contracts for highway maintenance projects applies to a maintenance contract involving an amount less than \$300,000, rather than less than \$100,000. The bill also requires the Texas Transportation Commission to annually certify a county as economically disadvantaged, for purposes of obtaining relief from local matching funds requirements for highway projects, as

soon as possible after the comptroller issues related economic indicators. The bill requires the commission to determine whether to adjust a county's certification at the time a political subdivision in the county submits a highway project. It authorizes the commission to delegate these duties to the executive director of the Texas Department of Transportation or the director's designee.

Senate Bill 602

Effective: 9-1-05

Senate Author: Ellis

House Sponsor: Hilderbran

Senate Bill 602 amends the Transportation Code to require the Texas Department of Transportation Bicycle Advisory Committee to make recommendations to the Texas Transportation Commission regarding developing bicycle tourism trails that reflect the geography, scenery, history, and cultural diversity of the state. The bill requires that the trail development recommendations maximize federal and private funding and be made in consultation with the Texas Parks and Wildlife Commission and the Texas Economic Development and Tourism Office. The bill authorizes the Texas Department of Transportation to contract with a statewide bicycle nonprofit to advance bicycle tourism trails.

Senate Bill 1339

Effective: 6-17-05

Senate Author: Madla

House Sponsor: Straus

Senate Bill 1339 amends the Transportation Code to allow the governing body of a municipality or the commissioners court of a county to order an election on the question of joining an advanced transportation district if the voters in the municipality or the unincorporated area of the county did not vote to join the district at the initial election that authorized the creation of the district and the imposition of a sales and use tax for advanced transportation and mobility enhancement. The bill provides that such an election may not be held if the advanced transportation district's governing body determines that the addition of the municipality or unincorporated area would create a financial hardship on the district or impair the imposition of the district's sales and use tax.

If approval of the district's tax rate at such an election would cause the combined rate of all sales and use tax in a political subdivision to exceed the two percent cap, the bill requires the ballot to allow voters in that election to determine which portion of the subdivision's other sales taxes will be repealed if the voters approve joining the district.

Senate Bill 1713

Effective: 6-17-05

Senate Author: Staples

House Sponsor: Krusee

Senate Bill 1713 amends the Tax Code to create the Study Commission on Transportation Financing, composed of nine members appointed by the governor, lieutenant governor, and speaker, to conduct public hearings and study public policy implications relating to the financing of transportation projects. The bill requires the study to include a review of the state motor fuels tax, current sources of funding for rail transportation projects, and all other financing options for all modes of transportation and requires the commission to issue a related report not later than December 1, 2006.

Motor Vehicles

House Bill 160

Effective: 9-1-06

House Author: McCall et al.

Senate Sponsor: Wentworth

House Bill 160 amends the Transportation Code to establish requirements for a motor vehicle equipped with a recording device installed by the manufacturer for the purpose of retrieving certain information after an accident involving the vehicle. The bill requires a manufacturer of a new motor vehicle that is sold or leased in this state and that is equipped with such a recording device to disclose that fact in the owner's manual of the vehicle. The bill prohibits information recorded or transmitted by the recording device from being retrieved by a person other than the owner except under certain circumstances, including on court order. The bill establishes certain provisions relating to disclosure of information recorded or transmitted by a recording device for the purpose of improving motor vehicle safety and provides that if a recording device is used as part of a subscription service, the subscription service agreement must disclose that the device may record or transmit certain information. Restrictions on information retrieval from a recording device do not apply to a subscription service.

House Bill 480

Effective: 9-1-05

House Author: Keel

Senate Sponsor: Wentworth

House Bill 480 amends the Code of Criminal Procedure to require a law enforcement agency that directs the towing and storage of a motor vehicle for an evidentiary or examination purpose to pay the cost of the towing and storage. The bill provides that the agency is not responsible for storage charges incurred after the date the agency authorizes the release of the vehicle, and the owner or operator of the facility may not refuse to release the vehicle to its owner because the agency has not paid the cost of the towing and storage.

House Bill 480 amends the Occupations Code to increase the fees a vehicle storage facility may charge for daily storage from \$15 to \$20 for vehicles that are not longer than 25 feet and from \$30 to \$35 for vehicles longer than 25 feet. The bill also increases from \$32 to \$50 the cap on the fee for certain notifications required to be given by the facility. House Bill 480 requires the operator of a vehicle storage facility to allow a person claiming to be the owner of a vehicle stored or parked at the facility to have access to certain interior areas of the car if the documents necessary to prove the person owns the vehicle are located in such areas. The bill also sets out the means by which a facility must accept payment for services provided.

House Bill 480 amends the Transportation Code relating to nonconsent tows to allow the towing company to take a vehicle to a location designated by the owner and to allow a parking facility owner to remove a vehicle that is blocking certain entrances and exits of a storage facility if approved by a peace officer and under certain conditions. In addition, the bill amends the Transportation Code to raise the punishment for a violation of certain provisions relating to the removal of unauthorized vehicles from parking facilities or public roadways to a misdemeanor rather than only a fine. The minimum fine for such a violation is increased from \$200 to \$500 and the maximum fine is increased from \$500 to \$1,500.

House Bill 749

Effective: 9-1-05

House Author: Jones, Delwin et al.

Senate Sponsor: Duncan

House Bill 749 amends the Transportation Code to refer to seed cotton generally, rather than seed cotton modules, in provisions relating to specialty license plates, motor vehicle safety rules, and weight, width, length, and height limitations. It clarifies the definition of a seed cotton module for purposes of an applicable commercial driver's license exemption. The bill provides

for specialty license plates for motor vehicles that are used only to transport, or equipment that is used to transport or process, chile pepper modules. It applies to such vehicles the same width, length, and height limits that apply to vehicles used to transport cotton, and applies a weight limit of 54,000 pounds.

House Bill 988**Effective:** 9-1-05**House Author:** Chisum**Senate Sponsor:** Lucio

House Bill 988 amends the Transportation Code to require a person who sells a motor vehicle and applies for the vehicle's registration or certificate of title on behalf of the purchaser to apply, as directed by the purchaser, to the county assessor-collector in the county in which the purchaser is domiciled or the vehicle is purchased or encumbered. The bill requires the Texas Department of Transportation to promulgate a form for designating the purchaser's choice of counties, and it requires the seller to make the form available at the time of purchase. It provides that a seller has a reasonable time period to obtain and file documents necessary to transfer title or register the vehicle and is not in violation of that requirement while making a good faith effort to comply. The bill does not affect the passage of equitable title to the purchaser at the time of an enforceable sale.

House Bill 1044**Effective:** 6-17-05**House Author:** Eiland et al.**Senate Sponsor:** Williams

House Bill 1044 amends the Transportation Code to provide an optional procedure for Chambers County to issue permits to allow the movement of oversize or overweight vehicles carrying cargo on certain state roads in the county. The bill specifies the roads, weight limit, permit requirements, and allowable speed limit. It authorizes the county to collect a permit fee not to exceed \$80 per trip and specifies that fees may be used only to make required payments to the Texas Department of Transportation for maintaining the affected roads and for certain administrative costs.

House Bill 1092**Effective:** 9-1-05**House Author:** Smith, Wayne**Senate Sponsor:** Gallegos

House Bill 1092 amends the Transportation Code to allow a county with a population of 3.3 million or more to remove personal property, including a motor vehicle, from a right-of-way or roadway of a county road, without the consent of the owner, if the county has determined that the property blocks the right-of-way or roadway for at least six hours or endangers public safety. The bill provides that the costs of removal must be paid by the owner of the property and that the county is not liable for any damage caused during removal and disposal unless the damage is a result of recklessness, gross negligence, or failure to exercise appropriate authority.

House Bill 1244**Effective:** 9-1-05**House Author:** Hopson**Senate Sponsor:** Ogden

House Bill 1244 amends the Transportation Code to require the Texas Department of Transportation to issue specialty license plates for certain travel trailers at least 25 years old. The bill authorizes the department to require the attachment of a registration insignia to the license plates, requires the license plates to include a certain designation, and establishes the fee for issuance or approval of the license plates at \$15. It authorizes the use of license plates that were issued by the state in the same year as the model year of the travel trailer and that are approved by the department as an alternative to the specialty license plates.

Transportation

House Bill 1350

Effective: 9-1-05

House Author: Denny

Senate Sponsor: Staples

House Bill 1350 amends the Transportation Code to redefine a salvage motor vehicle to clarify that a damaged motor vehicle is not considered a salvage motor vehicle unless the vehicle is missing a major component part to the extent that the cost of repairs, including parts and labor other than the cost of materials and labor for repainting the motor vehicle and excluding sales tax on the total cost of repairs, exceeds the actual cash value of the motor vehicle immediately before the damage.

House Bill 1480

Effective: 9-1-05

House Author: Gattis

Senate Sponsor: Staples

House Bill 1480 amends the Transportation Code to revise provisions authorizing certain specialty license plates and to authorize a new specialty license plate. Regarding Operation Iraqi Freedom specialty plates that are issued without charge, the bill removes the requirement that a person must have served in the United States armed forces between November 8, 2002, and May 1, 2003, and substitutes the requirement that a person participated in Operation Iraqi Freedom to be eligible for the plates. Regarding Boy Scout license plates benefiting the Texas Commission on Alcohol and Drug Abuse, the bill specifies that issuance of the plates will instead benefit the Texas Higher Education Coordinating Board in making grants for educational projects sponsored by Boy Scout councils in this state. The bill authorizes the issuance of Mothers Against Drunk Driving (MADD) specialty plates to benefit the coordinating board in making grants for drug-abuse prevention and education programs sponsored by MADD.

House Bill 1584

Effective: 9-1-05

House Author: Casteel et al.

Senate Sponsor: Madla

House Bill 1584 amends the Occupations Code to require the operator of a vehicle storage facility, including a governmental vehicle storage facility, to accept electronic checks, debit cards, or credit cards for payments for charges associated with the delivery or storage of a vehicle.

House Bill 1646

Effective: 9-1-05

House Author: Hughes

Senate Sponsor: Eltife

House Bill 1646 amends the Transportation Code to revise the definition of “all-terrain vehicle” in the certificate of title and motor vehicle registration laws to reflect that models currently being manufactured are not golf carts, are equipped with a saddle or bench for the use of the rider, and are designed with three or more tires in contact with the ground.

House Bill 1735

Effective: 6-14-05

House Author: Krusee

Senate Sponsor: Wentworth

House Bill 1735 amends the Transportation Code to require the fee for a souvenir license plate to be deposited to the credit of the state highway fund unless the plate is a replica of a specialty license plate for which the fee is deposited to a designated account other than the state highway fund. The bill specifies how the fee is to be deposited in that case as well as how the fee for a personalized souvenir license plate is to be deposited. The bill authorizes the beneficiary of a specialty license plate to purchase the plates in boxes of 25 for use or resale, and it requires the beneficiary to pay the required fee minus the amount that would be deposited to the credit of the designated account.

House Bill 2495**Effective:** 9-1-05**House Author:** Wong**Senate Sponsor:** Lindsay

House Bill 2495 amends the Transportation Code to prohibit a motor vehicle from being the subject of a subsequent sale at a dealer auction unless certain conditions are met relating to the transfer of title.

House Bill 2630**Effective:** 9-1-05**House Author:** Hill**Senate Sponsor:** Carona

House Bill 2630 amends the Transportation Code, Occupations Code, and Government Code to revise procedures for the removal of a vehicle to a storage facility or the seizure of a vehicle by a law enforcement agency. In the Transportation Code chapter governing vehicles that have remained illegally on public property for more than 48 hours and other vehicles considered abandoned, the bill revises provisions relating to a law enforcement agency's authority to take an abandoned motor vehicle into custody, the garagekeeper's duty, and disposal of a vehicle abandoned in a storage facility. In the Transportation Code chapter governing the rights of owners and operators of vehicles that have been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle, the bill revises provisions relating to court jurisdiction, notice to a vehicle owner or operator, filing fees, and a hearing and appeal under this chapter. The bill amends the Vehicle Storage Facility Act in the Occupations Code regarding notice to the registered owner and the primary lienholder of a vehicle towed to a vehicle storage facility, second notice by the operator of a vehicle storage facility, charges related to storage, and forms of payment of charges. It amends the Government Code chapter relating to filing fees and other fees and costs in civil proceedings to revise certain fees related to a hearing on probable cause for removal of a vehicle and placement in a storage facility.

House Bill 2894**Effective:** 6-17-05**House Author:** Phillips**Senate Sponsor:** Deuell

House Bill 2894 amends the Transportation Code to clarify and streamline the law relating to the marketing of specialty license plates through a private vendor. The Texas Department of Transportation is required, rather than authorized, to enter into a contract, as determined from a competitive bidding process, with a private vendor for the marketing and sale of personalized license plates or with the agreement of the private vendor, other specialty plates. The bill prohibits the department from publishing a proposed design or color combination for a specialty license plate for public comment in the Texas Register or otherwise, except on the department's website for a period not to exceed 10 days. The bill prohibits the department from restricting the background color, color combinations, or color alphanumeric license plate numbers of a specialty license plate except as determined by the Department of Public Safety as necessary for law enforcement purposes. It requires the department to certify to the comptroller the estimate of all reasonable costs to the department associated with issuing or renewing personalized license plates or specialty license plates and requires the contract with the private vendor to provide for the department to recover those costs. The bill also sets forth certain limitations on a contract between the department and a private vendor relating to the marketing and sale of specialty license plates.

House Bill 3221**Effective:** 9-1-05**House Author:** Callegari**Senate Sponsor:** Lindsay

House Bill 3221 amends the Occupations Code to revise and update the chapter governing the records of certain motor vehicle repairs, sales, and purchases. The bill adds a provision

Transportation

authorizing certain transportation and public safety officials, Department of Public Safety officers, and other peace officers to enter the premises of a person engaging in a business or activity regulated under this chapter to conduct an inspection for the purpose of assisting in the recovery of stolen motor vehicles and parts. The bill makes the offense of failure to consent to an inspection a Class A misdemeanor.

House Bill 3425

Effective: 9-1-05

House Author: Geren

Senate Sponsor: Brimer

House Bill 3425 amends the Transportation Code to provide that it is an affirmative defense to prosecution of an offense under the law requiring specialty license plates for certain exhibition vehicles that at the time of the offense the vehicle was en route to or from a location for the purpose of routine maintenance of the vehicle.

Senate Bill 280

Effective: 5-3-05

Senate Author: Gallegos

House Sponsor: Bailey

Senate Bill 280 amends the Transportation Code to entitle a person to seek an injunction to prohibit a violation or threatened violation of state law by an automotive wrecking and salvage yard in a county with a population of 3.3 million or more. The bill provides that the venue for the injunction proceeding is in the county that is subject to this law and in which any part of the wrecking and salvage yard is located.

Senate Bill 619

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Flores

Under previous law, only a supervising officer of the Department of Public Safety (DPS) could take enforcement action relating to the weight of a loaded commercial motor vehicle. Senate Bill 619 amends the Transportation Code to allow a noncommissioned employee of DPS to take the action if the employee is under the supervision of a DPS officer. The bill also specifies that a noncommissioned employee of DPS may take action to enforce violations of vehicles and traffic law, including a rule adopted under this law, and federal safety regulations for commercial motor vehicles if the employee is under the supervision of a DPS officer. It specifies that vehicle weight limits do not apply to a vehicle or combination of vehicles that operates exclusively at a private port of entry and its associated private roads and across a public highway between the private roads under a certain contract. It defines "port of entry" for purposes of enforcing commercial motor vehicle safety standards to mean a place at which a customs officer is authorized to perform certain duties, including a publicly or privately owned international port of entry on the Texas-Mexico border.

Senate Bill 737

Effective: 6-17-05

Senate Author: Brimer

House Sponsor: Driver

Senate Bill 737 amends the Transportation Code to remove a provision restricting the jurisdiction of a municipal court in a matter relating to the prosecution of an offense involving the operation or loading of an overweight vehicle. The provision restricted the municipal court's jurisdiction to offenses for which the fine does not exceed \$500.

Senate Bill 1074

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Callegari

Senate Bill 1074 amends the Transportation Code to prohibit a Department of Public Safety rule relating to commercial motor vehicle safety standards from requiring a person who operates a commercial motor vehicle within a 150-air-mile radius of the normal work-reporting location,

and who meets certain standards relating to rest periods, to keep a driver's record of duty status if the person maintains time records in compliance with federal and state law. The bill clarifies that a federal regulation prevails over state law in connection with commercial motor vehicles in interstate commerce and that a state rule prevails over a federal regulation in connection with commercial motor vehicles in intrastate commerce.

Senate Bill 1670**Effective:** 9-1-05**Senate Author:** Staples**House Sponsor:** Callegari

Senate Bill 1670 amends the Transportation Code to provide for the creation of a motor vehicle financial responsibility verification program. The bill requires the Texas Department of Insurance, in consultation with the Department of Public Safety, the Texas Department of Transportation, and the Department of Information Resources, to establish a program for verification of whether owners of motor vehicles have established financial responsibility and to set forth certain goals for the program. It requires the agencies to jointly adopt rules, convene a working group, select and enter into a contract with an agent to develop, implement, operate, and maintain the program, and prohibits the contract from having a term of more than five years. The bill requires each insurance company providing motor vehicle liability insurance policies in this state to provide the necessary information to allow the agent to implement the program and prohibits the use of the information for any unauthorized purpose. The bill requires full implementation of the program for vehicles covered under a personal insurance policy before December 31, 2006.

Rules of the Road**House Bill 87****Effective:** 5-27-05**House Author:** Reyna**Senate Sponsor:** Madla

House Bill 87 amends the Transportation Code to authorize the governing body of a municipality to reduce the speed limit to not less than 25 miles per hour on a highway or part of a highway in an urban district in the municipality if the governing body determines that the prima facie speed limit on the highway is unreasonable or unsafe. The authorization extends to a highway that is not an officially designated or marked highway or road of the state highway system, is 35 feet or less in width, and allows vehicular parking on one or both sides. The authorization does not apply to a highway or part of a highway that has four or more lanes used for vehicular travel.

House Bill 183**Effective:** 9-1-05**House Author:** Brown, Fred et al.**Senate Sponsor:** Zaffirini

House Bill 183 amends the Transportation Code to provide that a person commits an offense if the person operates a passenger vehicle and transports a child who is younger than five years of age and less than 36 inches in height and does not keep the child secured during the operation of the vehicle in a child passenger safety seat system. Under previous law, a person committed an offense if the child was younger than four years of age or less than 36 inches in height. The bill establishes that the offense does not apply to third-party transport service providers when providing nonemergency Medicaid transportation. The bill establishes that it is a defense to prosecution of such an offense that the defendant provides proof of possessing an appropriate child passenger safety system and provides that for purposes of the driver responsibility program, such an offense is a moving violation of a traffic law. The bill specifies when the requirement to complete an approved driving safety course does not apply to a defendant charged with such

Transportation

an offense. In addition, the bill provides that a person commits an offense if the person operates a passenger vehicle that is equipped with safety belts and allows a child who is younger than 17 years of age and who is not required to be secured in a child passenger safety seat system to ride in the vehicle without being secured by a safety belt. It requires the Department of Public Safety to study legislative options to improve child passenger safety laws and report to the legislature on or before September 1, 2006.

House Bill 364

Effective: 5-30-05

House Author: Hegar et al.

Senate Sponsor: Brimer et al.

House Bill 364 amends the Transportation Code to make the use, sale, purchase, or possession of a traffic-control signal preemption device a Class C misdemeanor. The offense does not apply to certain persons providing emergency services or to a manufacturer, wholesaler, or retailer who sells or otherwise provides devices to such persons. The bill also makes an exception for certain transit vehicles.

House Bill 754

Effective: 9-1-05

House Author: Gattis et al.

Senate Sponsor: Fraser

House Bill 754 amends the Transportation Code to include aggregates and refuse in the prohibition against transporting loose material in violation of the law and to provide that an offense under the law is a misdemeanor punishable by a fine of not less than \$25 or more than \$500, rather than a fine of \$200 for a first conviction and not less than \$200 or more than \$500 for a subsequent conviction. The bill provides that if a motor vehicle, trailer, or semitrailer used primarily in the business of transporting property is transporting aggregates or refuse, the load is required to be covered and the covering firmly secured at the front and back or to be completely enclosed by the load-carrying compartment.

House Bill 1165

Effective: 6-17-05

House Author: Harper-Brown

Senate Sponsor: Deuell

House Bill 1165 amends the Transportation Code to remove the limit on the number of deputies that may be employed by a commissioners court as county traffic officers in a county with a population of more than two million.

House Bill 1481

Effective: 9-1-05

House Author: Gattis

Senate Sponsor: Wentworth

House Bill 1481 amends the Transportation Code to provide that a person commits a Class B misdemeanor offense if the person disobeys a warning sign or drives around a barricade that has been placed because water is over any portion of a road, street, or highway. The bill revises the definitions of “barricade” and “warning sign” to provide for placement during dangerous conditions.

House Bill 1484

Effective: 9-1-05

House Author: Talton

Senate Sponsor: Whitmire

House Bill 1484 amends the Transportation Code to make it a Class C misdemeanor if an operator of a motor vehicle involved in an accident occurring on or near a freeway fails to move the vehicle as soon as possible to a nearby suitable location.

House Bill 1596
Effective: 6-18-05

House Author: Paxton
Senate Sponsor: Nelson

House Bill 1596 amends the Transportation Code to provide that a motor-assisted scooter may be operated only on a street or highway for which the posted speed limit is 35 miles per hour or less and to authorize a county or municipality to prohibit the operation of a motor assisted scooter on a street, highway, or sidewalk in the interest of safety. The bill also authorizes the Texas Department of Transportation to prohibit motor-assisted scooters on a highway for safety reasons. It establishes that except as otherwise provided by law, a statutory provision that applies to operation of a bicycle also applies to operation of a motor-assisted scooter and that a provision that applies to a motor vehicle does not apply to such a scooter.

House Bill 1925
Effective: 6-18-05

House Author: Driver
Senate Sponsor: Brimer

House Bill 1925 amends the Transportation Code to require the Texas Department of Transportation to remove or cover signs or require the removal or covering of signs that restrict the speed limit in a construction or maintenance work zone during any period when no hazard exists that dictates the need for a restricted speed limit.

House Bill 2257
Effective: 6-17-05

House Author: Gallego
Senate Sponsor: Madla

House Bill 2257 amends the Transportation Code to provide that notwithstanding the law establishing lawful speed limits, the Texas Transportation Commission may raise the speed limit to 80 miles per hour in daytime on a part of Interstate Highway 10 or Interstate Highway 20 in Crockett, Culberson, Hudspeth, Jeff Davis, Kerr, Kimble, Pecos, Reeves, Sutton, or Ward County if the commission determines that the speed limit is reasonable and safe. The bill also amends provisions of the Transportation Code relating to the authorization to raise the speed limit to 75 miles per hour in certain counties with a population density of less than 10 persons per square mile to raise the number to 15 persons per square mile.

Senate Bill 245
Effective: 5-3-05

Senate Author: Gallegos
House Sponsor: Phillips

Senate Bill 245 amends the Transportation Code to require a local authority to grant authorization to an employee or agent of the authority to stand in a roadway and solicit charitable contributions, provided the person made a written application to do so with specifics of the date, location, and number of solicitors to be involved. The application must be made not later than the 11th day before the solicitation is to begin. The bill provides that the applicant must furnish proof of at least \$1 million liability insurance but that this does not constitute a waiver of immunity on behalf of the local authority.

Senate Bill 866
Effective: 6-17-05

Senate Author: Staples
House Sponsor: Howard

Senate Bill 866 amends the Transportation Code to authorize peace officers commissioned under the Education Code or commissioned by the governing body of a metropolitan rapid transit authority or regional transportation authority to serve as police escorts for certain purposes, including funeral processions and the movement of oversized or hazardous loads.

State Highway System

House Bill 34

Effective: 9-1-05

House Author: Eissler

Senate Sponsor: Williams

House Bill 34 amends the Transportation Code to prohibit a person from erecting an off-premise sign adjacent to and visible from Farm-to-Market Road 2978 between Farm-to-Market Road 1488 and the boundary line between Harris and Montgomery Counties.

House Bill 55

Effective: 9-1-05

House Author: Grusendorf et al.

Senate Sponsor: Harris

House Bill 55 amends the Transportation Code to designate the part of Interstate Highway 20 located between the Tarrant-Parker County Line and the eastern municipal boundary of Grand Prairie as the Ronald Reagan Memorial Highway.

House Bill 137

Effective: 9-1-05

House Author: Paxton et al.

Senate Sponsor: Nelson

House Bill 137 amends the Transportation Code to authorize the Texas Department of Transportation to erect Welcome to Texas signs to designate the state boundary on certain highways. The bill requires such a sign to include a depiction of the state flag, the phrase “Drive Friendly The Texas Way,” and the phrase “Welcome to Texas—Proud to be the Home of President George W. Bush.”

House Bill 540

Effective: 9-1-05

House Author: Bohac et al.

Senate Sponsor: Lindsay

House Bill 540 amends the Transportation Code to designate the part of U.S. Highway 290 in Harris County between the Harris County boundary with Waller County and Beltway 8 as the Ronald Reagan Memorial Highway.

House Bill 747

Effective: 9-1-05

House Author: McReynolds

Senate Sponsor: Staples

House Bill 747 amends the Transportation Code to designate the parts of State Highways 7, 21, and 103, United States Highway 290, and Interstate Highway 10 that create a route from the Pendleton Bridge in Sabine County to the El Paso-Hudspeth County line as the El Camino East/West Corridor.

House Bill 874

Effective: 6-17-05

House Author: Kuempel

Senate Sponsor: Wentworth

House Bill 874 amends the Transportation Code to designate State Highway 123 between Interstate Highway 10 and United States Highway 90A as the Senator John Traeger Memorial Highway.

House Bill 1136

Effective: 9-1-05

House Author: Smith, Wayne

Senate Sponsor: Whitmire

House Bill 1136 amends the Transportation Code to designate Spur 330 in Harris County as the Veterans Memorial Highway.

House Bill 1248**Effective:** 9-1-05

House Bill 1248 amends the Transportation Code provision relating to erecting an off-premise sign adjacent to and visible from certain roads. The bill adds U.S. Highway 281 between the southern boundary line of Comal County and State Highway 306 to the list of roads affected by the provision.

House Author: Villarreal et al.**Senate Sponsor:** Wentworth**House Bill 1645****Effective:** 9-1-05

House Bill 1645 amends the Transportation Code to designate the part of United States Highway 80 located in this state as the World War II Veterans Memorial Highway.

House Author: Hughes et al.**Senate Sponsor:** Eltife et al.**House Bill 1851****Effective:** 9-1-05

House Bill 1851 amends the Transportation Code to prohibit a person from erecting an off-premise sign adjacent to and visible from State Highway 90 between San Antonio's western city limits and Hondo's eastern city limits.

House Author: King, Tracy**Senate Sponsor:** Madla**House Bill 2071****Effective:** 9-1-05

House Bill 2071 amends the Transportation Code to designate U.S. Highway 281 as the American Legion Memorial Highway.

House Author: Rose et al.**Senate Sponsor:** Van de Putte**House Bill 2348****Effective:** 6-18-05

House Bill 2348 amends the Transportation Code to require the Texas Department of Transportation (TxDOT) to permit a municipal transit department to construct a separate area adjacent to a highway under TxDOT's jurisdiction so that buses may safely board and discharge passengers without impeding the flow of traffic. The bill requires the location, design, and construction standards of the area to be approved by TxDOT.

House Author: Raymond et al.**Senate Sponsor:** Zaffirini**House Bill 2422****Effective:** 9-1-05

House Bill 2422 amends the Transportation Code to designate Farm-to-Market Road 2065 from its intersection with State Highway 77 to its intersection with County Road 2466 as the Staff Sergeant Herbert S. Robertson, Jr., Memorial Highway.

House Author: Frost**Senate Sponsor:** Eltife**House Bill 2453****Effective:** 9-1-05

House Bill 2453 amends the Transportation Code to add pharmacy services to the provision of services that make a commercial establishment eligible to have its name displayed on a specific information logo sign. The bill specifies that an establishment that provides pharmacy services must operate continuously and provide pharmacy services for 24 hours each day to be eligible.

House Author: Casteel**Senate Sponsor:** Madla**House Bill 2647****Effective:** 6-17-05

House Bill 2647 amends the Transportation Code to designate Farm-to-Market Road 68 in Fannin County as Speaker Jimmy Turman Road.

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

Transportation

House Bill 3041

Effective: 9-1-05

House Author: Branch et al.

Senate Sponsor: West, Royce

House Bill 3041 amends the Transportation Code to designate the structure on Spur 366 located in the city of Dallas connecting the east and west levee of the Trinity River as the Margaret Hunt Hill Bridge.

House Bill 3333

Effective: 6-17-05

House Author: Chavez

Senate Sponsor: Madla

House Bill 3333 amends the Transportation Code to require, notwithstanding the law requiring real property no longer needed for a state highway purpose to be transferred or sold with certain priorities, that a prescribed tract of the Ysleta Grant located in El Paso County be sold to a federally recognized Indian tribe that meets certain qualifications.

Senate Bill 369

Effective: 9-1-05

Senate Author: Barrientos

House Sponsor: Rose

Senate Bill 369 amends the Transportation Code to add Farm-to-Market Road 3238 beginning at State Highway 71 and any extension of that road through Hays and Blanco Counties to the list of roads to which the prohibition against erecting an off-premise sign that is adjacent to and visible from the road applies.

Senate Bill 637

Effective: 6-17-05

Senate Author: Lindsay

House Sponsor: Hamric

Senate Bill 637 amends the Transportation Code to establish that an order of the Texas Transportation Commission to deny access to or from a controlled access highway, adjoining public or private real property, or a public or private way intersecting the highway does not supercede a conflicting ordinance, resolution, or order of a county with a population of 3.3 million or more, or a county adjacent to such a county, unless enforcement of the ordinance, resolution, or order would jeopardize the state's receipt of federal highway funds.

Senate Bill 678

Effective: 9-1-05

Senate Author: Van de Putte

House Sponsor: Noriega, Melissa et al.

Senate Bill 678 amends the Transportation Code to designate the part of Interstate Highway 35 located in Texas as the Texas portion of the national Purple Heart Trail.

Senate Bill 921

Effective: 9-1-05

Senate Author: Duncan

House Sponsor: Isett

Senate Bill 921 amends the Transportation Code to designate Interstate Highway 27 between its intersection with United States Highway 84 in Lubbock and its intersection with Interstate Highway 40 in Amarillo as the Marshall Formby Memorial Highway.

Senate Bill 1204

Effective: 9-1-05

Senate Author: Madla

House Sponsor: King, Tracy

Senate Bill 1204 amends the Transportation Code to prohibit a person from erecting an off-premise sign adjacent to and visible from State Highway 90 between San Antonio's western city limits and Hondo's eastern city limits.

Senate Bill 1206
Effective: 9-1-05

Senate Author: Madla
House Sponsor: Casteel

Senate Bill 1206 amends the Transportation Code to add a highway in Bandera County that is part of the state highway system to the list of roads to which the prohibition against erecting an off-premise sign that is adjacent to and visible from the road applies.

Senate Bill 1579
Effective: 9-1-05

Senate Author: Zaffirini
House Sponsor: Gonzalez Toureilles

Senate Bill 1579 amends the Transportation Code to exclude the segment of U.S. Highway 281 located in the city limits of Three Rivers from the roads to which the prohibition against erecting an off-premise sign that is adjacent to and visible from the road applies. Under previous law, the prohibition applied to all of U.S. Highway 281 between State Highway 186 and Interstate Highway 37.

Transportation Districts and Authorities

House Bill 340
Effective: 5-27-05

House Author: Seaman et al.
Senate Sponsor: Hinojosa

House Bill 340 amends the Water Code to authorize the commission of a navigation district that has established a police force to also establish a volunteer police reserve force. The bill requires the chief of the district police force to appoint volunteers to serve as reserve force members and authorizes the chief to call the reserve force into service whenever the chief considers it necessary to have additional officers to preserve the peace and enforce the law. The bill requires the commission to establish qualifications and training standards for reserve force members and to approve an appointment before the person appointed may carry a weapon or otherwise act as a peace officer. The bill sets forth certain restrictions and authorizations for reserve force members who are and members who are not peace officers as described by the Code of Criminal Procedure. House Bill 340 stipulates that reserve force members are not district employees and serve without pay and at the chief's discretion and are not eligible to participate in certain benefit and pension programs. The bill further stipulates that reserve police officers may act only to supplement the district's regular police force and may not assume the full-time duties of regular police officers without complying with the requirements for regular police officers. The bill requires a reserve police officer who is appointed to the reserve force to first execute an oath and a bond before performing any duties. The bill makes a conforming change to the Occupations Code.

House Bill 769
Effective: 9-1-05

House Author: Smith, Wayne
Senate Sponsor: Janek

House Bill 769 amends the Water Code to authorize a navigation district or port authority, notwithstanding state law governing the deadline for evaluating and ranking competitive sealed proposals for certain construction services, to specify in the request for competitive sealed proposals a deadline, not later than the 90th day after the date of opening the proposals, to evaluate and rank each proposal submitted.

Transportation

House Bill 1097

Effective: 9-1-05

House Bill 1097 enacts provisions to validate and confirm any act, governmental proceeding, official, bond, or obligation of a navigation district or port authority or a corporation of the district or authority.

House Author: Bonnen

Senate Sponsor: Williams

House Bill 1403

Effective: 9-1-05

House Bill 1403 amends the law relating to the Port of Beaumont Navigation District of Jefferson County. The bill provides that four, rather than three, commissioners constitute a quorum at any meeting, and it provides that if the number of commissioners is reduced to three, rather than two, the remaining commissioners shall call a special election to fill the vacancies. The bill specifies that each commissioner shall receive \$500, rather than \$300, per month, and that the president shall receive \$550, rather than \$350, per month.

House Author: Deshotel

Senate Sponsor: Janek

House Bill 1815

Effective: 5-9-05

House Bill 1815 amends the Transportation Code to remove language applying a term limitation to an individual's service on the board of a metropolitan rapid transit authority to an authority confirmed before July 1, 1985, and in which the principal municipality has a population of less than 750,000. The bill also specifies that the application of a term limitation to an individual's service as presiding officer of the board of a metropolitan rapid transit authority does not apply to such an authority.

House Author: Krusee et al.

Senate Sponsor: Barrientos

House Bill 1986

Effective: 9-1-05

House Bill 1986 amends provisions of the Transportation Code relating to a coordinated county transportation authority created by certain counties to provide public transportation and transportation-related services. The bill authorizes an authority to acquire, construct, develop, plan, own, operate, maintain, or manage a public transportation system or project not located in the territory of the authority if the system or project provides a service, benefit, or convenience to the people in the territory of the authority. It authorizes the board of directors of an authority to annually increase the population amount that determines representation on the board of directors by certain municipalities in the county and requires a board that takes this action to also increase the population amounts that determine certain other municipal representation on the board. House Bill 1986 also amends a provision relating to the management of an authority to clarify the prohibition against the spending of federal and state funds by or on behalf of the authority to influence or affect the award or outcome of a state or federal contract, loan, or cooperative agreement. The bill adds coordinated county transportation authorities to the transit authorities that the Texas Department of Transportation may contract with for the design, construction, operation, or maintenance of a high occupancy vehicle lane.

House Author: Solomons

Senate Sponsor: Nelson

House Bill 2300

Effective: 9-1-05

House Bill 2300 amends the Transportation Code to authorize a metropolitan rapid transit authority in which the principal municipality has a population of more than 1.2 million to use a hybrid delivery system for constructing certain transit projects. The bill provides for selecting an engineer or engineering and architecture team, issuing requests for proposals, evaluating

House Author: Turner

Senate Sponsor: Whitmire

proposals, selecting the facility provider, contracting for final design, using other professional services, and subcontracting construction work. It specifies that the authority to use a hybrid delivery system expires on August 31, 2015.

House Bill 2958**Effective:** 6-17-05**House Author:** Hamric**Senate Sponsor:** Lindsay

House Bill 2958 amends the Transportation Code to authorize the creation of a freight rail district in a county with a population of 3.3 million or more and counties adjacent to such a county. The bill's provisions provide for the district's creation, board of directors, powers and duties, relationship with affected railroads, financing, and dissolution.

House Bill 2966**Effective:** 9-1-05**House Author:** Seaman**Senate Sponsor:** Hinojosa

House Bill 2966 amends the Water Code to increase the fine from a maximum of \$200 to a maximum of \$500 for a violation of the law governing the regulatory powers of a navigation district or of an ordinance, rule, or regulation adopted by a district under that law.

House Joint Resolution 79**For Election:** 11-8-05**House Author:** Krusee**Senate Sponsor:** Staples

House Joint Resolution 79 proposes a constitutional amendment to authorize the legislature by general law to provide that members of the board of a regional mobility authority serve terms not to exceed six years, with no more than one-third of the members of the board to be appointed every two years.

Senate Bill 129**Effective:** 9-1-05**Senate Author:** Barrientos**House Sponsor:** Dukes

Senate Bill 129 amends the Transportation Code to authorize the Texas Department of Transportation or a regional mobility authority to waive or reduce tolls on a state or regional turnpike project for any vehicle or class of vehicles.

Senate Bill 182**Effective:** 9-1-05**Senate Author:** Barrientos et al.**House Sponsor:** Krusee

Senate Bill 182 amends the law relating to intermunicipal commuter rail districts to stagger the two-year terms of board members, with the terms of one-half of the members expiring February 1 of each year. The bill also provides for filling a vacancy on the board by election and for determining the lengths of terms if one or more new members are added to the board. It establishes that a board meeting by telephone conference call or videoconference need not have a quorum present at any one location, and it specifies requirements for notice and public participation if the board conducts such a meeting.

Senate Bill 433**Effective:** Vetoed**Senate Author:** Wentworth**House Sponsor:** Casteel

Senate Bill 433 amends the Transportation Code to authorize the creation of airport districts by the state, counties, and municipalities, through independent or joint action, for the purpose of acquiring and improving airports and related facilities. The bill provides for the districts' creation and expansion, board of directors and administration, powers and duties, financing, bond authority, and withdrawal or dissolution.

Transportation

Reason Given for Veto: “Senate Bill No. 433 would give private citizens broad powers of a public authority with little public accountability. The airport districts allowed in this bill would have the power to condemn public and private property, the ability to sell bonds without the approval of the Attorney General, exempt them from municipal zoning laws, and place no requirements for competitive bidding.

“Under current law, cities have sufficient statutory authority to build and operate airports and have no need for special airport districts. Counties interested in operating an airport have the ability to apply to the Texas Department of Transportation for the formation of a Regional Mobility Authority. Knowing the importance of general aviation to our state, I will direct the Texas Transportation Commission to study statewide general aviation issues and develop legislative recommendations for the 80th Legislature.”

Senate Bill 728

Effective: 9-1-05

Senate Author: Wentworth

House Sponsor: Baxter

Senate Bill 728 amends the Transportation Code to repeal the provision establishing that contractual powers of a metropolitan rapid transit authority do not confer immunity on any entity that enters into an agreement with an authority.

Senate Bill 945

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Morrison

Senate Bill 945 amends the Water Code to require the governing body of a port authority or navigation district by rule to design a questionnaire for vendors and a disclosure statement for members of the governing body that requires disclosure of a vendor's or member's affiliations or business relationships that might cause a conflict of interest if the authority or district enters into a contract with the vendor. The bill prescribes timeframes for filing a completed questionnaire or statement with the secretary of the governing body and requires a disclosure statement to include certain information and to be filed with the Texas Ethics Commission. The bill authorizes the commission to impose a civil penalty if the commission finds that a member of the governing body knowingly violated the disclosure requirement and provides that a contract is voidable if the vendor violates the requirement.

Senate Bill 1131

Effective: 6-17-05

Senate Author: Hinojosa

House Sponsor: Seaman

Senate Bill 1131 amends the Transportation Code to authorize the Texas Transportation Commission to convey a government-owned ferry to a county or a local government corporation that is incorporated under the Texas Transportation Corporation Act if a majority of the voters in the municipality in which the ferry is located approve the conveyance. The bill authorizes the county or local government corporation to temporarily charge a toll for use of a ferry conveyed under this provision to pay the costs necessary for an expansion of the ferry and to permanently charge a toll for use of ferry facilities that are part of the expansion. The bill amends the Regional Mobility Authority Act to provide that a municipality with a population of 5,000 or less in which a ferry system that is a part of the state highway system is located has the same authority as a county to create and participate in an authority and to authorize an authority to permanently charge a fee or toll for priority use of ferry facilities.

Senate Bill 1434

Effective: 6-17-05

Senate Author: Madla

House Sponsor: Puente

The Transportation Code previously required the governing body of an advanced transportation district to deposit one-fourth of the proceeds from its sales and use tax in a separate account for the Texas Department of Transportation to use as the local match for state or federal funds. Senate Bill 1434 amends the code to allow a district to transfer those proceeds to a county, municipality, or local government corporation created under the Texas

Transportation Corporation Act to finance any cost relating to mobility enhancement purposes in the district's territory. The bill allows the county, municipality, or corporation to pledge and create a lien on the proceeds transferred to it to pay the debt service on bonds issued to finance mobility enhancement projects.

The bill amends the definition of "mobility enhancement" to include the financing of mobility enhancement projects, including arrangements to pay any bond-related cost incurred by or relating to the issuance of obligations by a county or municipality or by a local government corporation acting on behalf of the county or municipality, and it allows an advanced transportation district to use the portion of its sales and use tax proceeds dedicated to advanced transportation purposes for similar bond-related financing agreements or obligations.

Senate Bill 1641

Effective: 6-17-05

Senate Author: Lucio

House Sponsor: Oliveira

Senate Bill 1641 amends the Transportation Code to continue the law authorizing the issuance of oversize or overweight vehicle permits by certain port authorities until June 1, 2009.

Senate Bill 1786

Effective: 9-1-05

Senate Author: Gallegos

House Sponsor: Hamric

Senate Bill 1786 amends provisions of the Water Code relating to competitive bid requirements and proposal procedures for the purchasing contracts of a navigation district or a port authority. The bill expands the list of items and methods that are exempt from competitive bid requirements and purchasing contract procedures to include items and contracts for purchases from the United States, a federal agency, the State of Texas, or an agency of this state, including purchasing contract methods that the district or authority believes provide the best value for the district for contracts valued at \$25,000 or more in the aggregate for each 12-month period.

The bill also amends the provision governing the evaluation of bids and proposals for construction services by a navigation district to require the district to document the basis of its selection and make the evaluations public not later than the 30th, rather than the seventh, day after the date of the award of the contract or the next scheduled commission meeting. It also provides that the adoption and use by a district of a safety or security code, policy, or manual does not create any new or additional legal duties of the district. The bill authorizes a district or authority to enter into a contract with any person, including a municipality or political subdivision in an adjacent county, in order to accomplish any district purpose or exercise any district power. In addition, a district may issue obligations secured by ad valorem taxes for a project in an adjacent county if the project serves to accomplish a district purpose or exercise a district power.

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

HB 1009 - Open Government and Privacy

HB 1540 - Environment

HB 1611 - Environment

HB 1705 - Environment

HB 2921 - Property Interests

HB 2949 - Environment

SB 293 - Border Affairs

SB 569 - Border Affairs

SB 867 - Taxes and Tax Administration

SB 1005 - Criminal Justice

Utilities

This chapter covers legislation relating to the regulation of electric, natural gas, and telecommunications utilities. Bills relating to natural gas production, processing, and transmission are in the **Energy Resources** chapter, and those relating to private-sector water supply entities are in the **Water** chapter. Related bills that are summarized in other chapters are listed at the end of this chapter.

General

House Bill 474

Effective: 9-1-05

House Author: West, George “Buddy” et al.

Senate Sponsor: Armbrister

House Bill 474 amends the Utilities Code to establish a specific deadline for a gas utility to report to the railroad commission a sale, acquisition, or lease of an operating unit or system for more than \$1 million, or a merger or consolidation with another gas utility operating in the state. Such a transaction must be reported not later than the 60th day after the transaction takes effect, rather than within a reasonable time.

House Bill 872

Effective: 9-1-05

House Author: West, George “Buddy”

Senate Sponsor: Armbrister

House Bill 872 amends the Utilities Code to clarify that all operators of natural gas distribution systems, rather than just investor-owned and municipally owned systems, are required to pay an annual pipeline inspection fee.

House Bill 3460

Effective: 9-1-05

House Author: Baxter

Senate Sponsor: Fraser

The Utilities Code requires a utility that furnishes water, electric, gas, or telephone service and requires a customer to pay a deposit as a condition of that service to pay interest on the deposit at a rate set each December by the Public Utility Commission of Texas (PUC). House Bill 3460 requires the PUC to set the rate at the average rate paid over the previous 12-month period on United States treasury bills with a 26-week maturity. Previous law required the commission to set a rate of at least six percent and not exceeding the lower of 12 percent or 85 percent of the average rate paid over the 12-month period on treasury bills with a 12-month maturity.

Senate Bill 409

Effective: 9-1-05

Senate Author: Nelson

House Sponsor: King, Phil

Senate Bill 409 amends the Utilities Code to continue the Office of Public Utility Counsel until September 1, 2011. The bill requires the office to prepare and submit to the Sunset Advisory Commission and specified legislative committees an annual report on its activities during the preceding year and specifies certain elements that the report must include. The bill requires the office annually to conduct a public hearing to assist it in developing a plan of priorities and to give the public an opportunity to comment on its functions and effectiveness. A temporary provision requires the state auditor, in coordination with the Legislative Budget Board, to conduct a management audit, focusing on agency impact and performance measures and on consumer savings attributable to the office, to be completed and delivered to the governor, lieutenant governor, and speaker of the house not later than August 1, 2006. The bill repeals a

Utilities

provision that disqualified from serving as the office's chief executive anyone who was required to register as a lobbyist because of compensated activities on behalf of a profession related to the operation of the office or the Public Utility Commission of Texas.

Senate Bill 1668
Effective: 6-17-05

Senate Author: Estes
House Sponsor: Baxter

The Public Utility Regulatory Act in the Utilities Code contains numerous provisions relating to how an affiliate of a public utility is treated and regulated. An affiliate includes a person or corporation that by any of several means owns, holds, or controls at least five percent of the utility's voting securities, or a person determined by the Public Utility Commission of Texas to exercise certain influence or control over the utility. Senate Bill 1668 amends the Act to specify that an affiliate does not include registered brokers or dealers, banks or insurance companies, or investment advisers or companies, nor certain employee benefit plans, pension funds, endowment funds, or similar entities whose control is limited. The bill amends provisions relating to the allowance of payments to an affiliate in computing utility rates. It provides that if regulators find an affiliate expense to be unreasonable, they may set a reasonable level and include it in the determination of the utility's cost of service. Other provisions apply to an electric utility that has no stranded costs and, on September 1, 2005, has not finalized the deregulatory unbundling of its electric power generation, transmission, and retail activities. The bill allows such a utility to meet unbundling requirements, for existing generation activities in the ERCOT (Electric Reliability Council of Texas) portion of the state, if it meets and maintains compliance with the following requirements: (1) it has not more than 400 megawatts of Texas jurisdictional capacity from ERCOT generating units that have not been mothballed or retired; (2) it has contracted with separate affiliated or nonaffiliated companies to sell all of the output from units that have not been mothballed or retired for a contract term of at least 20 years or the life of the units, whichever is shorter; and (3) it has a separate internal division for its generation activities. The bill includes a provision clarifying the regulatory status of the separate division.

Electric Utilities

House Bill 412
Effective: 9-1-05

House Author: Turner et al.
Senate Sponsor: Van de Putte

The legislature in 1999 deregulated electric service in parts of Texas, beginning a move away from the vertically integrated utilities that traditionally have combined electric generation, transmission, and distribution functions. In the territory covered by the Electric Reliability Council of Texas (ERCOT), distribution was lodged with companies known as retail electric providers (REPs), including affiliated REPs, or companies that were operationally detached from the traditional utilities, and electric rates were discounted six percent to establish a "price to beat" for nonaffiliated REPs entering the industry.

House Bill 412 amends the Utilities Code to establish certain limitations on an REP's use of the electric bill payment history, or utility payment data generally, of a customer or applicant for service. Also, it limits use of an overall credit history, or of a credit score by a consumer reporting agency. After January 1, 2007, or after the price to beat disappears, whichever is later, an REP may use the electric bill payment history of an applicant for service but may not use the other types of information. Until then, an REP may use utility payment data but may not deny service based on a credit score or credit history. An affiliated REP, while it is required to provide service to an area, may not deny an applicant's request for retail service on the basis of a credit score, credit history, or utility payment data.

The bill prohibits an REP from using a credit score, credit history, or utility payment data for certain price-setting purposes but does not limit an REP's authority to require a deposit or advance payment as a condition of electric service. Also, an REP may use a customer's electric bill payment history for purposes of providing certain rewards, benefits, or credits. The bill establishes requirements for the supply of electric bill payment history to a requesting customer or another REP. It requires the PUC to conduct one or more public workshops to consider the merits of databases that are used to determine whether a customer has a satisfactory electric bill payment history and to report its conclusions on the issue to the governor and legislative presiding officers not later than January 15, 2007.

In addition, the bill addresses residential telephone customers and prohibits specified providers from using a credit score or credit history to deny service to a prospective residential customer or to determine a price for service to such a customer. Such providers, however, may require a deposit, advance payment, or credit limit as a condition of service.

House Bill 989
Effective: 6-18-05

House Author: Chisum
Senate Sponsor: Seliger

House Bill 989 amends the Utilities Code to authorize the Public Utility Commission of Texas to allow an electric utility that owns or operates transmission facilities and operates solely outside of ERCOT in the Western Electric Coordinating Council or Southwest Power Pool territory to recover annually, through a federally approved tariff, its reasonable and necessary expenditures for transmission infrastructure improvement and for changes in wholesale transmission charges, to the extent that such costs and charges have not otherwise been covered. The commission may allow recovery only of the costs allocable to Texas retail customers and may not allow over-recovery of costs.

House Bill 1567
Effective: 6-18-05

House Author: Ritter et al.
Senate Sponsor: Williams

The Texas electricity grid includes multiple regional entities responsible for ensuring the reliability of power supply systems. Two of those are the Southeastern Electric Reliability Council (SERC), covering Southeast Texas and parts of other states, and the Electric Reliability Council of Texas (ERCOT), covering most of Texas but no other states. House Bill 1567 adds a Utilities Code subchapter that sets out provisions governing the transition to competition for an investor-owned electric utility that is operating solely outside of ERCOT in territory included in SERC on January 1, 2005. The bill places the utility under traditional cost-of-service regulation until it is authorized by the Public Utility Commission of Texas (PUC) to implement customer choice. Deregulatory provisions of the Utilities Code, with certain exceptions, do not apply until customer choice is implemented, and certain PUC orders relating to deregulation, if issued before the bill's effective date, are void. No one may file a proceeding to change, alter, or revoke the electric rates of a covered utility before June 30, 2007, and any resulting rate modification may not take effect before June 30, 2008. Subsequently, the utility is not subject to a rate freeze. Other provisions of the bill relate to power region certification, the filing of a transition plan, separation into two utilities subject to the respective retail jurisdictions of the PUC and Louisiana regulators, a customer choice pilot project, a competitive generation tariff, and the requirements to be met before full customer choice can be approved and implemented. The bill also sets out provisions governing franchise agreements between a utility and municipalities.

Senate Bill 20 (1st C.S.)

Effective: 9-1-05

Senate Author: Fraser

House Sponsor: King, Phil et al.

In 1999 the legislature established a renewable portfolio standard (RPS) for electric power generation, expressing legislative intent that an additional 2,000 megawatts of capacity from renewable energy technologies, above a baseline of 880 megawatts, be installed in Texas by January 1, 2009. Senate Bill 20, 1st Called Session, raises that additional amount to 5,000 megawatts, for a cumulative total of 5,880 megawatts, to be installed by January 1, 2015. It sets intermediate requirements to be met by January 1, 2007, and by each of the next four two-year anniversaries of that date. The bill further requires the Public Utility Commission of Texas (PUC) to set a target of 10,000 megawatts of renewable capacity to be installed by January 1, 2025, and to set a target of at least 500 megawatts of capacity installed after September 1, 2005, to be from a source other than wind power. The PUC must designate competitive renewable energy zones sufficient to develop the new generating capacity and must develop a plan to construct transmission capacity to deliver to customers the electric output from those zones. The bill sets certain other implementation mandates for the commission and directs the PUC to require the construction or enlargement of transmission or transmission-related facilities to meet the goal. The bill directs the PUC to submit a report to the legislature not later than December 31 of each even-numbered year that includes an evaluation of its implementation of competitive renewable energy zones, the estimated costs of transmission service improvements needed for each zone, and an evaluation of the effects that additional renewable generation has on system reliability and on the cost of alternatives to mitigate the effects. The PUC and officials of the Electric Reliability Council of Texas also must study the need for increased transmission and generation capacity generally throughout the state and must report to the legislature biennially on that topic by the same deadline.

Senate Bill 408

Effective: 9-1-05

Senate Author: Nelson

House Sponsor: King, Phil

Functionally, and for regulatory purposes, electric power grids in Texas are divided among three interstate power regions and one that lies fully inside the state. Texas law provides for Public Utility Commission of Texas (PUC) certification in a power region of one or more independent organizations to ensure electric reliability and adequacy and to perform other specified functions. To date, the PUC has certified one such independent organization, the Electric Reliability Council of Texas (ERCOT), covering the intrastate power region. Senate Bill 408 amends the Utilities Code to modify the membership requirements that an independent organization's governing body must meet for purposes of specifying the market segments to be reflected in its composition. It requires a certified independent organization to contract with an entity selected by the PUC to act as a wholesale electric market monitor to detect and prevent market manipulation and recommend measures to enhance wholesale power market efficiency. The bill authorizes the PUC to adopt rules relating to the reliability of a regional electric network, or to delegate rulemaking and enforcement to an independent organization subject to PUC oversight and review.

The bill strengthens the PUC's power to oversee and investigate the finances, budget, and operations of an independent organization. Various provisions address PUC powers and duties regarding cost efficiency, accounting and auditing, reporting requirements, bylaws adoption, dispute resolution, and other aspects of an independent organization's activities. The bill requires that meetings of an independent organization's governing body, as well as subcommittee meetings involving any member of such governing body, be open to the public.

Senate Bill 408 amends the Utilities Code to continue the PUC until September 1, 2011. The bill increases the maximum PUC administrative penalty from \$5,000 to \$25,000, and allows assessment of administrative penalties against an independent organization. It expands the purpose of the system benefit fund, which provides discounts on electric bills to low-income persons, to include one-time bill payment assistance to electric customer households with seriously ill or disabled low-income members where utility disconnection is threatened because of bill nonpayment. The bill repeals a provision under which the PUC could require a public utility annually to report its expenditures for business gifts, entertainment, and advertising or public relations.

Senate Bill 712

Effective: 9-1-05

Senate Author: Carona

House Sponsor: Cook, Robby

Senate Bill 712 amends provisions of the Utilities Code relating to electric utility energy efficiency programs and related energy efficiency goals. The bill adds a reduction in peak demand to the legislative goals for energy efficiency. The bill also enumerates guidelines and options for standard offer and market transformation programs, authorizes the use of energy efficiency money for research and development, and limits the amount of Public Utility Commission-approved energy efficiency funds an electric utility may use for research and development to 10 percent. The bill requires, unless alternative funding is provided, that each unbundled transmission and distribution utility include a targeted low-income energy efficiency program in its energy efficiency plan. The bill establishes provisions for funding and expenditures for low-income energy efficiency programs and provides for reports on energy and peak demand savings.

Senate Bill 1447

Effective: 6-17-05

Senate Author: Averitt

House Sponsor: Eiland

Senate Bill 1447 amends the Utilities Code to require the regulatory authority of an electric utility to include in the utility's rates the expenses for pension and other postemployment benefits as determined by actuarial or other similar studies, including benefits arising from employee service with a predecessor integrated electric utility. The bill authorizes the utility, as of January 1, 2005, to establish one or more reserve accounts for such expenses and requires the utility to periodically record specified information in such accounts. The bill establishes the circumstances under which the reserve account has a surplus or shortage and requires the authority to review the amounts recorded in the reserve account at subsequent general rate proceedings.

Senate Bill 1464

Effective: 9-1-05

Senate Author: Van de Putte

House Sponsor: Puente

Senate Bill 1464 amends the Utilities Code to authorize the Public Utility Commission of Texas to adopt rules to ensure that money for the decommissioning of a nuclear power plant is prudently collected, managed, and spent for its intended purpose and that money remaining unspent after decommissioning is returned to retail customers. The bill amends the Government Code to authorize a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electricity or natural gas to the public to invest funds held in a decommissioning trust in any investment authorized by the Texas Trust Code (including the Uniform Prudent Investor Act).

Telecommunications

House Bill 843

Effective: 6-18-05

House Author: Truitt et al.

Senate Sponsor: Nelson

House Bill 843 amends the Local Government Code to authorize the commissioners court of a county with a population of 1.4 million or more to regulate the location of communication facility structures, including antennas, dishes, cell enhancers, towers, and other types of equipment relating to mobile, wireless, or radio communications, in an unincorporated area. The authority does not apply to certain existing or replacement facilities, nor to certain structures used exclusively for amateur radio communications or public safety services. Regulations may include a requirement for a permit for construction or expansion and imposition of fees to cover administrative costs. The commissioners court may prohibit construction within a certain distance of a residential subdivision and may grant variances in certain circumstances. The bill creates a Class C misdemeanor offense for violation of certain county orders and authorizes a county to file an action in district court to enjoin a violation or threatened violation.

House Bill 2553

Effective: 9-1-05

House Author: McCall

Senate Sponsor: Gallegos

House Bill 2553 amends the Public Utility Regulatory Act (PURA) to prohibit a commercial mobile service provider doing business in Texas from publishing in a directory, or providing for publication in a directory, the name and telephone number of a mobile service customer unless the customer consents. Such consent may be accomplished verbally, in writing, or on the provider's website. Before a customer consents, the provider must inform the customer that by consenting, he or she is agreeing to the sale or licensing of the telephone number listing and to the potential inclusion of the telephone number in a public directory. Also, before consent, the provider must inform the customer that additional charges may be incurred if his or her calling plan bills for unsolicited calls or text messages from telemarketers. Consent may be revoked at any time, and a provider must comply with such a request within 60 days. A provider may not bill a customer for not consenting. The bill provides for civil penalties for violations and authorizes the attorney general to investigate violations and file civil enforcement actions. Other PURA provisions relating to judicial review, enforcement, and penalties do not apply to such violations.

Senate Bill 5 (2nd C.S.)

Effective: 9-7-05

Senate Author: Fraser

House Sponsor: King, Phil et al.

Senate Bill 5, 2nd Called Session, is an omnibus measure relating to telecommunications. It addresses cable and video franchises; high-speed telecommunications over the electric power network, known as broadband over power line (BPL); the deregulation of the telecommunications markets of incumbent local exchange carriers (ILECs); the obligations of telephone service providers of last resort (POLRs); the provision of lifeline discounts on telephone bills to low-income persons; expenditures from the Texas universal service fund (TUSF); and other telephone and telecommunications matters. The bill creates a Telecommunications Competitiveness Legislative Oversight Committee and assigns various studies and reports to that entity, to the Public Utility Commission of Texas (PUC), or to both.

The bill provides for the phasing out of existing municipal franchise agreements with cable and video service providers and their replacement by a state franchise system under the PUC. After the bill's effective date, new providers in Texas must apply to the PUC for a state franchise rather than to cities for a municipal franchise. A provider operating under an existing

municipal franchise continues under that franchise until it expires, and only then may it seek a state franchise, with one exception for entities other than incumbent cable service providers. An incumbent provider is defined as the provider serving the largest number of cable subscribers in a particular municipal franchise area on the bill's effective date. A nonincumbent provider subject to an existing municipal franchise agreement, rather than waiting for franchise expiration, may opt to terminate the municipal franchise and seek a state franchise, but must remit to the municipality any accrued but unpaid franchise fees that are due under the terminated franchise. The bill does not abrogate, nullify, or adversely affect existing contractual rights, duties, and obligations, except as specified. A cable provider operating under a municipal cable franchise must continue to provide certain institutional network capacity pursuant to that franchise and continue to provide cable services to community public buildings until franchise expiration or January 1, 2008, whichever is later. Thereafter, the same obligations continue but with the municipality paying associated costs. The bill further requires that the holder of a state franchise, not later than 120 days after a request by a municipality, must provide capacity to support public, educational, and government access channels for noncommercial programming, subject to specified use requirements.

A state franchise holder is not subject to mandatory build-out provisions (requiring geographical expansion of its infrastructure), but within the area for which it has a franchise it may not deny service access to any group of potential residential subscribers on the basis of income. A state franchise holder must comply with federal customer service requirements until there are two or more providers offering service, excluding direct satellite service, in the relevant municipality. A municipality may require a state franchise holder to register and maintain a point of contact with the municipality and may require customer service reports in the event of continued and unresolved customer complaints. On a nondiscriminatory basis, a municipality must allow a state franchise holder to install, construct, and maintain a communications network within a public right-of-way, and while it may require the franchise holder to obtain a construction permit to locate facilities in that right-of-way, the municipality may not charge for the permit. Rather, the state franchise holder pays the municipality a franchise fee of five percent of its gross revenue. Additionally, a nonincumbent state franchise holder must pay a municipality the same cash payments per subscriber as is paid by the incumbent cable service provider until the incumbent provider's franchise expires; subsequently, a holder of a state franchise must either pay the municipality another one percent of gross revenue or, at the municipality's discretion, continue the per subscriber fee that was paid by the incumbent under the expired local franchise. The five percent fee effectively compensates a municipality for right-of-way provision or other costs, and the additional fee is in lieu of certain types of in-kind contributions traditionally associated with municipal franchises. The bill requires the legislative oversight committee to conduct a joint interim study with the PUC relating to right-of-way access and fees, alternative forms of municipal compensation, and the transition from local to state franchising and submit a report to the lieutenant governor and speaker of the house by the end of 2006.

BPL provisions of the bill apply to electric utilities whether or not they are offering customer choice. The bill allows an electric utility, through an affiliate or through an unaffiliated entity, to install or operate a BPL system on some or all of its electric delivery system in any part of its certificated service area, but imposes no mandate that a utility implement or install BPL, provide broadband services, or allow others to install BPL facilities or use the utility's facilities to provide broadband services. Neither the state nor a local government may prohibit a utility from installing or offering BPL. The bill sets out various provisions relating to the development, ownership, operation, and implementation of BPL systems, and to related charges and payments applicable to transactions between a utility and a BPL owner, operator, or Internet service

provider, or to BPL attachments to poles or other structures of a telecommunications utility. BPL operators must comply with applicable federal laws, including laws protecting licensed users of the radio wave spectrum, from interference by BPL systems. An electric utility must employ all reasonable measures to ensure that BPL operations do not interfere with or diminish the reliability of its electric delivery system. At all times, BPL broadband provision is of secondary importance to electric reliability. A municipality or local government that is already collecting a fee from an electric utility for use of the public right-of-way for electric power delivery may not separately require a franchise, franchise amendment, charge, fee, or tax for right-of-way use for a BPL system. Otherwise, a municipality or the state may impose a charge on the provision of BPL services for the use of public right-of-way, but at no more than the lowest charge that is imposed on other providers of broadband services. The bill allows certain utility BPL capital investments and expenses to be eligible for inclusion for purposes of rate determination in a rate proceeding, but such capital investments and expenses must be allocated to the classes of customers who directly receive the associated services.

The bill deregulates ILEC markets with a population of less than 30,000 on January 1, 2007, and others on January 1, 2006, unless the PUC determines that a market should remain regulated. Except as elected by the applicable ILEC, an ILEC market may not remain regulated if its population is at least 100,000 or if the market is in the mid-range of 30,000 to 99,999 population and there are at least three competitors fitting certain parameters. An ILEC nevertheless reserves the option to have all of its markets remain regulated, or to elect incentive regulation under either of two applicable Utilities Code chapters. The PUC may reregulate a deregulated market if the population is less than 100,000. ILECs under the bill become classified as regulated, deregulated, or transitioning, where the transitioning classification applies to an ILEC for which one or more but not all markets remain regulated after January 1, 2006.

The bill establishes certain pricing flexibility, rate requirement, and service provisions applicable to a transitioning company. For those companies, as well as deregulated companies, it requires reductions in switched access rates, meaning the amounts that local telephone companies, on either end of a long-distance call, charge to long-distance carriers for the origination and termination of such calls. On the date the last market of an ILEC is deregulated, the deregulated ILEC must reduce its per-minute originating and terminating intrastate access rates in each market to parity with federal interstate rates and must subsequently maintain that parity. More detailed provisions and formulas apply to transitioning companies, for whom the bill establishes staged decreases in intrastate switched access rates, beginning January 1, 2006, or the date of classification as transitioning. Once a deregulated or transitioning company reduces its switched access rates, the company may not increase such rates above the applicable prescribed amount, although it may reduce them to less than that amount.

A deregulated company holding a certificate of convenience and public necessity may petition the PUC for a certificate of operating authority (which previously was reserved for competitive local exchange carriers, or CLECs, not for ILECs). The bill spells out the Utilities Code provisions that apply to such a company. A deregulated company retains its POLR obligations, and the bill provides generally that a POLR operating under either type of certificate may meet those obligations using any available technology, but must meet minimum quality of service standards comparable to wireline technologies. The bill allows the PUC to adjust TUSF disbursements to companies that use other than traditional wireline or landline technologies to fulfill POLR obligations.

The bill requires the establishment of a program of financial assistance from the TUSF for a free telephone service for blind and visually impaired persons that offers the text of newspapers using synthetic speech. It makes certain other changes relating to the TUSF and requires the

PUC to conduct a review and evaluation of whether the TUSF accomplishes its purposes and to report to the legislature not later than January 5, 2007. By November 15, 2006, it must study and report to the lieutenant governor and speaker of the house on the evaluation of a new funding mechanism to support telecommunications utilities that provide discounts or private network services to libraries, educational institutions, hospitals, nonprofit telemedicine centers, or other entities.

Lifeline access, under the bill, extends to customers whose income equals up to 150 percent of the federal poverty level or whose household includes anyone who receives or has a child who receives Medicaid, food stamps, federal public housing assistance, Supplemental Security Income, health benefits coverage under the state child health care plan, or support from the Low Income Home Energy Assistance Program. The PUC must adopt rules ensuring that all consumers are clearly informed of the lifeline service program, both orally and in writing, whenever they request or initiate telecommunications service or change service locations or providers. Additionally, the PUC must enter into a memorandum of understanding with the Health and Human Services Commission relating to improvement in lifeline enrollment rates. The bill provides that a lifeline discount shall apply only to that portion of a bill that is for basic network service. Certain other specified services such as caller ID and call blocking are to be provided to lifeline applicants or recipients at the same price as for other consumers.

The bill establishes a code of conduct setting various requirements for telecommunications providers in interacting with one another. It prohibits retail rates, terms, or conditions that are anticompetitive or unreasonably preferential, prejudicial or discriminatory, or that engage in or attempt to engage in predatory pricing. The bill provides that basic network services, as offered by one's telephone company, include residential caller ID for customers at least 65 years old. Residential call waiting service, relating to an alert during a call that another is pending, becomes a nonbasic rather than a basic service as of July 1, 2006. As of the same date, the bill removes a requirement that the first three directory assistance inquiries in a monthly billing cycle be free of charge.

Other provisions relate to municipal and municipal utility powers, mandatory toll-free calling plans and mandatory extended area service, charges for pay phone access lines, the duration of infrastructure commitment obligations for companies that have elected incentive regulation, audio and video programming among certain ILECs and advanced services providers, proof of identification when a provider's agent enters private property in or through which the provider has an easement or right-of-way, and other matters. The bill requires the PUC to study whether Public Utility Regulatory Act provisions of the Utilities Code adequately preserve customer choice in Internet-enabled applications employed in association with broadband service. A report on that subject is due to the legislature not later than January 1, 2007. The bill requires the legislative oversight committee to monitor the effectiveness of telecommunications deregulation and to report biennially on that subject to the governor, lieutenant governor, and speaker of the house.

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

HB 2129 - Environment

HB 2201 - Environment

Water

This chapter covers legislation on issues relating to water planning, water rights, water conservation, water development, water suppliers and services, and water funding and spending. Bills relating to water quality protection are in the **Environment** chapter, and those relating to water districts are in the **Water Districts** chapter.

Suppliers and Utilities

House Bill 841

Effective: 9-1-05

House Author: Kolkhorst

Senate Sponsor: Wentworth

Utility master metering refers to the practice in which a single meter measures usage for an entire property. Submetering refers to the practice of using meters to measure master metered consumption by individual users on that property. House Bill 841, amending the Water Code, relates to a municipally owned utility's provision to a recreational vehicle park of potable water service that is master metered, but not submetered, and of wastewater service that is based on master metered potable water service. It requires that the utility determine billing rates on the same basis that it uses to determine rates for other commercial businesses that serve transient customers and receive nonsubmetered master metered service of the same sort from the utility. The bill grants associated enforcement powers to the Texas Commission on Environmental Quality.

House Bill 1358

Effective: 9-1-05

House Author: Flores

Senate Sponsor: Armbrister

House Bill 1358 amends Water Code provisions relating to the oversight functions of the Texas Commission on Environmental Quality (TCEQ). It expands the TCEQ's appellate jurisdiction over a water supply or sewer service corporation to encompass the same regulatory jurisdiction the TCEQ has over water and sewer utilities if the TCEQ finds that the corporation is failing to conduct annual or special meetings or is otherwise operating in noncompliance with certain applicable legal requirements. The bill provides that if the water supply or sewer service corporation voluntarily converts to a special utility district, the TCEQ's expanded jurisdiction ends.

Additionally, the bill amends the Special District Local Laws Code to dissolve the La Joya Water Supply Corporation and create a successor La Joya Special Utility District, operating in Hidalgo and Starr Counties. The bill authorizes the district to contract with the Rio Grande Regional Water Authority for certain administrative and other purposes.

House Bill 2301

Effective: 9-1-05

House Author: Turner

Senate Sponsor: Ellis

House Bill 2301 amends the Water Code to authorize a municipality to suspend the effective date of a proposed water utility rate change for not more than 90 days beyond a proposed effective date, with provision for further extension by two days for each day that a hearing on the proposed change exceeds 15 days. If the municipality does not make a final determination on the proposed rate before the expiration of the suspension period, the proposed rate is considered approved.

House Bill 2876

Effective: 9-1-05

House Author: Callegari et al.

Senate Sponsor: Armbrister

House Bill 2876 amends the Water Code to make numerous changes relating to certificates of public convenience and necessity (CCN) for water and sewer service. The bill adds to the required contents of a CCN or CCN amendment application submitted to the Texas Commission on Environmental Quality (TCEQ) and requires the applicant to provide notice to certain landowners. It also adds to the factors that the TCEQ may take into account in its consideration of CCN and CCN amendment applications.

The bill provides that if a municipality extends its extraterritorial jurisdiction (ETJ) to include an area certificated by a retail public utility, that utility may continue and may extend service in its CCN area. The written consent of owners of property in the extension area is required and any extension beyond the municipality's ETJ is void without such consent.

The bill allows a municipality with a population of 500,000 or more to exercise the power of eminent domain to acquire a substandard water or sewer system if all of the system's facilities are located entirely within the municipality's boundaries. It prohibits the TCEQ, with certain exceptions, from granting a retail public utility a CCN for a service area within the boundaries or ETJ of such a municipality unless the municipality gives its consent and sets out provisions relating to landowner rights. The bill prohibits a supplier of wholesale water or sewer service from requiring a purchase to obtain a CCN if the purchaser is not otherwise required to do so and includes provisions relating to CCN decertification.

House Bill 3527

Effective: 6-17-05

House Author: Haggerty

Senate Sponsor: Shapleigh

House Bill 3527 amends Water Code general law for nonprofit water supply or sewer service corporations to add dissolution provisions that apply only to a corporation and a municipality that are located in a county on an international border with a population of 650,000 or more. It establishes procedures by which the corporation may request the municipality to assume management of its water supply system, transferring assets and liabilities in accordance with that request, and on favorable action of the municipality, notify the Texas Commission on Environmental Quality (TCEQ) and request an order dissolving the corporation. The bill also validates certain previous acts and proceedings of such a corporation.

Senate Bill 1063

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Berman

Senate Bill 1063 makes provisions of the Water Code relating to rates and services apply to a previously exempted public utility that provided utility service in only 24 counties on January 1, 2003. It continues an exception relating to conditions under which a water utility may consolidate multiple systems under a single tariff.

Senate Bill 1811

Effective: 6-17-05

Senate Author: Shapleigh

House Sponsor: Haggerty

Senate Bill 1811 amends Water Code general law for nonprofit water supply or sewer service corporations to add dissolution provisions that apply only to a corporation and a municipality that are located in a county on an international border with a population of 650,000 or more. It establishes procedures by which the corporation may request the municipality to assume management of its water supply system, transferring assets and liabilities in accordance with that request, and on favorable action of the municipality, notify the Texas Commission on Environmental Quality (TCEQ) and request an order dissolving the corporation. The bill also validates certain previous acts and proceedings of such a corporation.

Texas Water Development Board Programs

House Bill 467

Effective: 9-1-05

House Author: Bailey et al.

Senate Sponsor: Gallegos

House Bill 467 amends provisions of the Water Code and the Local Government Code relating to the Economically Distressed Area Program (EDAP), which offers financial assistance to procure adequate drinking water and sewage systems. The bill expands the program by redefining “affected county” to include any county that had an economically distressed area with a median household income at or below 75 percent of the median state household income during the past year and extends the program to include economically distressed areas with subdivisions developed by June 1, 2005, rather than June 1, 1989.

The required content of a political subdivision’s application to the Texas Water Development Board for assistance and the plan for providing water supply and sewer services is restructured to include an engineer’s project plan, the households and area to be served, and certification that the existing infrastructure does not meet minimum state standards. Several previously required elements are removed. The focus of the application and plan also shifts to identifying areas that need and qualify for assistance rather than providing information on the customers’ ability to pay for resulting services. The board must consider the availability to the area of financial assistance from alternative sources. House Bill 467 requires the applicant to adopt a water conservation program and sets out provisions relating to assessing the applicant’s capability to run the proposed system. The bill requires the board in considering an application to consider whether there exist alternative funding sources. The bill also allows the board to evaluate whether an operating entity needs training if the entity requests additional funding or an amendment to the project plan or budget.

House Bill 467 allows the board, in addition to its current \$25 million bond authority, to issue no more than \$50 million in bonds during a fiscal year for certain financial assistance programs for the provision of water supply and sewer services.

House Bill 1462

Effective: 9-1-05

House Author: Flores

Senate Sponsor: Hinojosa

House Bill 1462 amends the Water Code to authorize the Texas Water Development Board (TWDB), on its own motion or as a result of a complaint, to refer an applicant or recipient of TWDB financial assistance to the state auditor’s office, the Texas Rangers, the Texas Commission on Environmental Quality, or another state government entity for the investigation of or the initiation of an enforcement action against the applicant or recipient. The bill requires the TWDB executive administrator to monitor the progress of the investigation or enforcement action and to report quarterly to the TWDB board members.

House Bill 1657

Effective: 5-9-05

House Author: Hope

Senate Sponsor: Averitt

House Bill 1657 amends Water Code provisions to authorize the Texas Water Development Board (TWDB) to participate in federal grant programs for state, as well as local, governments for water treatment works, expands the authorized scope of TWDB participation to include water supply projects and flood control measures, as well as treatment works, and includes in that participation federal loans and other assistance as well as grants. The bill removes provisions relating to the construction grant program that required water treatment construction grant applicants to pay the TWDB a grant processing fee.

House Bill 3029

Effective: 6-18-05

House Author: Strama

Senate Sponsor: Barrientos

House Bill 3029 amends the Water Code to reconfigure a Texas Water Development Board pilot program for water and wastewater loans for rural communities and move the program beyond pilot status, to include grants as well as loans, to revise eligibility provisions, and to target communities that are economically disadvantaged. The bill changes the name of the program account in the water assistance fund. Previous law defined rural communities for program purposes as municipalities, counties, and certain special districts or authorities with a population of less than 5,000. The bill broadens the definition to also encompass any portions of those or other political subdivisions, or of nonprofit water supply corporations, with a service population of less than 5,000, and any predominantly residential areas of less than 5,000 outside city limits. A disadvantaged rural community is one with a median household income not greater than 75 percent of the median state household income. Grants or loans to serve such disadvantaged rural communities may go to a municipality, county, other political subdivision, or nonprofit water supply corporation. The bill requires an application for such financial assistance to be accompanied by household surveys establishing the median household income and the level of community support for a proposed project. It repeals a 20-year maximum on the term of a loan and revises loan provisions relating to the pledging of revenue to debt payment.

Senate Bill 374

Effective: 5-17-05

Senate Author: Jackson, Mike

House Sponsor: Callegari

Senate Bill 374 repeals Water Code provisions requiring the Texas Water Development Board (TWDB) to biennially develop, approve, and submit to the Legislative Budget Board a capital spending plan for state-funded programs. The bill does not affect the amount or use of money in any TWDB fund, including the agricultural water conservation fund.

Senate Bill 509

Effective: 6-17-05

Senate Author: Armbrister

House Sponsor: Geren

Among other authorized purposes, The Texas Water Development Board may use the state's water infrastructure fund to (1) make grants and loans for water projects to serve economically distressed areas or to political subdivisions for projects to serve areas outside metropolitan statistical areas, and (2) make loans for planning and design, permitting, and other costs associated with state or federal activities with respect to water projects. Senate Bill 509 repeals a Water Code provision that restricts funding for each of these purposes to no more than 10 percent of the amount of financial assistance budgeted by the board per fiscal year from the water infrastructure fund.

Water Rights, Planning, and Conservation

House Bill 578

Effective: 9-1-05

House Author: Campbell

Senate Sponsor: Armbrister

House Bill 578 amends the Water Code to require that regional water planning groups include in their regional water plans information on existing major water infrastructure that can be used for interconnections in case of emergency water shortage and provides that the information does not have to be disclosed under the open records law.

House Bill 1224
Effective: 6-17-05

House Author: Puente
Senate Sponsor: Duncan

A take-or-pay contract is one in which a buyer agrees to pay even if delivery of a product or service is declined or otherwise does not occur. In the context of water, for example, such a contract might exist between a wholesale supplier and a customer. House Bill 1224 directs the executive administrator of the Texas Water Development Board to conduct a study to determine the effects, if any, that take-or-pay contracts have on water conservation efforts. A report is due to the legislature by January 1, 2007, and the legislation expires on September 1, 2007.

House Bill 1225
Effective: 6-18-05

House Author: Puente
Senate Sponsor: Duncan

The Water Code authorizes the Texas Commission on Environmental Quality to cancel surface water rights in whole or in part if all or part of the water has not been put to beneficial use over a period of 10 years. The law, however, exempts water rights from cancellation in certain specified situations. House Bill 1225 amends the Water Code to create a cancellation exemption to the extent that nonuse resulted from the implementation of water conservation measures under a water conservation plan, as evidenced by implementation reports. The bill and exemption apply not just to future cancellation proceedings, but to those pending as of the bill's effective date.

House Bill 2140
Effective: 9-1-05

House Author: Phillips
Senate Sponsor: Seliger

House Bill 2140 amends Water Code provisions relating to water rights permitting to provide that if an application to appropriate water is for a permit to construct a reservoir, the application must contain evidence that the applicant has mailed notice of the application to each member of the governing body of each county and municipality in which the reservoir, or any part of the reservoir, will be located.

House Bill 2428
Effective: 1-1-06

House Author: Puente
Senate Sponsor: Armbrister

House Bill 2428 is a water conservation measure relating to handheld commercial prerinse spray valves that are used in commercial settings to remove food residue from dishes and ware before further cleaning. It amends the Health and Safety Code to require the Texas Commission on Environmental Quality (TCEQ) to maintain a list of such valves that are certified by the manufacturer or importer to have a flow rate less than or equal to 1.6 gallons of water a minute. The bill prohibits the sale, offering, distribution, lease, or importation into Texas of a commercial prerinse spray valve unless it meets that performance standard and is listed. The TCEQ may test the accuracy of a certification, may make list adjustments in cases of inaccurate certification, and may charge a fee for the test inspection.

House Bill 2430
Effective: 6-17-05

House Author: Puente et al.
Senate Sponsor: Armbrister

House Bill 2430 directs the Texas Water Development Board to establish a Rainwater Harvesting Evaluation Committee to evaluate the potential for rainwater harvesting in Texas and to recommend minimum water quality guidelines and standards and treatment methods for potable and nonpotable indoor uses of rainwater. Recommendations must also address ways that the state can promote rainwater harvesting, including ways to use rainwater harvesting systems in conjunction with existing municipal water systems. The bill amends the Health and

Safety Code to require the Texas Commission on Environmental Quality (TCEQ) to establish recommended standards relating to the domestic use of harvested rainwater in coordination with the evaluation committee. The Rainwater Harvesting Evaluation Committee is abolished January 1, 2007.

House Bill 2815

Effective: 9-1-05

House Author: Campbell

Senate Sponsor: Madla et al.

House Bill 2815 amends the Water Code to establish the Concho River Watermaster Program to ensure compliance with water rights along a specified segment of that river. The watermaster for the South Texas Watermaster Program serves as the watermaster for the Concho River program, and fees assessed under the Concho River program must be of the same type and rate as those under the South Texas program, with provision for certain adjustments. The bill provides for a Concho River Watermaster Advisory Committee. On or after September 1, 2009, a water right holder in the river segment may petition for a referendum on the continuation of the program. If at least 50 percent of the water right holders sign the petition, the referendum must be conducted. If at least 60 percent of a referendum vote favors discontinuance, the program must be discontinued.

Water Districts

This chapter covers legislation on groundwater conservation districts, municipal utility districts, special utility districts, water control and improvement districts, regional water authorities, river authorities, subsidence districts, and other types of water districts. 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. Bills relating to navigation districts and port authorities are in the **Transportation** chapter.

General

House Bill 828

Effective: 5-30-05

House Author: Callegari

Senate Sponsor: Fraser

House Bill 828 amends general-law water district provisions of the Water Code that require district bond issuances, with certain exceptions, to be approved by the Texas Commission on Environmental Quality (TCEQ). The bill adds an exception, making the TCEQ approval requirement inapplicable to refunding bonds that are issued to refund bonds issued to and approved by the Farmers Home Administration, the U.S. Department of Agriculture, the North American Development Bank, or the Texas Water Development Board.

House Bill 1207

Effective: 6-18-05

House Author: Haggerty

Senate Sponsor: Lindsay

House Bill 1207 amends provisions of the Water Code to require the board of directors of a water district of more than 1,000, but not more than 5,000, acres to call a hearing on a petition that seeks the exclusion of land from the district if (1) the petition is filed by a landowner whose land has been part of and taxable by the district for more than 40 years, and (2) if any bonds issued by the district payable wholly or partly from district taxes are outstanding. The board may exclude the land if the district has taxed the land for more than 40 years and has never provided it retail utility services. The bill revises a comparable 28-year provision, applicable to a district of more than 5,000 acres, to change a petition filing deadline from August 31, 2005, to August 31, 2007.

House Bill 1599

Effective: 9-1-05

House Author: Callegari

Senate Sponsor: Lindsay

House Bill 1599 adds provisions to the Water Code that are applicable only to a water district located in a county that is included in the Fort Bend Subsidence District or the Harris-Galveston Coastal Subsidence District. The bill provides that if such a district receives money from a municipality under a contract with that municipality, including a strategic partnership, the district may use the money for any purpose of the district or the municipality unless the contract requires use for a specified purpose.

House Bill 1644

Effective: 6-18-05

House Author: Callegari

Senate Sponsor: Lindsay

House Bill 1644 amends Water Code general-law provisions for water districts to provide that a water district or water supply corporation, in order to accomplish its lawful purposes, may acquire facilities and may acquire an interest in a certificate of convenience and necessity or contractual rights to use capacity in facilities. Changes to general-law provisions of the code for municipal utility districts (MUDs) and water control and improvement districts (WCIDs) allow

Water Districts

the districts to enter into a contract with another water district or a water supply corporation (WSC) to acquire and then convey to the other district or WSC all or part of a water supply system, water treatment system, water distribution system, sanitary sewage collection or treatment system, or works or improvements necessary for land drainage in the MUD or WCID. The bill details allowable provisions of such contracts. Additional general-law provisions apply to a municipality any portion of which is located in a county with a population of more than 800,000 and less than 1,300,000. Those provisions prohibit municipal annexation of a defined area for which a MUD or WCID has adopted a taxation plan, unless: (1) at least 90 percent of plan facilities and infrastructure have been installed and completed; (2) the municipality annexes all of the defined area in its extraterritorial jurisdiction; and (3) the municipality assumes the pro rata share of the bonded indebtedness. The annexed territory loses its status as a MUD or WCID defined area and may no longer be taxed as such by the MUD or WCID.

House Bill 1935

Effective: 9-1-05

House Author: Keffer, Jim

Senate Sponsor: Averitt

House Bill 1935 amends the Water Code to authorize a water district to accept a credit card for the payment of any fees or charges imposed by the district.

Senate Bill 1045

Effective: 6-17-05

Senate Author: Janek

House Sponsor: Nixon

Senate Bill 1045 amends the Water Code to establish an exception to a water district general-law provision requiring district officers, employees, or consultants who handle district funds to be bonded. The bill provides that, in lieu of the required bond, the district board may obtain or require those individuals to obtain insurance or coverage under an interlocal agreement that covers theft of district funds by such officers, employees, or consultants. Exercise of that option is conditional on a board determination that the insurance or coverage under an interlocal agreement would adequately protect the district's interests.

Senate Bill 1498

Effective: 6-18-05

Senate Author: Fraser

House Sponsor: Hilderbran

Senate Bill 1498 amends the Water Code to prohibit the area within certain conservation, reclamation, or water-related districts that have their own fire department and peace officers from being included without their consent in the boundaries of a municipality that provides law enforcement or fire protection services.

Groundwater Conservation Districts

House Bill 365

Effective: 9-1-05

House Author: Hegar

Senate Sponsor: Armbrister

House Bill 365 amends the enabling statute of the Coastal Bend Groundwater Conservation District to change, from the first Saturday in May to the first Tuesday after the first Monday in November, the biennial date for election of district directors.

House Bill 1229

Effective: 5-30-05

House Author: Hilderbran

Senate Sponsor: Fraser

House Bill 1229 authorizes the Menard County Underground Water District to require a permit for a well used for domestic purposes or to provide water for livestock, poultry, or wildlife, if the well is on a tract of land smaller than 100 acres, is less than 500 feet deep, and

is drilled, completed, or equipped so as to be capable of producing more than 9,000 gallons of groundwater per day. Another provision of the bill allows an individual to serve as a district director and on the board of directors of the Menard County Water Control and Improvement District without violating the common-law doctrine of incompatibility.

House Bill 1763

Effective: 9-1-05

House Author: Cook, Robby et al.

Senate Sponsor: Duncan

House Bill 1763 amends Water Code general-law provisions for groundwater conservation districts (GCDs) to make changes relating to GCD management plans, their relationship to the state and regional water plans, and GCD rulemaking, permitting, and regulation, as well as other matters. It repeals a provision under which the Texas Water Advisory Council was scheduled to expire.

The bill adds to the goals that GCDs are to pursue in developing management plans to include precipitation enhancement, rainwater harvesting, recharge enhancement, or brush control where appropriate and cost-effective. The bill increases the time allotted to a GCD to submit its management plan from two to three years. The bill provides that until approval of the plan by the Texas Water Development Board (TWDB), a GCD may not adopt rules other than rules pertaining to GCD board procedures, the regulation and interim permitting of new and existing wells, and well spacing. Until such approval, it may not adopt rules limiting well production except to require that groundwater from wells be put to a nonwasteful beneficial use. Management plans must address quantitatively the desired future conditions of the groundwater resources in a GCD and must include certain data on aquifer flows and discharges, projected surface water supplies, and projected water demands. Multiple GCDs in the same management area must jointly establish desired future conditions for such area, although the conditions may vary by aquifer, aquifer subdivision, geological strata, or geographic area. The Texas Commission on Environmental Quality may take action against a GCD if its rules are not designed to achieve the desired future condition of the groundwater resources in a management area. The bill defines a GCD's managed available groundwater to mean that amount that the GCD may permit for beneficial use in accordance with the desired future condition and provides that a GCD, to the extent possible, shall issue permits, if permit applications are administratively complete, up to the point that the total volume permitted equals the managed available amount.

A GCD must determine each regulated activity for which a permit or permit amendment is required and which of those require a hearing. The bill establishes detailed procedures for such hearings and for GCD rulemaking, with an exemption from such procedures in most cases for the Edwards Aquifer Authority. Additionally, the bill establishes procedures for mediation and ultimate resolution in cases in which a GCD management plan and the state water plan possibly conflict, a GCD challenges TWDB nonapproval of its management plan, or there is an appeal of the desired future conditions established jointly by multiple GCDs in a management area.

House Bill 1981

Effective: 6-18-05

House Author: Blake et al.

Senate Sponsor: Staples

House Bill 1981 increases the maximum fee that the Pineywoods Groundwater Conservation District may impose on a well, per thousand gallons of water, from one cent to two and a half cents.

House Bill 1996

Effective: 6-18-05

House Author: Hunter

Senate Sponsor: Duncan

The Wes-Tex Groundwater Conservation District, whose boundaries are the same as those of Nolan County, is governed by a nine-member board of directors including one at-large director and two each elected from the county's four precincts. House Bill 1996 amends the district's enabling law to move its statutory election date to November of even-numbered years and to establish staggered four-year terms for the members of the board of directors and provide that when precinct boundaries are redrawn, certain affected directors may serve until their terms end even if the boundary changes place the directors outside precincts that they have been chosen to represent.

House Bill 2423

Effective: 9-1-05

House Author: Puente

Senate Sponsor: Armbrister

House Bill 2423 amends Water Code general-law provisions for groundwater conservation districts to provide that, in promulgating rules, a district may not discriminate between owners of land that is irrigated for production and owners or lessees and assigns whose land that was irrigated for production is enrolled or participating in the Conservation Reserve Program (CRP) of the U.S. Department of Agriculture. Similar restrictions apply to other code provisions relating to district rulemaking, rule adoption, and permitting of wells. The bill voids any rule that discriminates between currently irrigated land and previously irrigated land in the CRP. It voids a permitting decision if a district reaches the decision in violation of the applicable nondiscrimination provision and if it would have reached a different decision by treating the two types of land alike. The bill requires the Hudspeth County Underground Water Conservation District (UWCD) No. 1, by a specified deadline, to bring into compliance with the legislation any rule that is voided. The changes in law made by the bill apply to applications to the Hudspeth County UWCD No. 1 that are pending and to permitting decisions by that district that are not yet final as of the bill's effective date.

House Bill 3423

Effective: 9-1-05

House Author: Morrison

Senate Sponsor: Armbrister

House Bill 3423 abolishes the Crossroads Groundwater Conservation District and amends the Special District Local Laws Code to create the Victoria County Groundwater Conservation District, subject to dissolution if not confirmed by voters before September 1, 2010. The bill limits the district to an ad valorem tax rate not to exceed two cents per \$100 of assessed taxable valuation. The bill also prohibits the district from exercising the power of eminent domain.

House Bill 3478

Effective: 9-1-05

House Author: Corte

Senate Sponsor: Wentworth

An enabling law from the 2001 regular legislative session creating the Trinity Glen Rose Groundwater Conservation District in Bexar County provided that if part of a municipality was in the district's territory and part was in one or more other groundwater conservation districts created by the legislature the same session, the municipality could call an election for voters to choose a single groundwater district with which to be affiliated. The same legislation exempted from district fees or taxes anyone who provided water to a municipality, at least 50 percent of which annually was obtained from a source other than the Trinity Aquifer, and any resident or other water user within a municipality whose source of water was the municipality, as obtained from a provider meeting the above specification. House Bill 3478 changes the exemption to apply instead to a municipality that has held the above election and obtains at least 50 percent

of its annual supply from a source other than the Trinity Aquifer, to a municipally owned utility of such a municipality, or to a resident or other water user within such a municipality if the sole source of water for the resident or the user is the municipality or its municipally owned utility.

House Bill 3513**Effective:** 6-18-05**House Author:** Luna et al.**Senate Sponsor:** Hinojosa

House Bill 3513 amends the Special District Local Laws Code to create the Corpus Christi Aquifer Storage and Recovery Conservation District. With certain exceptions, general-law provisions of the Water Code relating to groundwater conservation districts apply to the district. The bill provides that to the extent that the district's boundaries overlap with a groundwater conservation district created in San Patricio County, the power and authority of the two districts are joint and coextensive. The bill prohibits the Corpus Christi Aquifer Storage and Recovery Conservation District from imposing a tax, issuing bonds, or exercising the power of eminent domain.

House Bill 3539**Effective:** 9-1-05**House Author:** Hupp**Senate Sponsor:** Fraser

House Bill 3539 revises the composition of the five-member board of directors for the Saratoga Underground Water Conservation District, comprising the entirety of Lampasas County. Under previous law, the board had ex officio membership, consisting of the county judge and county commissioners. The bill provides instead for an elective membership, consisting of one director elected at-large from the entire district and one director elected from each county commissioners precinct. Directors are elected to serve staggered four-year terms.

House Bill 3568**Effective:** 6-18-05**House Author:** Seaman**Senate Sponsor:** Zaffirini

House Bill 3568 amends the Special District Local Laws Code to create the San Patricio County Groundwater Conservation District (GCD), subject to dissolution if not confirmed by voters before September 1, 2007. It limits the district to an ad valorem tax rate not to exceed five cents per \$100 of assessed taxable value. The bill provides that to the extent that the district's boundaries overlap with the boundaries of an aquifer storage and recovery conservation district, the power and authority of the two districts are joint and coextensive and the San Patricio County GCD may not limit or restrict the other district from recovering water it has stored in a municipal aquifer storage area located in the San Patricio County GCD.

Senate Bill 839**Effective:** 6-18-05**Senate Author:** Wentworth**House Sponsor:** Casteel

General-law provisions of the Water Code regarding groundwater conservation districts do not allow a district to require permits for certain kinds of wells. The Cow Creek Groundwater Conservation District (GCD) in Kendall County was authorized by its enabling laws to assess annual fees only on permitted wells. Senate Bill 839 authorizes the Cow Creek GCD to assess annual fees on a well that is used solely for domestic use or the watering of livestock or poultry and is located on a tract of land larger than 10 acres, but has been drilled, completed, or equipped so that it cannot produce more than 25,000 gallons of groundwater a day, even though such a well is among the kinds exempted from permitting by the Water Code.

Senate Bill 967

Effective: 6-17-05

Senate Author: Fraser

House Sponsor: Hupp

Senate Bill 967 amends the Special District Local Laws Code to create the Central Texas Groundwater Conservation District subject to dissolution if not confirmed by voters before September 1, 2007. If voters approve taxes, the bill sets an initial ad valorem tax rate of two cents per \$100 valuation and a maximum rate of five cents. The district may require a permit for an activity that extracts groundwater or allows more than 25,000 gallons of groundwater a day to escape. Before granting a permit, the district must consider if the proposed use of water unreasonably affects surrounding landowners. A permit holder is subject to rules to conserve, preserve, protect, and recharge groundwater or a groundwater reservoir and its subdivisions. The bill prohibits the district from exercising the power of eminent domain.

Senate Bill 986

Effective: 6-17-05

Senate Author: Duncan

House Sponsor: Hunter

The Wes-Tex Groundwater Conservation District, whose boundaries are the same as those of Nolan County, is governed by a nine-member board of directors including one at-large director and two each elected from the county's four precincts. Senate Bill 986 amends the district's enabling law to move its statutory election date to November of even-numbered years and to establish staggered four-year terms for the members of the board of directors and to provide that when precinct boundaries are redrawn, certain affected directors may serve until their terms end even if the boundary changes place the directors outside precincts that they have been chosen to represent.

Senate Bill 1017

Effective: 6-17-05

Senate Author: Staples

House Sponsor: Otto

Senate Bill 1017 amends the Special District Local Laws Code to create the Lower Trinity Groundwater Conservation District in Liberty, Polk, and San Jacinto Counties, subject to dissolution if not confirmed by voters before September 1, 2007. The bill prohibits the district from imposing taxes, but authorizes the district to assess fees on certain wells based on the amount of water withdrawn, not to exceed five cents per 1,000 gallons. The bill prohibits the district from exercising the power of eminent domain. It specifies certain exemptions and allows the district to purchase groundwater rights only if those rights are acquired for conservation purposes and are held in trust permanently.

Senate Bill 1604

Effective: 9-1-05

Senate Author: Staples

House Sponsor: Cook, Byron

Senate Bill 1604 prohibits the Neches and Trinity Valleys Groundwater Conservation District from assessing a fee of any type on a well if its production is used only for domestic, agricultural, or wildlife purposes within the district. The bill stipulates that each district director serves at the pleasure of the appointing political subdivision.

Senate Bill 1799

Effective: 6-17-05

Senate Author: Zaffirini

House Sponsor: Gonzalez Toureilles

Senate Bill 1799 amends the enabling statute of the Bee Groundwater Conservation District to remove from its jurisdiction the general-law water district rights, powers, privileges, authority, functions, and duties set forth in the Water Code. The district retains the Water Code general-law jurisdiction applicable to groundwater conservation districts.

Senate Bill 1831**Effective:** 6-17-05**Senate Author:** Hinojosa**House Sponsor:** Luna

Senate Bill 1831 amends the Special District Local Laws Code to create the Corpus Christi Aquifer Storage and Recovery Conservation District. With certain exceptions, general-law provisions of the Water Code relating to groundwater conservation districts apply to the district. The bill provides that to the extent that the district's boundaries overlap with a groundwater conservation district created in San Patricio County, the power and authority of the two districts are joint and coextensive. The bill prohibits the Corpus Christi Aquifer Storage and Recovery Conservation District from imposing a tax, issuing bonds, or exercising the power of eminent domain.

Senate Bill 1847**Effective:** 6-17-05**Senate Author:** Zaffirini**House Sponsor:** Guillen

Senate Bill 1847 amends the Special District Local Laws Code to create the Duval County Groundwater Conservation District, coextensive with the boundaries of that county, subject to dissolution if not confirmed by voters before September 1, 2007. The bill authorizes merger with a water control and improvement district in Duval County, contingent on voter approval. The bill also allows the groundwater conservation district to contract with a municipal utility district (MUD) in the county to assume MUD functions.

Senate Bill 1848**Effective:** 6-17-05**Senate Author:** Zaffirini**House Sponsor:** Guillen

Senate Bill 1848 creates the Starr County Groundwater Conservation District, coextensive with the boundaries of that county, subject to approval at a confirmation election. The bill authorizes the district to contract with a municipality to assume the functions of a municipally owned utility. Subject to certain conditions, including approval by district voters, the bill also authorizes a merger agreement with a water supply or sewer service corporation. The bill clarifies, for situations in which a district rule conflicts with a rule or an action of a municipally owned utility or water supply or sewer service corporation, which rule or action legally prevails.

Senate Bill 1870**Effective:** 6-17-05**Senate Author:** Seliger**House Sponsor:** Laney

Senate Bill 1870, relating to the Permian Basin Underground Water Conservation District, revises the composition of the district's board of directors and the means of determining that composition. The bill provides for a board of not less than five and not more than nine directors. It authorizes a change in the number of directors, as determined by the board, when the district annexes territory. The bill provides that if the district contains territory in more than one county, the board must consist of an equal number of directors elected from each county and one director elected at-large. The bill also validates certain acts and proceedings of the board.

Miscellaneous Districts**House Bill 3490****Effective:** 6-18-05**House Author:** Denny**Senate Sponsor:** Nelson

House Bill 3490 amends the Special District Local Laws Code to create the Lakes Fresh Water Supply District of Denton County, subject to dissolution if the district is not confirmed by voters before September 1, 2007. With certain exceptions, it grants the district general-law Water Code powers common to fresh water supply districts and municipal utility districts, as

well as the power to undertake water control and storage projects, to overflow and inundate districts and district property, and to contract with a political subdivision to supply retail water or sewer service in the district. The bill grants the district certain road project powers, applicable inside or outside the district, and the power to issue related bonds and to impose related taxes, provided that any bond issuance secured wholly or partly by ad valorem taxes is approved by a two-thirds majority of district voters in an election called on the issue, and provided that bonds issued or obligations incurred for such projects do not exceed one-fourth of the assessed value of real property in the district. The bill stipulates that certain Water Code provisions relating to Texas Commission on Environmental Quality bond approval and supervision do not apply in the case of the road projects of the district. The bill exempts the property of certain utilities from district impact fees and assessments.

Senate Bill 692

Effective: 5-9-05

Senate Author: Madla et al.

House Sponsor: Puente

Senate Bill 692 applies to a river authority created by special law under Section 59, Article XVI, Texas Constitution, whose enabling statute authorizes property tax imposition, specifies a maximum tax rate, and specifies a maximum fee that the authority may pay for assessment and collection of the tax. The bill amends the Tax Code to clarify that if the county tax assessor-collector handles assessment and collection for the river authority pursuant to certain code requirements, then the fee charged for that service may not exceed the maximum specified in the river authority's enabling statute.

Senate Bill 1537

Effective: 5-27-05

Senate Author: Armbrister

House Sponsor: Callegari

Senate Bill 1537 amends the enabling laws of the Harris-Galveston Coastal Subsidence District and the Fort Bend Subsidence District. The bill changes the name of the first district to the Harris-Galveston Subsidence District and converts it from a groundwater conservation district to a conservation and reclamation district. Other changes make Water Code general-law chapters governing water districts and groundwater conservation districts inapplicable in both cases, and instead incorporate various administrative and other replacement provisions in both enabling laws. The bill removes provisions relating to the annexation of adjoining counties.

The bill authorizes both districts to adopt different rules for each aquifer, aquifer subdivision, or geologic stratum located wholly or partly in the district, or for each geographic area overlying an aquifer or aquifer subdivision. The bill specifies that the districts' authority to regulate groundwater withdrawals includes withdrawals of injected water. Both districts may adopt rules to prevent waste of water or degradation of water quality. Permitting decisions may include consideration of an applicant's compliance record, and permit issuance may be conditioned on the resolution of a prior or continuing violation, including a civil penalty or settlement amount. The bill authorizes disincentive permit fees to discourage overreliance on groundwater. Among other provisions, it modifies provisions relating to rules, orders, and permits to provide for addressing the availability of alternative water supplies generally (e.g., treated effluent, desalination), and not just surface water, in limiting groundwater withdrawals. The bill requires both districts to submit their annual subsidence reports and copies of their most recent district plans to the regional water planning group.

Senate Bill 1840
Effective: 6-17-05

Senate Author: Lucio
House Sponsor: Escobar

A 1969 enabling statute creating the Willacy County Drainage District No. 1 established the district's sole purpose as the reclamation and drainage of overflowed lands and other lands needing drainage, but also conferred general-law powers applicable to fresh water supply districts. Senate Bill 1840 amends the enabling statute to delete reference to general-law fresh water supply powers and to apply all other general-law powers applicable to drainage districts not inconsistent with the specific drainage and reclamation powers otherwise made explicit in the enabling statute. The bill authorizes imposition of a maintenance and operations tax at a rate exceeding 25 cents per \$100 taxable valuation, contingent on approval by district voters.

Municipal and Special Utility Districts

House Bill 812
Effective: 6-17-05

House Author: Flynn
Senate Sponsor: Deuell

House Bill 812 amends the Special District Local Laws Code to create the Sunrise Municipal Utility District of Hunt County, subject to dissolution if the district is not confirmed by voters before September 1, 2007. The bill grants the district authority for water control and storage projects and allows it to contract with a political subdivision to obtain retail water or sewer service in the district. The bill also grants the district certain road project powers, applicable inside or outside the district, and allows it to impose a special tax to support related bonds provided that bond issuance is approved by a two-thirds majority of district voters in an election called on the issue. The bill provides that certain Water Code provisions relating to Texas Commission on Environmental Quality bond approval and supervision do not apply in the case of the road projects of the district, and it exempts various types of utility properties from district impact fees and assessments.

House Bill 813
Effective: 6-17-05

House Author: Flynn
Senate Sponsor: Deuell

House Bill 813 amends the Special District Local Laws Code to create the Union Valley Ranch Municipal Utility District of Hunt County, subject to dissolution if the district is not confirmed by voters before September 1, 2007. The bill grants the district authority to contract with a political subdivision to obtain retail water or sewer service in the district. The bill also grants the district certain road project powers, applicable inside or outside the district, and allows it to impose a special tax to support related bonds provided that bond issuance is approved by a two-thirds majority of district voters in an election called on the issue. The bill provides that certain Water Code provisions relating to Texas Commission on Environmental Quality bond approval and supervision do not apply in the case of the road projects of the district. The bill exempts various types of utility properties from district impact fees and assessments.

House Bill 1054
Effective: 9-1-05

House Author: Hope
Senate Sponsor: Staples

House Bill 1054 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 100, subject to dissolution if not confirmed by voters before September 1, 2010. The bill prohibits the district from imposing an impact fee or assessment on the property, equipment, rights-of-way, facilities, or improvements of an electric utility, gas utility, telecommunications provider, or cable operator. The bill also prohibits the

Water Districts

district from exercising the power of eminent domain outside its boundaries to acquire a site for a water treatment plant, water storage facility, wastewater treatment plant, or wastewater disposal facility.

House Bill 1055

Effective: 9-1-05

House Author: Hope

Senate Sponsor: Staples

House Bill 1055 amends the Special District Local Laws Code to create the Montgomery County Municipal Utility District No. 101, subject to dissolution if not confirmed by voters before September 1, 2010. The bill prohibits the district from imposing an impact fee or assessment on the property, equipment, rights-of-way, facilities, or improvements of an electric utility, gas utility, telecommunications provider, or cable operator. The bill also prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site for a water treatment plant, water storage facility, wastewater treatment plant, or wastewater disposal facility.

House Bill 1141

Effective: 6-17-05

House Author: Flynn

Senate Sponsor: Deuell

House Bill 1141 converts the Verandah Fresh Water Supply District of Hunt County to the Verandah Municipal Utility District of Hunt County and validates certain acts and proceedings relating to the district. The bill places its enabling statute in the Special District Local Laws Code and authorizes the district to contract with a political subdivision to obtain retail water or sewer service in the district. The bill also grants the district certain road project powers, applicable inside or outside the district, and allows it to impose a special tax to support related bonds provided that bond issuance is approved by a two-thirds majority of district voters in an election called on the issue. The bill provides that certain Water Code provisions relating to Texas Commission on Environmental Quality bond approval do not apply in the case of the road projects of the district and exempts various types of utility properties from district impact fees and assessment.

House Bill 1208

Effective: 6-9-05

House Author: Gattis

Senate Sponsor: Ogden

House Bill 1208 amends Water Code general-law provisions relating to municipal utility districts (MUDs) to place certain restrictions on a MUD's exercise of eminent domain powers. Under the bill, a MUD may not exercise such power outside its boundaries to acquire a site for a water treatment plant, water storage facility, wastewater treatment plant, or waste water disposal plant, nor a site for a park, swimming pool, or other recreational facility except a trail. Also, it may not exercise such power outside its boundaries to acquire a site for a trail on real property designated as a homestead or to acquire an exclusive easement through a county regional park. An amendment to the enabling statute of the North Harris County Regional Water Authority provides that the bill's eminent domain restrictions do not apply to that authority.

House Bill 1346

Effective: 9-1-05

House Author: Gattis

Senate Sponsor: Ogden

House Bill 1346 amends the Special District Local Laws Code to create the CLL Municipal District No. 1 in Bell and Williamson Counties, subject to dissolution if not confirmed by voters before September 1, 2011. The bill applies provisions of the Regional Waste Disposal Act to the district.

House Bill 1673
Effective: 9-1-05

House Author: Cook, Robby
Senate Sponsor: Armbrister

Under general-law Water Code provisions, special utility districts (SUDs) are created by the conversion of a nonprofit water supply or sewer service corporation, following Texas Commission on Environmental Quality (TCEQ) review of a resolution from the corporation seeking the conversion. A SUD may be created to pursue certain water supply purposes, certain water purity and sanitation purposes, or certain fire-fighting purposes. House Bill 1673 amends the code to limit TCEQ review and decision making, and any associated hearing, to only the SUD purposes that the water supply or sewer service corporation specifies in its resolution.

House Bill 2079
Effective: 6-17-05

House Author: Keffer, Jim
Senate Sponsor: Estes

House Bill 2079 amends the Special District Local Laws Code to create the Stephens Regional Special Utility District, in Stephens, Eastland, Palo Pinto, Shackelford, and Throckmorton Counties, subject to dissolution if not confirmed by voters before September 1, 2007. The bill authorizes the district to charge a water service impact fee. The bill grants the district the power of eminent domain, but prohibits exercise of that power, for sanitary sewer purposes, on land, easements, or other property located outside the district.

House Bill 3476
Effective: 9-1-05

House Author: Olivo
Senate Sponsor: Armbrister

House Bill 3476 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 177, subject to dissolution if not confirmed before September 1, 2007. The bill prohibits the district from imposing impact fees or assessments on properties of certain utilities. It grants the district certain road project powers, but requires a two-thirds approval of district voters for the issuance of bonds to finance such projects, and limits such bonds or other obligations to not more than one-fourth of the assessed value of the real property in the district. The bill provides that certain Water Code provisions relating to Texas Commission on Environmental Quality bond approval and supervision do not apply in the case of road projects of the district.

House Bill 3497
Effective: 9-1-05

House Author: Gattis
Senate Sponsor: Ogden

House Bill 3497 amends the Special District Local Laws Code to create the Sonterra Municipal Utility District, located in Williamson County, subject to dissolution if not confirmed by voters before September 1, 2009. The bill applies to the district certain provisions of the Regional Waste Disposal Act.

House Bill 3498
Effective: 6-18-05

House Author: Brown, Betty
Senate Sponsor: Deuell

House Bill 3498 amends the Special District Local Laws Code to create the Rose Hill Special Utility District, located in Kaufman County, subject to dissolution if not confirmed by voters before September 1, 2007. The bill authorizes a water service impact fee and sets its initial amount. The bill prohibits the district from exercising the power of eminent domain to condemn, for sanitary sewer purposes, lands, easements, or other property located outside its boundaries.

House Bill 3502

Effective: 6-18-05

House Author: Turner

Senate Sponsor: Whitmire

House Bill 3502 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 406, subject to confirmation by district voters. It grants the district the power to undertake certain road projects inside the district, provided that it obtains consent from each municipality in whose city limits or extraterritorial jurisdiction (ETJ) the district is located and, with respect to areas outside an ETJ, the consent of each county in which the district is located. The district, with the approval of voters, may impose an ad valorem tax or issue bonds payable from such taxes. Bonds for road projects require approval by a two-thirds majority of voters, but Water Code provisions relating to Texas Commission on Environmental Quality bond approval do not apply in the case of such projects. Bonds or other obligations in support of road projects may not exceed one-fourth of the assessed value of the real property in the district. Bonds and other obligations secured by other revenue or contract payments may be issued without an election. The district may exercise the power of eminent domain outside its boundaries to acquire an easement for water, sewage, or drainage facilities serving the district.

House Bill 3524

Effective: 9-1-05

House Author: Gattis

Senate Sponsor: Ogden

House Bill 3524 amends the Special District Local Laws Code to create the Williamson County Municipal Utility District No. 19, subject to dissolution if not confirmed by voters before September 1, 2009. The bill applies provisions of the Regional Waste Disposal Act to the district.

House Bill 3525

Effective: 6-17-05

House Author: King, Phil

Senate Sponsor: Estes

House Bill 3525 amends the Special District Local Laws Code to create the Parker County Special Utility District, subject to dissolution if not confirmed by voters before September 1, 2007. The bill authorizes the district to charge a water service impact fee. Additionally, the bill grants the district the power of eminent domain, but prohibits exercise of that power to condemn, for sanitary sewer purposes, land, easements, or other property located outside the district.

House Bill 3530

Effective: 6-18-05

House Author: Geren

Senate Sponsor: Nelson

House Bill 3530 amends the Special District Local Laws Code to create the City of Fort Worth Municipal Utility District No. 2 of Tarrant County, subject to dissolution if not confirmed by voters before September 1, 2007. Creation and the holding of a confirmation election must be consented to by the county and by each municipality in whose city limits or extraterritorial jurisdiction the district lies. The bill grants the district certain road project powers, subject to project approval by each such municipality and the county. Bonds to finance road projects must be approved by two-thirds of district voters, and obligations for that purpose may not exceed one-fourth of the assessed value of the real property in the district. The bill stipulates that Water Code provisions relating to Texas Commission on Environmental Quality bond approval and project supervision do not apply in the case of road projects of the district, and it grants the district eminent domain powers outside the district's boundaries for the acquisition of an easement necessary for a pipeline to serve the district.

House Bill 3534**Effective:** 9-1-05**House Author:** Denny**Senate Sponsor:** Nelson

House Bill 3534 amends the Special District Local Laws Code to create the Denton County Municipal Utility District No. 6, subject to dissolution if not confirmed by voters before September 1, 2007. With certain exceptions, the bill applies to the district general-law Water Code provisions for fresh water supply districts and grants it the powers and duties of such districts. The bill authorizes certain taxes, but prohibits the imposition of impact fees or assessments on certain utility properties. It allows the district to contract for a political subdivision to provide retail water or sewer services in the district. The bill grants the district road project powers, but bonds for such projects require a two-thirds approval by district voters, and the obligations to finance those projects may not exceed one-fourth of the assessed value of the real property in the district. The bill stipulates that Water Code provisions relating to bond approval and project supervision do not apply in the case of road projects of the district.

House Bill 3535**Effective:** 9-1-05**House Author:** Denny**Senate Sponsor:** Nelson

House Bill 3535 amends the Special District Local Laws Code to create the City of Fort Worth Municipal Utility District No. 1 of Denton County, subject to dissolution if not confirmed by voters before September 1, 2009. Creation and the confirmation election must be consented to by the county and by each municipality in whose city limits or extraterritorial jurisdiction the district lies. The bill grants the district certain road project powers, subject to project approval by each such municipality and the county. Bonds to finance road projects must be approved by two-thirds of district voters, and obligations for that purpose may not exceed one-fourth of the assessed value of the real property in the district. The bill stipulates that Water Code provisions relating to Texas Commission on Environmental Quality bond approval and project supervision do not apply in the case of road projects of the district, and it authorizes the district to exercise eminent domain powers outside the district's boundaries for the acquisition of an easement necessary for a pipeline to serve the district.

House Bill 3546**Effective:** 9-1-05**House Author:** Otto**Senate Sponsor:** Williams

House Bill 3546 amends the Special District Local Laws Code to create the East Montgomery County Municipal Utility Districts Nos. 5, 6, and 7, subject in each case to dissolution if not confirmed by voters before September 1, 2007. The bill authorizes the district to undertake certain road projects with the consent of each municipality or county in whose jurisdiction it is located. Bonds for road projects must be approved by a two-thirds vote in a district election, and obligations incurred to finance such projects may not exceed one-fourth of the assessed value of the real property in a district. The bill provides that certain Water Code provisions relating to Texas Commission on Environmental Quality project supervision and bond approval do not apply to road projects of the districts.

House Bill 3548**Effective:** 9-1-05**House Author:** Gattis**Senate Sponsor:** Ogden

House Bill 3548 amends the Special District Local Laws Code to create the Williamson County Municipal Utility District No. 16, subject to dissolution if not confirmed by voters before September 1, 2009. The bill applies to the district certain provisions of the Regional Waste Disposal Act. It specifies that only the Brazos River Authority or a provider approved by that authority may provide wastewater service in the district, and the district must obtain the

authority's approval for the design of any district wastewater treatment facility. The bill requires the district to comply with a February 2005 agreement among the Brazos River Authority, Lower Colorado River Authority, the cities of Georgetown and Liberty Hill, and the Chisholm Trail Special Utility District regarding sewer service areas and customers.

House Bill 3549

Effective: 9-1-05

House Author: Gattis

Senate Sponsor: Ogden

House Bill 3549 amends the Special District Local Laws Code to create the Williamson County Municipal Utility District No. 21, subject to dissolution if not confirmed by voters before September 1, 2009. The bill applies to the district certain provisions of the Regional Waste Disposal Act. It specifies that only the Brazos River Authority or a provider approved by that authority may provide wastewater service in the district, and the district must obtain the authority's approval for the design of any district wastewater treatment facility. The bill requires the district to comply with a February 2005 agreement among the Brazos River Authority, Lower Colorado River Authority, the cities of Georgetown and Liberty Hill, and the Chisholm Trail Special Utility District regarding sewer service areas and customers.

House Bill 3569

Effective: 9-1-05

House Author: Guillen

Senate Sponsor: Zaffirini

House Bill 3569 amends the Special District Local Laws Code to create the Zapata County Municipal Utility District No. 2, subject to dissolution if not confirmed by voters before September 1, 2007.

House Bill 3574

Effective: 6-17-05

House Author: Giddings

Senate Sponsor: Deuell

House Bill 3574 amends the Special District Local Laws Code to create the Dallas County Municipal Utility District No. 3, subject to dissolution if not confirmed by voters before September 1, 2007. The bill authorizes the district to pursue water control and storage projects and to overflow and inundate district lands and district property. It authorizes road projects, if consent is granted by the county and by each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. Bonds or obligations to finance such projects, if secured wholly or partly by ad valorem taxation, require two-thirds approval by district voters, and may not exceed one-fourth of the assessed value of the real property in the district. The bill provides that Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval do not apply to road projects of the district, and it prohibits district impact fees or assessments on the property of an electric utility, power generation company, gas utility, telecommunications provider, cable operator, or provider of public advanced telecommunications services.

House Bill 3582

Effective: 9-1-05

House Author: Brown, Betty

Senate Sponsor: Deuell

House Bill 3582 revises the boundaries of the Kingsborough Municipal Utility District Nos. 1, 2, 3, 4, and 5, located in Kaufman County. The bill broadens the districts' respective powers of eminent domain outside district boundaries to authorize the exercise of such power to construct, acquire, operate, repair, or maintain drainage systems.

Senate Bill 428**Effective:** 6-17-05**Senate Author:** Lindsay**House Sponsor:** Riddle

Senate Bill 428 amends the law creating the Harris County Municipal Utility District No. 388 to remove a provision under which that law expires if district creation is not confirmed by voters before September 1, 2006.

Senate Bill 429**Effective:** 6-17-05**Senate Author:** Lindsay**House Sponsor:** Riddle

Senate Bill 429 amends the law creating the Harris County Municipal Utility District No. 387 to remove a provision under which that law expires if district creation is not confirmed by voters before September 1, 2006.

Senate Bill 693**Effective:** 5-9-05**Senate Author:** Ogden**House Sponsor:** Gattis

General law provisions applicable to most types of water districts, stated in the Water Code, provide for the filling of a district board vacancy by appointment of other board directors. Senate Bill 693 amends general law Water Code provisions applicable specifically to municipal utility districts (MUDs) to prohibit a MUD board from appointing anyone to a board vacancy if he or she has resigned from the board in the two years preceding the vacancy date or has resigned on or after the vacancy date but before the vacancy is filled. In addition, the bill prohibits the MUD board from appointing anyone to a board vacancy who has lost a board directors election in the two years preceding the vacancy date.

Senate Bill 883**Effective:** 9-1-05**Senate Author:** Williams**House Sponsor:** Otto

Senate Bill 883 amends the Special District Local Laws Code to create the East Montgomery County Municipal Utility District No. 8, subject to dissolution if not confirmed by voters. The bill prohibits the district from imposing an impact fee or assessment on the property, equipment, rights-of-way, facilities or improvements of an electric utility, a gas utility, a telecommunications provider, or a cable operator.

Senate Bill 884**Effective:** 9-1-05**Senate Author:** Williams**House Sponsor:** Otto

Senate Bill 884 amends the Special District Local Laws Code to create the East Montgomery County Municipal Utility District No. 9, subject to dissolution if not confirmed by voters. The bill prohibits the district from imposing an impact fee or assessment on the property, equipment, rights-of-way, facilities or improvements of an electric utility, a gas utility, a telecommunications provider, or a cable operator.

Senate Bill 885**Effective:** 9-1-05**Senate Author:** Williams**House Sponsor:** Otto

Senate Bill 885 amends the Special District Local Laws Code to create the East Montgomery County Municipal Utility District No. 10, subject to dissolution if not confirmed by voters. The bill prohibits the district from imposing an impact fee or assessment on the property, equipment, rights-of-way, facilities or improvements of an electric utility, a gas utility, a telecommunications provider, or a cable operator.

Senate Bill 886

Effective: 9-1-05

Senate Author: Williams

House Sponsor: Otto

Senate Bill 886 amends the Special District Local Laws Code to create the East Montgomery County Municipal Utility District No. 11, subject to dissolution if not confirmed by voters. The bill prohibits the district from imposing an impact fee or assessment on the property, equipment, rights-of-way, facilities or improvements of an electric utility, a gas utility, a telecommunications provider, or a cable operator.

Senate Bill 887

Effective: 9-1-05

Senate Author: Williams

House Sponsor: Otto

Senate Bill 887 amends the Special District Local Laws Code to create the East Montgomery County Municipal Utility District No. 12, subject to dissolution if not confirmed by voters. The bill prohibits the district from imposing an impact fee or assessment on the property, equipment, rights-of-way, facilities, or improvements of an electric utility, a gas utility, a telecommunications provider, or a cable operator.

Senate Bill 889

Effective: 9-1-05

Senate Author: Williams

House Sponsor: Otto

Senate Bill 889 amends the Special District Local Laws Code to create the East Montgomery County Municipal Utility District No. 13, subject to dissolution if not confirmed by voters. The bill prohibits the district from imposing an impact fee or assessment on the property, equipment, rights-of-way, facilities, or improvements of an electric utility, a gas utility, a telecommunications provider, or a cable operator.

Senate Bill 891

Effective: 9-1-05

Senate Author: Williams

House Sponsor: Otto

Senate Bill 891 amends the Special District Local Laws Code to create the East Montgomery County Municipal Utility District No. 14, subject to dissolution if not confirmed by voters before September 1, 2010. The bill prohibits the district from imposing an impact fee or assessment on the property, equipment, rights-of-way, facilities, or improvements of an electric utility, a gas utility, a telecommunications provider, or a cable operator.

Senate Bill 1795

Effective: 9-1-05

Senate Author: Armbrister

House Sponsor: Olivo

Senate Bill 1795 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 177, subject to dissolution if not confirmed by voters before September 1, 2007. The bill grants the district certain road project powers, applicable inside or outside the district, and allows it to impose a tax to support related bonds if bond issuance is approved by a two-thirds majority of district voters in an election called on the issue. Certain Water Code provisions relating to Texas Commission on Environmental Quality bond approval and supervision do not apply to road projects. The bill prohibits the district from imposing impact fees or assessments on the property of an electric utility, gas utility, cable television provider, telecommunications provider, or provider of advanced telecommunications services.

Senate Bill 1800

Effective: 6-17-05

Senate Author: Jackson, Mike

House Sponsor: Eiland

Senate Bill 1800 amends the Special District Local Laws Code to create the Galveston County Municipal Utility District No. 60, subject to confirmation by voters. It grants the district, in addition to the Water Code general-law powers of water districts and municipal districts, the

general-law powers of navigation districts. The bill provides for the district's exercise of the power of eminent domain outside its boundaries for the acquisition of an easement necessary for underground water, sewage, or drainage facilities serving the district. With voter approval, the district may impose a maintenance tax or issue bonds payable from ad valorem taxes. The bill grants the district road project powers, contingent on the consent of each municipality or county in whose jurisdiction the district is located. Bonds for such projects require a two-thirds majority of voters. Road project bonds or obligations may not exceed one-fourth of the assessed value of the real property in the district. The bill also provides that Texas Commission on Environmental Quality bond approval and project supervision do not apply to road projects of the district.

Senate Bill 1801

Effective: 6-17-05

Senate Author: Jackson, Mike

House Sponsor: Eiland

Senate Bill 1801 amends the Special District Local Laws Code to create the Galveston County Municipal Utility District No. 61, subject to confirmation by voters. It grants the district, in addition to the Water Code general-law powers of water districts and municipal districts, the general-law powers of navigation districts. The bill provides for the district's exercise of the power of eminent domain outside its boundaries for the acquisition of an easement necessary for underground water, sewage, or drainage facilities serving the district. With voter approval, the district may impose a maintenance tax or issue bonds payable from ad valorem taxes. The bill grants the district road project powers, contingent on the consent of each municipality or county in whose jurisdiction the district is located. Bonds for such projects require a two-thirds majority of voters. Road project bonds or obligations may not exceed one-fourth of the assessed value of the real property in the district. The bill also provides that Texas Commission on Environmental Quality bond approval and project supervision do not apply to road projects of the district.

Senate Bill 1802

Effective: 6-17-05

Senate Author: Jackson, Mike

House Sponsor: Eiland

Senate Bill 1802 amends the Special District Local Laws Code to create the Galveston County Municipal Utility District No. 62, subject to confirmation by voters. It grants the district, in addition to the Water Code general-law powers of water districts and municipal districts, the general-law powers of navigation districts. The bill provides for the district's exercise of the power of eminent domain outside its boundaries for the acquisition of an easement necessary for underground water, sewage, or drainage facilities serving the district. With voter approval, the district may impose a maintenance tax or issue bonds payable from ad valorem taxes. The bill grants the district road project powers, contingent on the consent of each municipality or county in whose jurisdiction the district is located. Bonds for such projects require a two-thirds majority of voters. Road project bonds or obligations may not exceed one-fourth of the assessed value of the real property in the district. The bill also provides that Texas Commission on Environmental Quality bond approval and project supervision do not apply to road projects of the district.

Senate Bill 1803

Effective: 6-17-05

Senate Author: Jackson, Mike

House Sponsor: Eiland

Senate Bill 1803 amends the Special District Local Laws Code to create the Galveston County Municipal Utility District No. 63, subject to confirmation by voters. It grants the district, in addition to the Water Code general-law powers of water districts and municipal districts, the general-law powers of navigation districts. The bill provides for the district's exercise of the

Water Districts

power of eminent domain outside its boundaries for the acquisition of an easement necessary for underground water, sewage, or drainage facilities serving the district. With voter approval, the district may impose a maintenance tax or issue bonds payable from ad valorem taxes. The bill grants the district road project powers, contingent on the consent of each municipality or county in whose jurisdiction the district is located. Bonds for such projects require a two-thirds majority of voters. Road project bonds or obligations may not exceed one-fourth of the assessed value of the real property in the district. The bill also provides that Texas Commission on Environmental Quality bond approval and project supervision do not apply to road projects of the district.

Senate Bill 1804

Effective: 6-17-05

Senate Author: Jackson, Mike

House Sponsor: Eiland

Senate Bill 1804 amends the Special District Local Laws Code to create the Galveston County Municipal Utility District No. 64, subject to confirmation by voters. It grants the district, in addition to the Water Code general-law powers of water districts and municipal districts, the general-law powers of navigation districts. The bill provides for the district's exercise of the power of eminent domain outside its boundaries for the acquisition of an easement necessary for underground water, sewage, or drainage facilities serving the district. With voter approval, the district may impose a maintenance tax or issue bonds payable from ad valorem taxes. The bill grants the district road project powers, contingent on the consent of each municipality or county in whose jurisdiction the district is located. Bonds for such projects require a two-thirds majority of voters. Road project bonds or obligations may not exceed one-fourth of the assessed value of the real property in the district. The bill also provides that Texas Commission on Environmental Quality bond approval and project supervision do not apply to road projects of the district.

Senate Bill 1807

Effective: 6-17-05

Senate Author: Jackson, Mike

House Sponsor: Eiland

Senate Bill 1807 amends the Special District Local Laws Code to enact an enabling statute for the Galveston County Municipal Utility District No. 52. The bill grants the district certain navigation powers for the accomplishment of the same purposes as a navigation district. It also grants certain road project powers. Bonds for such projects must be approved by a two-thirds majority of district voters, and road project obligations may not exceed one-fourth of the assessed value of the real property in the district. The bill provides that Water Code provisions relating to Texas Commission on Environmental Quality bond approval and supervision do not apply to such projects of the district. The bill allows the district to exercise the power of eminent domain outside its boundaries to acquire an easement necessary for underground water, sewage, or drainage facilities serving the district.

Senate Bill 1808

Effective: 6-17-05

Senate Author: Jackson, Mike

House Sponsor: Eiland

Senate Bill 1808 amends the Special District Local Laws Code to create the Galveston County Municipal Utility District No. 54, but requires a confirmation election. The bill limits the district's exercise of the power of eminent domain outside district boundaries to the acquisition of an easement for underground water, sewage, or drainage facilities serving the district. The bill authorizes the district to pursue certain road projects, provided that a project is consented to by each municipality or county in which the district is located. Senate Bill 1808 requires the district to obtain voter approval to impose a maintenance tax or issue bonds payable from ad valorem taxes, and provides that road project bonds require a two-thirds approval of district

voters. Bonds or obligations for road projects may not exceed one-fourth of the assessed value of the real property in the district. The bill makes Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval inapplicable to such projects.

Senate Bill 1810
Effective: 6-17-05

Senate Author: Shapleigh
House Sponsor: Quintanilla

Senate Bill 1810 establishes procedures for the dissolution of the Homestead Municipal Utility District, on transfer of its assets and liabilities to the City of El Paso and the assumption of the management of its water supply system by that city and the El Paso Water Utilities Public Service Board. The bill includes provisions relating to the water supply rates that the city may charge El Paso County residents who live in the service area formerly served by the district.

Senate Bill 1823
Effective: 9-1-05

Senate Author: Wentworth
House Sponsor: Kuempel

Senate Bill 1823 amends the Special District Local Laws Code to create the Schertz Municipal Utility District No. 1, located in Bexar County, subject to dissolution if not confirmed by voters before September 1, 2007. The bill authorizes a maintenance tax and bond issuance payable wholly or partially from ad valorem taxes, on approval of a majority of district voters. The bill applies to the district certain provisions of the Regional Waste Disposal Act.

Senate Bill 1826
Effective: 6-17-05

Senate Author: Estes
House Sponsor: King, Phil

Senate Bill 1826 amends the Special District Local Laws Code to create the Parker County Special Utility District and make provisions relating to its administration, powers, duties, functions, operations, and financing. The bill also grants the district certain powers of eminent domain.

Senate Bill 1851
Effective: 6-17-05

Senate Author: Madla
House Sponsor: King, Tracy

Senate Bill 1851 amends the Special District Local Laws Code to conform the boundaries of the East Medina County Special Utility District to the territory covered by its Texas Commission on Environmental Quality certificate of convenience and necessity. The bill provides for a seven-member board of directors for the district.

Senate Bill 1855
Effective: 6-17-05

Senate Author: Deuell
House Sponsor: Laubenberg

Senate Bill 1855 amends the Special District Local Laws Code to create the Rockwall County Municipal Utility Districts Nos. 6, 7, 8, and 9, subject in each case to dissolution if not confirmed by voters before September 1, 2007. It grants the districts powers of eminent domain and provides that a district may exercise such powers outside its boundaries for constructing, acquiring, operating, repairing, or maintaining water supply lines or sanitary sewer lines. The bill authorizes road projects, if consent is granted by the county and by each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. Bonds or obligations to finance such projects, if secured wholly or partly by ad valorem taxation, require two-thirds approval by district voters, and may not exceed one-fourth of the assessed value of the real property in the district. The bill specifies that Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval do not apply to road projects of the districts.

Senate Bill 1864

Effective: 9-1-05

Senate Author: Jackson, Mike

House Sponsor: Taylor

Senate Bill 1864 amends the Special District Local Laws Code to clarify the general-law authority of the Galveston County Municipal Utility District No. 51. It grants the district certain road project powers, provided that any such project is consented to by each municipality or county in whose jurisdiction the district is located. Bonds or obligations to finance such a project, if secured wholly or partly by ad valorem taxation, require two-thirds approval by voters of the district or of the defined area to be benefited by the project. The bill prohibits the bonds and obligations from exceeding one-fourth of the assessed value of the real property in the district or defined area. The bill provides that Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval do not apply to road projects.

Senate Bill 1865

Effective: 9-1-05

Senate Author: Jackson, Mike

House Sponsor: Eiland

Senate Bill 1865 amends the Special District Local Laws Code to create the Galveston County Municipal Utility District No. 53, subject to dissolution if not confirmed by voters before September 1, 2009. It limits the district's exercise of the power of eminent domain, outside its boundaries, to the acquisition of an easement necessary for a pipeline that serves the district. The bill authorizes road projects if each municipality or county in which the district is located consents. Bonds or obligations to finance such projects, if secured wholly or partly by ad valorem taxation, require two-thirds approval by district voters and may not exceed one-fourth of the assessed value of the real property in the district. The bill provides that Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval do not apply to road projects. The bill prohibits district impact fees or assessments on the property of an electric utility, power generation company, gas utility, telecommunications provider, or provider of public cable television or advanced telecommunications services.

Senate Bill 1871

Effective: 9-1-05

Senate Author: Jackson, Mike

House Sponsor: Bonnen

Senate Bill 1871 amends the Special District Local Laws Code to create the Brazoria County Municipal Utility District No. 44, subject to dissolution if not confirmed by voters before September 1, 2007. The confirmation election may not be held unless the county and each municipality in whose city limits or extraterritorial jurisdiction the district lies consent to district creation. The bill grants the district certain road project powers, subject to project approval by each such municipality and the county. Bonds to finance road projects must be approved by two-thirds of district voters, and obligations for that purpose may not exceed one-fourth of the assessed value of the real property in the district. The bill specifies that Water Code provisions relating to Texas Commission on Environmental Quality bond approval and project supervision do not apply in the case of road projects of the district, and it provides that the district may exercise eminent domain powers outside its boundaries for the acquisition of an easement necessary for a pipeline to serve the district.

Senate Bill 1872

Effective: 6-17-05

Senate Author: Armbrister

House Sponsor: Howard

Senate Bill 1872 authorizes the Fort Bend County Municipal Utility District No. 134 to construct, acquire, improve, maintain, or operate certain roads or turnpikes, or related improvements, inside the district. A road project requires county or municipal consent, if applicable, and must meet applicable county or municipal standards, requirements, and

regulations. Powers of eminent domain for a road project are limited to the acquisition of land, an easement, or a right-of-way inside the district. The bill authorizes the issuance of bonds for road projects, but only if approved by a two-thirds majority of district voters. Bonds or obligations for such purposes may not exceed one-fourth of the assessed value of real property in the district. The district may impose an ad valorem tax for the repayment of issued bonds. The bill provides that Water Code provisions requiring Texas Commission on Environmental Quality (TCEQ) supervision of projects and improvements and TCEQ approval of bond issuances do not apply to a district road project or related bonds.

Senate Bill 1873**Effective:** 6-17-05**Senate Author:** Armbrister**House Sponsor:** Hegar

Senate Bill 1873 amends the Special District Local Laws Code to create the Fort Bend County Municipal Utility District No. 167, subject to a confirmation election. The bill provides that the district may exercise the power of eminent domain outside its boundaries for the acquisition of an easement for underground water, sewage, or drainage facilities serving the district. It confers the district with certain road project powers, provided that such projects receive the consent of each municipality in whose corporate limits or extraterritorial jurisdiction (ETJ) the district is located, and of each county if it is located outside the ETJ. The imposition of maintenance taxes or the issuance of bonds payable from ad valorem taxes requires voter approval, and bond issuances for road projects require a two-thirds voter approval. Bonds and obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill specifies that Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval do not apply to road projects of the district.

Senate Bill 1881**Effective:** 6-17-05**Senate Author:** Deuell**House Sponsor:** Laubenberg

Senate Bill 1881 validates and confirms the creation of the Parker Creek Municipal Utility District of Rockwall County, as well as certain district acts and proceedings. It amends the Special District Local Laws Code to adopt an enabling statute for the district. The bill includes provisions relating to annexation of district territory by a municipality. In such an annexed area, the district may exercise certain road project powers, but it may not issue related bonds or obligations secured wholly or partly by ad valorem taxes unless the issuance is approved by a two-thirds majority of voters. The bonds or obligations to finance such projects may not exceed one-fourth of the assessed value of the real property in the district. The bill stipulates that Water Code general-law provisions relating to Texas Commission on Environmental Quality bond issuance and supervision do not apply in the case of road projects of the district.

Senate Bill 1882**Effective:** 9-1-05**Senate Author:** Jackson, Mike**House Sponsor:** Eiland

Senate Bill 1882 amends the Special District Local Laws Code to create the Galveston County Municipal Utility District No. 67, subject to dissolution if not confirmed by voters before September 1, 2007. The bill prohibits district imposition of an impact fee or assessment on the property of an electric utility, power generation company, gas utility, telecommunications provider, or public provider of cable television or advanced telecommunications services. It provides that the district may exercise the power of eminent domain outside its boundaries for the acquisition of an easement for a pipeline serving the district. The bill grants the district certain road project powers, subject to the consent of each municipality or county in whose jurisdiction the district is located. Bonds for such projects require approval of two-thirds of

district voters, and obligations for that purpose may not exceed one-fourth of the value of the real property in the district. The bill specifies that Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval do not apply to road projects of the district.

Senate Bill 1884
Effective: 9-1-05

Senate Author: Ellis
House Sponsor: Coleman

Senate Bill 1884 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 460, subject to dissolution if not confirmed by voters before September 1, 2007. The bill limits the district's exercise of the power of eminent domain, outside district boundaries, to the acquisition of an easement for a pipeline that serves the district. The bill grants the district certain road project powers but requires that any such project be consented to by each municipality and county in whose jurisdiction the district is located. Bonds for road projects require the approval of two-thirds of district voters, and associated obligations may not exceed one-fourth of the assessed value of the real property in the district. The bill provides that Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval do not apply to road projects.

Senate Bill 1887
Effective: 9-1-05

Senate Author: Ogden
House Sponsor: Krusee

Senate Bill 1887 amends the Special District Local Laws Code to create the Williamson County Municipal Utility District No. 22, subject to dissolution if not confirmed by voters before September 1, 2007. The bill subjects the district to the requirements of municipal ordinances of the City of Hutto, applicable to that city's extraterritorial jurisdiction, unless compliance is waived. The bill limits the district's exercise of the power of eminent domain outside district boundaries to the acquisition of an easement for a pipeline serving the district. Senate Bill 1887 also grants the district certain road project powers and provides that any such project must have the consent of specified municipal or county authorities. Imposition of a maintenance tax, or the issuance of bonds payable wholly or partially from ad valorem taxes, requires approval by district voters at an election called for that purpose.

Senate Bill 1888
Effective: 9-1-05

Senate Author: Lindsay
House Sponsor: Van Arsdale

Senate Bill 1888 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 465, subject to dissolution if not confirmed by voters before September 1, 2007. The bill grants the district certain road project powers. Bonds for such projects require the approval of two-thirds of district voters, and related obligations may not exceed one-fourth of the assessed value of the real property in the district. The bill provides that Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval do not apply to road projects.

Senate Bill 1889
Effective: 9-1-05

Senate Author: Lindsay
House Sponsor: Van Arsdale

Senate Bill 1889 amends the Special District Local Laws Code to create the Harris County Municipal Utility District No. 464, subject to dissolution if not confirmed by voters before September 1, 2007. The bill grants the district certain road project powers. Bonds for such projects require the approval of two-thirds of district voters, and related obligations may not

exceed one-fourth of the assessed value of the real property in the district. The bill provides that Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval do not apply to road projects.

Regional Water Authorities

House Bill 856

Effective: 6-17-05

House Author: Callegari

Senate Sponsor: Lindsay

House Bill 856 amends the boundaries of the West Harris County Regional Water Authority to exclude territory within three specified municipal utility districts. It revises certain provisions relating to the authority's interaction with local subsidence districts to encompass not only the Harris-Galveston Coastal Subsidence District as provided under current law but also the Fort Bend Subsidence District. Other changes to the authority's enabling statute relate to groundwater reduction plans, revenue collection, administrative policies, requests for proposals, the terms of directors, and conflicts of interest.

House Bill 2267

Effective: 6-17-05

House Author: Smith, Wayne

Senate Sponsor: Ellis

House Bill 2267, relating to the Coastal Water Authority (CWA), provides that the authority's powers include water reclamation and desalination. The bill validates certain acts and proceedings and authorizes the CWA to construct and install improvements and facilities in bayous, rivers, and streams if it obtains required state or federal permits and the construction does not interfere with rights of private property owners. Contingent on a state permit from the Texas Commission on Environmental Quality, the authority may use the bed and banks of bayous, rivers, and streams to transport and convey water. Acquisition of water rights requires approval of the mayor and city council of the City of Houston. The CWA may incur indebtedness to improve rivers, creeks, and streams to prevent overflows, provided that the indebtedness is approved by a two-thirds voting majority of its CWA electorate. It may issue unrated bond anticipation notes to finance the cost of a CWA project. The bill grants the CWA powers to create a nonprofit transportation corporation and authorizes the CWA to develop and generate hydroelectric or wind-turbine electric power for its own use or use by the City of Houston.

House Bill 2639

Effective: 9-1-05

House Author: Geren

Senate Sponsor: Brimer

House Bill 2639 authorizes the Tarrant Regional Water District to provide for or participate in the acquisition, construction, development, operation, or maintenance of facilities to promote economic development, and to engage in activities to stimulate business and commercial activity, including the making of grants or loans. The bill empowers the district to sponsor and participate in an economic development program inside its boundaries, with a limitation that it may not, for that purpose, spend ad valorem tax proceeds or a general appropriation. The district may acquire land interests for economic purposes for its own use or for the sale or lease of the land for a reclamation, economic development, or water control or development district. The bill authorizes the district's board of directors to create one or more nonprofit corporations to act on its behalf and as its instrumentality. It abolishes the Lower Rio Grande Authority and vests any remaining assets or property with the Rio Grande Regional Water Authority.

House Bill 3181

Effective: 6-17-05

House Author: Turner

Senate Sponsor: Lindsay

House Bill 3181 amends the Special District Local Laws Code to create the Central Harris County Regional Water Authority. The bill prohibits the authority from imposing ad valorem taxes and authorizes it to establish fees, rates, and charges, including water importation payments and well fees based on groundwater withdrawals, exempting certain well classes that are not subject to groundwater reduction requirements of the Harris-Galveston Coastal Subsidence District (HGCSA). It is also authorized to impose special assessments, based on certain groundwater withdrawals, on properties that benefit from improvement projects and services. Among other provisions, the authority may pursue or participate in a groundwater reduction plan. The bill describes the extent of and limits on the authority's eminent domain powers. Its provisions do not prevail over, and do not preempt, specified Water Code and HGCSA enabling-statute provisions being implemented by the HGCSA.

Senate Bill 331

Effective: 6-18-05

Senate Author: Lindsay

House Sponsor: Hamric

Senate Bill 331 empowers the North Harris County Regional Water Authority to expedite the financing and construction of a surface water delivery system, or other projects, to convert from groundwater to surface water reliance. Conversion must occur by the date required by the Harris-Galveston Coastal Subsidence District or by a date determined by the authority's board, whichever is earlier. The bill clarifies that such a delivery system includes certain groundwater transport facilities and facilities for water management, conservation, or reuse, but not bed and banks transport. It expresses legislative intent supporting Texas Commission on Environmental Quality cooperation with the authority in developing the delivery system or other expedited projects and establishes various provisions governing that cooperation. The bill allows the authority to issue negotiable revenue anticipation notes, bond anticipation notes, or combination notes and establishes related requirements and powers applicable to the authority. It deletes a requirement that the authority's voting districts be redrawn after a change in area of more than 20 percent and limits such redrawing to after each decennial census and as otherwise required by law.

Senate Bill 363

Effective: 6-17-05

Senate Author: Lindsay

House Sponsor: Callegari

Senate Bill 363 amends the boundaries of the West Harris County Regional Water Authority to exclude territory within three specified municipal utility districts. It revises certain provisions relating to the authority's interaction with local subsidence districts to encompass not only the Harris-Galveston Coastal Subsidence District as provided under current law but also the Fort Bend Subsidence District. Other changes to the authority's enabling statute relate to groundwater reduction plans, revenue collection, administrative policies, requests for proposals, the terms of directors, and conflicts of interest.

Senate Bill 1798

Effective: 6-17-05

Senate Author: Armbrister

House Sponsor: Hegar

Senate Bill 1798 amends the Special District Local Laws Code to create the North Fort Bend Water Authority in Fort Bend and Harris Counties. The bill authorizes various fees, charges, rates, and special assessments, including fees on water wells according to the amount of water pumped. However, the bill prohibits the authority from imposing ad valorem taxes. The bill gives the authority the power of eminent domain.

Water Control and Improvement Districts

House Bill 3479

Effective: 6-18-05

House Author: Rose

Senate Sponsor: Wentworth

House Bill 3479 validates the creation of the South Buda Water Control and Improvement District No. 1 by the Hays County Commissioners Court. It amends the Special District Local Laws Code to include an enabling statute for the district and to provide that the district is dissolved if not confirmed by voters before September 1, 2010. The bill provides that the Regional Waste Disposal Act applies to the district, as do certain Transportation Code provisions relating to road utility districts. The bill authorizes the district to purchase, install, operate, or maintain street lighting or security lighting within public utility easements or public rights-of-way in the district.

House Bill 3520

Effective: 6-18-05

House Author: King, Tracy

Senate Sponsor: Madla

Water Code general law relating to water control and improvement districts (WCIDs), which covers WCIDs created by the petition process unless separate law provides otherwise, includes provisions relating to assessments to fund a WCID irrigation system. The Water Code general law requires that not less than one-third nor more than two-thirds of the irrigation system estimated maintenance and operating expenses shall be paid by assessment against land in the district to which the WCID furnishes water through its irrigation system or an extension thereof. House Bill 3520 enacts an exception, to provide that those one-third and two-thirds lower and upper bounds do not apply to the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1.

House Bill 3576

Effective: 6-18-05

House Author: Mowery

Senate Sponsor: Brimer

House Bill 3576 changes the name of the Benbrook Water and Sewer Authority, located in Tarrant County, to the Benbrook Water Authority. It updates and revises the authority's powers to incorporate Water Code general-law provisions relating to a water district and a water control and improvement district (WCID), with general-law WCID provisions controlling in case of a conflict. The bill authorizes the authority to regulate the drilling, equipping, completion, location, and production of groundwater wells, and to require well permits. It allows the authority to enter into certain interlocal agreements with cities and other entities under the Interlocal Cooperation Act. Other provisions relate to eminent domain, election methods and procedures, directors' fees of offices and expense reimbursement, and other matters. The bill validates acts and proceedings of the authority.

Senate Bill 1772

Effective: 6-17-05

Senate Author: Deuell

House Sponsor: Reyna

Senate Bill 1772 validates and delineates the boundaries of the Dallas County Water Control and Improvement District No. 6. With certain exceptions, the bill validates the district's actions and proceedings, including elections and annexations. The bill prohibits the district from providing additional retail water utility service inside the City of Mesquite, beyond the service it provided on June 17, 2005, unless the district obtains that city's consent.

Senate Bill 1792

Effective: 6-17-05

Senate Author: Wentworth

House Sponsor: Rose

Senate Bill 1792 validates the creation of the South Buda Water Control and Improvement District No. 1 by the Hays County Commissioners Court. It amends the Special District Local Laws Code to add a district enabling statute. District creation must be confirmed by voters before September 1, 2010, or the district is dissolved. The bill provides that the Regional Waste Disposal Act applies to the district, as do Water Code general-law provisions for water districts and water control and improvement districts. Transportation Code provisions for road utility districts also apply unless inconsistent with Water Code or Special District Local Laws Code provisions, which prevail in case of conflict. The bill authorizes the district to purchase, install, operate, or maintain street lighting or security lighting within public utility easements or public rights-of-way in the district.

Senate Bill 1828

Effective: 6-17-05

Senate Author: Estes

House Sponsor: Denny

Senate Bill 1828 amends the Special District Local Laws Code to create the Smiley Road Water Control and Improvement District, located in Denton County, subject to dissolution if not confirmed by voters before September 1, 2007. Contingent on voter approval, the district may use an ad valorem plan of taxation. The bill prohibits district impact fee assessments on certain utility properties. It authorizes the district to provide water, sewer, and drainage services, and includes provisions concerning contracting to supply the City of Celina with services. If approved by a majority of voters, the district may assume road district powers, including certain road project powers, and if approved by an extraordinary majority of two-thirds of voters, the district may issue bonds supportive of road projects. Supportive obligations are limited to one-fourth of the assessed value of real property in the district, and road projects require certain approvals by Denton County and the consent of each municipality in whose city limits or extraterritorial jurisdiction the district is located. The bill provides that Water Code provisions relating to Texas Commission on Environmental Quality bond approval and supervision do not apply to such projects of the district.

Senate Bill 1853

Effective: 6-17-05

Senate Author: Madla

House Sponsor: King, Tracy

Water Code general law relating to water control and improvement districts (WCIDs), which covers WCIDs created by the petition process unless separate law provides otherwise, includes provisions relating to assessments to fund a WCID irrigation system. The law requires that not less than one-third nor more than two-thirds of the irrigation system estimated maintenance and operating expenses shall be paid by assessment against land in the district to which the WCID furnishes water through its irrigation system or an extension thereof. Senate Bill 1853 enacts an exception, to provide that those limits do not apply to the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1.

Senate Bill 1891

Effective: 6-17-05

Senate Author: Armbrister

House Sponsor: Seaman

Senate Bill 1891 amends the Special District Local Laws Code to create the La Salle Water Control and Improvement District No. 1, located in Calhoun County, subject to dissolution if not confirmed by voters before September 1, 2007. It provides that the district may exercise the power of eminent domain outside its boundaries to acquire an easement for a pipeline that serves the district. The bill grants the district certain road project powers, but a road project

must be consented to by the county and by each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. Bonds to finance such projects require approval by two-thirds of district voters, and such obligations may not exceed one-fourth of the assessed value of the real property in the district. The bill specifies that Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval do not apply to road projects of the district.

Senate Bill 1894**Effective:** 6-18-05**Senate Author:** Deuell**House Sponsor:** Brown, Betty

Senate Bill 1894 amends the Special District Local Laws Code to create the Kaufman County Water Control and Improvement District No. 1 and the Las Lomas Municipal Utility District No. 4 of Kaufman County, each subject to dissolution if not confirmed by voters before September 1, 2007. For both districts, the bill provides for the exercise of the power of eminent domain outside district boundaries for the acquisition of an easement for a pipeline serving the district and prohibits impact fees or assessments on the property of an electric utility, power generation company, gas utility, telecommunications provider, or cable operator. For the Las Lomas district, the prohibition extends also to the property of a provider of public advanced telecommunications service. The bill grants both districts road project powers, but projects must be approved by each affected municipality and county. Bonds to support road projects must be approved by two-thirds of district voters, and those obligations may not exceed one-fourth of the assessed value of real property in either district. The bill provides that Water Code provisions relating to Texas Commission on Environmental Quality supervision and bond approval do not apply to road projects in the districts. The bill also changes the boundaries of the Kingsborough Municipal Utility District Nos. 1, 2, 3, 4, and 5 and creates the Rose Hill Special Utility District, subject to a confirmation election to be held before September 1, 2007.

Index to Bills Passed

House Bill 1 (1st C.S.)	11	House Bill 207	254
House Bill 7	218	House Bill 209	123
House Bill 10	11	House Bill 210	22
House Bill 11 (2nd C.S.).....	39	House Bill 214	321
House Bill 18	261	House Bill 224	130
House Bill 22	309	House Bill 225	223
House Bill 25	285	House Bill 230	273
House Bill 26	314	House Bill 231	39
House Bill 34	350	House Bill 233	299
House Bill 39	116	House Bill 240	126
House Bill 43	35	House Bill 248	123
House Bill 51	53	House Bill 251	219
House Bill 55	350	House Bill 252	123
House Bill 56	87	House Bill 256	317
House Bill 57	87	House Bill 258	179
House Bill 62	279	House Bill 260	124
House Bill 67	309	House Bill 261	124
House Bill 68	29	House Bill 263	299
House Bill 70	303	House Bill 265	280
House Bill 74	252	House Bill 266	281
House Bill 75	39	House Bill 269	58
House Bill 81	127	House Bill 270	124
House Bill 87	347	House Bill 282	229
House Bill 93	35	House Bill 283	285
House Bill 102	159	House Bill 291	58
House Bill 107	29	House Bill 297	295
House Bill 120	145	House Bill 304	299
House Bill 126	285	House Bill 307	124
House Bill 129	234	House Bill 308	286
House Bill 132	330	House Bill 312	323
House Bill 133	243	House Bill 322	241
House Bill 135	247	House Bill 330	22
House Bill 137	350	House Bill 340	353
House Bill 148	299	House Bill 345	95
House Bill 150	231	House Bill 350	92
House Bill 157	35	House Bill 352	321
House Bill 160	342	House Bill 363	210
House Bill 162	145	House Bill 364	348
House Bill 164	53	House Bill 365	376
House Bill 167	80	House Bill 370	333
House Bill 168	5	House Bill 373	1
House Bill 178	95	House Bill 380	105
House Bill 182	322	House Bill 381	172
House Bill 183	347	House Bill 383	124
House Bill 192	152	House Bill 401	127
House Bill 201	127	House Bill 404	185
House Bill 202	123	House Bill 407	203
House Bill 203	123	House Bill 409	126
House Bill 204	273	House Bill 410	124

House Bill 412	360	House Bill 633	304
House Bill 413	59	House Bill 637	273
House Bill 417	241	House Bill 638	282
House Bill 418	125	House Bill 639	300
House Bill 422	234	House Bill 646	39
House Bill 423	315	House Bill 647	235
House Bill 467	371	House Bill 654	202
House Bill 468	333	House Bill 655	202
House Bill 472	105	House Bill 657	128
House Bill 473	105	House Bill 659	249
House Bill 474	359	House Bill 664	231
House Bill 479	174	House Bill 669	196
House Bill 480	342	House Bill 677	151
House Bill 481	216	House Bill 678	127
House Bill 484	105	House Bill 681	35
House Bill 492	286	House Bill 685	241
House Bill 495	174	House Bill 698	23
House Bill 503	243	House Bill 699	333
House Bill 505	267	House Bill 703	333
House Bill 506	267	House Bill 705	60
House Bill 511	22	House Bill 706	130
House Bill 525	80	House Bill 708	283
House Bill 526	203	House Bill 719	95
House Bill 532	199	House Bill 720	220
House Bill 535	94	House Bill 723	125
House Bill 540	350	House Bill 729	29
House Bill 541	249	House Bill 731	235
House Bill 544	59	House Bill 735	30
House Bill 546	59	House Bill 736	30
House Bill 549	54	House Bill 737	30
House Bill 550	59	House Bill 738	30
House Bill 551	76	House Bill 739	30
House Bill 564	43	House Bill 740	30
House Bill 571	235	House Bill 741	30
House Bill 573	291	House Bill 742	30
House Bill 578	372	House Bill 743	30
House Bill 580	235	House Bill 744	30
House Bill 582	54	House Bill 747	350
House Bill 585	231	House Bill 749	342
House Bill 593	47	House Bill 754	348
House Bill 595	43	House Bill 755	31
House Bill 596	49	House Bill 758	94
House Bill 597	43	House Bill 760	105
House Bill 598	179	House Bill 762	297
House Bill 602	235	House Bill 765	203
House Bill 603	286	House Bill 769	353
House Bill 604	303	House Bill 773	139
House Bill 607	133	House Bill 774	1
House Bill 614	126	House Bill 775	13
House Bill 616	29	House Bill 776	172
House Bill 617	304	House Bill 788	47
House Bill 628	133	House Bill 790	149
House Bill 629	18	House Bill 798	125

House Bill 801	185	House Bill 956	130
House Bill 802	185	House Bill 957	317
House Bill 805	13	House Bill 960	236
House Bill 808	257	House Bill 961	236
House Bill 809	324	House Bill 962	335
House Bill 812	383	House Bill 964	90
House Bill 813	383	House Bill 965	113
House Bill 823	60	House Bill 967	61
House Bill 825	55	House Bill 969	62
House Bill 828	375	House Bill 970	55
House Bill 831	304	House Bill 972	161
House Bill 833	5	House Bill 975	62
House Bill 836	159	House Bill 976	261
House Bill 839	60	House Bill 982	19
House Bill 840	60	House Bill 984	291
House Bill 841	369	House Bill 988	343
House Bill 843	364	House Bill 989	361
House Bill 853	23	House Bill 993	179
House Bill 854	31	House Bill 994	180
House Bill 856	397	House Bill 1007	300
House Bill 858	125	House Bill 1009	261
House Bill 860	295	House Bill 1011	277
House Bill 867	60	House Bill 1012	55
House Bill 868	174	House Bill 1015	161
House Bill 872	359	House Bill 1018	210
House Bill 873	282	House Bill 1025	161
House Bill 874	350	House Bill 1030	204
House Bill 877	185	House Bill 1036	336
House Bill 880	139	House Bill 1038	223
House Bill 883	267	House Bill 1044	343
House Bill 885	199	House Bill 1045	277
House Bill 894	145	House Bill 1048	62
House Bill 900	220	House Bill 1053	116
House Bill 901	1	House Bill 1054	383
House Bill 904	55	House Bill 1055	384
House Bill 905	312	House Bill 1058	243
House Bill 908	139	House Bill 1059	128
House Bill 912	312	House Bill 1063	180
House Bill 914	139	House Bill 1068	62
House Bill 915	223	House Bill 1071	92
House Bill 916	146	House Bill 1076	242
House Bill 918	76	House Bill 1077	46
House Bill 925	13	House Bill 1079	304
House Bill 932	283	House Bill 1088	134
House Bill 934	273	House Bill 1092	343
House Bill 937	5	House Bill 1095	55
House Bill 941	210	House Bill 1097	354
House Bill 942	267	House Bill 1098	24
House Bill 943	267	House Bill 1099	309
House Bill 950	235	House Bill 1102	180
House Bill 951	106	House Bill 1106	291
House Bill 952	295	House Bill 1107	336
House Bill 955	133	House Bill 1111	287

House Bill 1114	305	House Bill 1287	236
House Bill 1116	312	House Bill 1294	31
House Bill 1126	99	House Bill 1304	251
House Bill 1130	24	House Bill 1316	156
House Bill 1132	257	House Bill 1317	252
House Bill 1136	350	House Bill 1318	242
House Bill 1137	334	House Bill 1319	17
House Bill 1139	295	House Bill 1323	56
House Bill 1140	236	House Bill 1326	40
House Bill 1141	384	House Bill 1328	210
House Bill 1154	17	House Bill 1331	140
House Bill 1155	162	House Bill 1339	336
House Bill 1161	106	House Bill 1346	384
House Bill 1162	106	House Bill 1350	344
House Bill 1163	90	House Bill 1353	220
House Bill 1165	348	House Bill 1357	5
House Bill 1170	244	House Bill 1358	369
House Bill 1172	167	House Bill 1361	1
House Bill 1173	168	House Bill 1362	2
House Bill 1174	125	House Bill 1363	2
House Bill 1179	125	House Bill 1366	164
House Bill 1181	126	House Bill 1379	24
House Bill 1182	127	House Bill 1382	96
House Bill 1186	273	House Bill 1393	257
House Bill 1190	274	House Bill 1394	49
House Bill 1191	275	House Bill 1399	279
House Bill 1201	199	House Bill 1403	354
House Bill 1207	375	House Bill 1404	43
House Bill 1208	384	House Bill 1409	174
House Bill 1209	87	House Bill 1413	162
House Bill 1213	300	House Bill 1414	88
House Bill 1215	174	House Bill 1418	43
House Bill 1224	373	House Bill 1426	261
House Bill 1225	373	House Bill 1428	301
House Bill 1229	376	House Bill 1438	224
House Bill 1232	140	House Bill 1455	153
House Bill 1234	135	House Bill 1458	80
House Bill 1235	135	House Bill 1462	371
House Bill 1236	254	House Bill 1470	40
House Bill 1238	127	House Bill 1471	321
House Bill 1239	223	House Bill 1472	275
House Bill 1244	343	House Bill 1474	305
House Bill 1248	351	House Bill 1475	153
House Bill 1252	190	House Bill 1480	344
House Bill 1253	76	House Bill 1481	348
House Bill 1262	35	House Bill 1483	224
House Bill 1267	300	House Bill 1484	348
House Bill 1268	95	House Bill 1485	204
House Bill 1271	95	House Bill 1489	51
House Bill 1274	172	House Bill 1501	275
House Bill 1283	162	House Bill 1502	190
House Bill 1285	261	House Bill 1507	19
House Bill 1286	247	House Bill 1508	297

House Bill 1509	90	House Bill 1681	35
House Bill 1516	140	House Bill 1685	129
House Bill 1528	76	House Bill 1686	40
House Bill 1531	258	House Bill 1687	131
House Bill 1535	162	House Bill 1690	31
House Bill 1540	113	House Bill 1695	225
House Bill 1544	146	House Bill 1697	168
House Bill 1546	336	House Bill 1701	63
House Bill 1547	135	House Bill 1705	117
House Bill 1558	196	House Bill 1708	297
House Bill 1562	229	House Bill 1718	164
House Bill 1567	361	House Bill 1733	262
House Bill 1571	204	House Bill 1734	322
House Bill 1572	211	House Bill 1735	344
House Bill 1573	253	House Bill 1737	172
House Bill 1575	130	House Bill 1740	283
House Bill 1577	99	House Bill 1744	211
House Bill 1580	88	House Bill 1745	216
House Bill 1582	135	House Bill 1747	77
House Bill 1583	102	House Bill 1751	63
House Bill 1584	344	House Bill 1752	146
House Bill 1586	46	House Bill 1759	64
House Bill 1587	81	House Bill 1763	377
House Bill 1588	224	House Bill 1765	77
House Bill 1589	224	House Bill 1767	159
House Bill 1596	349	House Bill 1771	191
House Bill 1599	375	House Bill 1772	231
House Bill 1601	63	House Bill 1773	322
House Bill 1602	204	House Bill 1775	204
House Bill 1604	156	House Bill 1789	334
House Bill 1606	229	House Bill 1791	168
House Bill 1609	116	House Bill 1799	93
House Bill 1610	236	House Bill 1800	297
House Bill 1611	113	House Bill 1812	231
House Bill 1614	90	House Bill 1813	6
House Bill 1622	43	House Bill 1814	337
House Bill 1630	244	House Bill 1815	354
House Bill 1631	282	House Bill 1817	253
House Bill 1632	282	House Bill 1820	309
House Bill 1634	56	House Bill 1823	25
House Bill 1636	267	House Bill 1826	287
House Bill 1642	40	House Bill 1829	180
House Bill 1644	375	House Bill 1830	81
House Bill 1645	351	House Bill 1831	51
House Bill 1646	344	House Bill 1833	25
House Bill 1647	92	House Bill 1835	229
House Bill 1648	153	House Bill 1851	351
House Bill 1657	371	House Bill 1855	25
House Bill 1659	76	House Bill 1863	92
House Bill 1664	92	House Bill 1867	197
House Bill 1672	337	House Bill 1891	211
House Bill 1673	385	House Bill 1892	249
House Bill 1677	149	House Bill 1893	26

House Bill 1896	36	House Bill 2120	236
House Bill 1901	136	House Bill 2129	113
House Bill 1912	186	House Bill 2131	117
House Bill 1913	301	House Bill 2134	337
House Bill 1919	277	House Bill 2139	337
House Bill 1924	14	House Bill 2140	373
House Bill 1925	349	House Bill 2157	199
House Bill 1928	295	House Bill 2158	164
House Bill 1934	40	House Bill 2161	106
House Bill 1935	376	House Bill 2171	211
House Bill 1937	81	House Bill 2172	107
House Bill 1938	77	House Bill 2174	47
House Bill 1939	217	House Bill 2179	254
House Bill 1940	141	House Bill 2180	146
House Bill 1945	93	House Bill 2193	36
House Bill 1959	268	House Bill 2194	64
House Bill 1970	129	House Bill 2195	37
House Bill 1977	99	House Bill 2196	310
House Bill 1981	377	House Bill 2197	37
House Bill 1982	73	House Bill 2199	91
House Bill 1984	323	House Bill 2200	40
House Bill 1986	354	House Bill 2201	109
House Bill 1987	119	House Bill 2202	298
House Bill 1996	378	House Bill 2208	310
House Bill 1997	46	House Bill 2217	283
House Bill 1999	126	House Bill 2218	136
House Bill 2017	199	House Bill 2221	173
House Bill 2018	310	House Bill 2223	136
House Bill 2019	230	House Bill 2228	56
House Bill 2025	310	House Bill 2231	128
House Bill 2026	268	House Bill 2235	102
House Bill 2027	269	House Bill 2243	258
House Bill 2032	269	House Bill 2254	325
House Bill 2036	51	House Bill 2256	47
House Bill 2037	269	House Bill 2257	349
House Bill 2039	31	House Bill 2266	232
House Bill 2048	315	House Bill 2267	397
House Bill 2059	96	House Bill 2272	181
House Bill 2064	6	House Bill 2273	217
House Bill 2065	6	House Bill 2274	176
House Bill 2068	96	House Bill 2275	64
House Bill 2069	91	House Bill 2280	96
House Bill 2071	351	House Bill 2294	64
House Bill 2077	56	House Bill 2296	64
House Bill 2079	385	House Bill 2298	212
House Bill 2080	324	House Bill 2300	354
House Bill 2096	109	House Bill 2301	369
House Bill 2100	156	House Bill 2303	258
House Bill 2101	156	House Bill 2307	78
House Bill 2104	56	House Bill 2309	88
House Bill 2108	181	House Bill 2313	110
House Bill 2109	176	House Bill 2322	97
House Bill 2110	225	House Bill 2331	129

House Bill 2333	169	House Bill 2549	81
House Bill 2336	296	House Bill 2553	364
House Bill 2337	334	House Bill 2555	269
House Bill 2339	90	House Bill 2565	200
House Bill 2340	74	House Bill 2569	47
House Bill 2344	149	House Bill 2572	195
House Bill 2348	351	House Bill 2574	225
House Bill 2371	205	House Bill 2579	186
House Bill 2374	305	House Bill 2581	136
House Bill 2376	110	House Bill 2584	153
House Bill 2377	141	House Bill 2587	153
House Bill 2379	313	House Bill 2590	7
House Bill 2381	262	House Bill 2593	315
House Bill 2382	248	House Bill 2594	147
House Bill 2384	195	House Bill 2604	244
House Bill 2388	200	House Bill 2613	205
House Bill 2390	200	House Bill 2614	200
House Bill 2408	128	House Bill 2618	238
House Bill 2410	111	House Bill 2619	102
House Bill 2414	41	House Bill 2626	238
House Bill 2420	191	House Bill 2627	251
House Bill 2421	217	House Bill 2630	345
House Bill 2422	351	House Bill 2639	397
House Bill 2423	378	House Bill 2640	301
House Bill 2428	373	House Bill 2645	32
House Bill 2430	373	House Bill 2647	351
House Bill 2437	212	House Bill 2650	338
House Bill 2438	254	House Bill 2651	117
House Bill 2440	107	House Bill 2653	338
House Bill 2441	181	House Bill 2659	338
House Bill 2451	6	House Bill 2661	142
House Bill 2453	351	House Bill 2667	91
House Bill 2454	97	House Bill 2668	128
House Bill 2457	301	House Bill 2677	225
House Bill 2458	238	House Bill 2678	203
House Bill 2463	191	House Bill 2680	160
House Bill 2465	89	House Bill 2685	296
House Bill 2466	313	House Bill 2694	142
House Bill 2470	151	House Bill 2695	142
House Bill 2471	151	House Bill 2696	160
House Bill 2473	315	House Bill 2701	169
House Bill 2475	150	House Bill 2702	338
House Bill 2476	147	House Bill 2716	215
House Bill 2481	114	House Bill 2746	253
House Bill 2491	325	House Bill 2753	310
House Bill 2495	345	House Bill 2755	78
House Bill 2507	147	House Bill 2759	94
House Bill 2509	49	House Bill 2761	212
House Bill 2510	117	House Bill 2765	147
House Bill 2511	298	House Bill 2767	64
House Bill 2518	41	House Bill 2769	226
House Bill 2525	141	House Bill 2772	305
House Bill 2526	7	House Bill 2791	65

House Bill 2793	118	House Bill 3093	65
House Bill 2806	169	House Bill 3098	131
House Bill 2808	287	House Bill 3101	281
House Bill 2810	205	House Bill 3111	100
House Bill 2814	153	House Bill 3112	311
House Bill 2815	374	House Bill 3113	296
House Bill 2819	313	House Bill 3140	258
House Bill 2823	226	House Bill 3144	270
House Bill 2826	298	House Bill 3147	142
House Bill 2837	37	House Bill 3149	251
House Bill 2839	37	House Bill 3152	66
House Bill 2856	248	House Bill 3162	242
House Bill 2866	232	House Bill 3163	74
House Bill 2868	7	House Bill 3169	305
House Bill 2870	212	House Bill 3181	398
House Bill 2872	212	House Bill 3195	330
House Bill 2876	370	House Bill 3199	48
House Bill 2879	249	House Bill 3200	306
House Bill 2883	205	House Bill 3221	345
House Bill 2885	65	House Bill 3227	314
House Bill 2892	301	House Bill 3235	191
House Bill 2894	345	House Bill 3240	275
House Bill 2900	311	House Bill 3250	218
House Bill 2902	311	House Bill 3262	232
House Bill 2913	47	House Bill 3263	44
House Bill 2921	277	House Bill 3265	66
House Bill 2926	327	House Bill 3269	270
House Bill 2928	78	House Bill 3297	287
House Bill 2930	215	House Bill 3300	213
House Bill 2931	74	House Bill 3302	74
House Bill 2932	142	House Bill 3333	352
House Bill 2941	201	House Bill 3340	284
House Bill 2942	269	House Bill 3357	151
House Bill 2949	115	House Bill 3376	57
House Bill 2956	173	House Bill 3384	221
House Bill 2957	102	House Bill 3409	301
House Bill 2958	355	House Bill 3423	378
House Bill 2961	186	House Bill 3425	346
House Bill 2962	215	House Bill 3426	14
House Bill 2965	201	House Bill 3428	136
House Bill 2966	355	House Bill 3434	275
House Bill 2988	32	House Bill 3441	44
House Bill 2999	205	House Bill 3460	359
House Bill 3001	11	House Bill 3461	281
House Bill 3010	131	House Bill 3468	290
House Bill 3016	327	House Bill 3469	115
House Bill 3024	269	House Bill 3475	44
House Bill 3029	372	House Bill 3476	385
House Bill 3036	78	House Bill 3478	378
House Bill 3041	352	House Bill 3479	399
House Bill 3045	131	House Bill 3481	44
House Bill 3047	142	House Bill 3485	44
House Bill 3048	212	House Bill 3486	154

House Bill 3489	44	Senate Bill 23	188
House Bill 3490	381	Senate Bill 30	181
House Bill 3497	385	Senate Bill 34	169
House Bill 3498	385	Senate Bill 39	164
House Bill 3502	386	Senate Bill 40	196
House Bill 3513	379	Senate Bill 42	292
House Bill 3515	131	Senate Bill 44	147
House Bill 3517	81	Senate Bill 45	147
House Bill 3518	81	Senate Bill 46	188
House Bill 3519	44	Senate Bill 48	197
House Bill 3520	399	Senate Bill 50	206
House Bill 3524	386	Senate Bill 51	206
House Bill 3525	386	Senate Bill 52	188
House Bill 3526	82	Senate Bill 53	206
House Bill 3527	370	Senate Bill 56	66
House Bill 3528	82	Senate Bill 60	57
House Bill 3530	386	Senate Bill 66	148
House Bill 3531	41	Senate Bill 88	206
House Bill 3534	387	Senate Bill 91	57
House Bill 3535	387	Senate Bill 96	316
House Bill 3537	154	Senate Bill 99	26
House Bill 3539	379	Senate Bill 101	176
House Bill 3541	45	Senate Bill 111	170
House Bill 3546	387	Senate Bill 114	173
House Bill 3547	45	Senate Bill 121	262
House Bill 3548	387	Senate Bill 122	26
House Bill 3549	388	Senate Bill 129	355
House Bill 3550	82	Senate Bill 132	164
House Bill 3554	82	Senate Bill 143	244
House Bill 3557	45	Senate Bill 144	288
House Bill 3560	82	Senate Bill 148	262
House Bill 3563	292	Senate Bill 149	20
House Bill 3568	379	Senate Bill 150	79
House Bill 3569	388	Senate Bill 151	170
House Bill 3570	45	Senate Bill 155	207
House Bill 3574	388	Senate Bill 164	296
House Bill 3576	399	Senate Bill 166	67
House Bill 3582	388	Senate Bill 171	103
House Joint Resolution 6	125	Senate Bill 177	232
House Joint Resolution 54	340	Senate Bill 182	355
House Joint Resolution 79	355	Senate Bill 183	14
House Joint Resolution 80	79	Senate Bill 187	189
House Joint Resolution 87	41	Senate Bill 188	288
Senate Bill 1	12	Senate Bill 189	288
Senate Bill 5 (2nd C.S.)	364	Senate Bill 200	281
Senate Bill 6	186	Senate Bill 212	245
Senate Bill 7 (2nd C.S.)	278	Senate Bill 213	316
Senate Bill 9	100	Senate Bill 217	334
Senate Bill 11	101	Senate Bill 220	296
Senate Bill 14	213	Senate Bill 224	278
Senate Bill 15	32	Senate Bill 234	48
Senate Bill 18	327	Senate Bill 235	45
Senate Bill 20 (1st C.S.)	362	Senate Bill 239	157

Senate Bill 241.....	47	Senate Bill 403.....	163
Senate Bill 245.....	349	Senate Bill 407.....	160
Senate Bill 248.....	160	Senate Bill 408.....	362
Senate Bill 252.....	75	Senate Bill 409.....	359
Senate Bill 254.....	175	Senate Bill 410.....	163
Senate Bill 255.....	311	Senate Bill 411.....	251
Senate Bill 256.....	288	Senate Bill 415.....	189
Senate Bill 261.....	207	Senate Bill 419.....	163
Senate Bill 262.....	306	Senate Bill 423.....	165
Senate Bill 263.....	262	Senate Bill 424.....	165
Senate Bill 264.....	154	Senate Bill 425.....	15
Senate Bill 265.....	201	Senate Bill 427.....	89
Senate Bill 267.....	328	Senate Bill 428.....	389
Senate Bill 269.....	7	Senate Bill 429.....	389
Senate Bill 270.....	238	Senate Bill 433.....	355
Senate Bill 271.....	157	Senate Bill 436.....	42
Senate Bill 272.....	270	Senate Bill 439.....	278
Senate Bill 276.....	175	Senate Bill 441.....	48
Senate Bill 280.....	346	Senate Bill 442.....	248
Senate Bill 286.....	263	Senate Bill 443.....	254
Senate Bill 291.....	42	Senate Bill 444.....	111
Senate Bill 293.....	14	Senate Bill 446.....	18
Senate Bill 296.....	175	Senate Bill 449.....	207
Senate Bill 302.....	171	Senate Bill 450.....	263
Senate Bill 308.....	101	Senate Bill 451.....	42
Senate Bill 310.....	306	Senate Bill 452.....	263
Senate Bill 314.....	103	Senate Bill 454.....	270
Senate Bill 316.....	152	Senate Bill 461.....	263
Senate Bill 318.....	311	Senate Bill 465.....	52
Senate Bill 321.....	48	Senate Bill 466.....	233
Senate Bill 325.....	189	Senate Bill 468.....	154
Senate Bill 327.....	27	Senate Bill 471.....	112
Senate Bill 330.....	148	Senate Bill 480.....	107
Senate Bill 331.....	398	Senate Bill 481.....	58
Senate Bill 335.....	20	Senate Bill 483.....	289
Senate Bill 338.....	330	Senate Bill 485.....	120
Senate Bill 343.....	119	Senate Bill 489.....	270
Senate Bill 346.....	276	Senate Bill 492.....	161
Senate Bill 347.....	276	Senate Bill 493.....	289
Senate Bill 348.....	42	Senate Bill 495.....	21
Senate Bill 350.....	148	Senate Bill 500.....	208
Senate Bill 356.....	233	Senate Bill 502.....	171
Senate Bill 359.....	21	Senate Bill 509.....	372
Senate Bill 363.....	398	Senate Bill 511.....	171
Senate Bill 369.....	352	Senate Bill 517.....	112
Senate Bill 374.....	372	Senate Bill 521.....	101
Senate Bill 376.....	191	Senate Bill 522.....	307
Senate Bill 381.....	255	Senate Bill 523.....	102
Senate Bill 382.....	256	Senate Bill 524.....	45
Senate Bill 387.....	289	Senate Bill 526.....	238
Senate Bill 396.....	38	Senate Bill 532.....	181
Senate Bill 399.....	280	Senate Bill 541.....	264
Senate Bill 402.....	162	Senate Bill 550.....	42

Senate Bill 552.....	48	Senate Bill 742.....	220
Senate Bill 554.....	32	Senate Bill 747.....	193
Senate Bill 555.....	33	Senate Bill 757.....	137
Senate Bill 563.....	192	Senate Bill 760.....	323
Senate Bill 565.....	189	Senate Bill 766.....	250
Senate Bill 566.....	192	Senate Bill 771.....	79
Senate Bill 567.....	328	Senate Bill 776.....	289
Senate Bill 568.....	258	Senate Bill 781.....	201
Senate Bill 569.....	15	Senate Bill 784.....	115
Senate Bill 571.....	7	Senate Bill 792.....	45
Senate Bill 573.....	340	Senate Bill 796.....	250
Senate Bill 574.....	230	Senate Bill 804.....	271
Senate Bill 578.....	226	Senate Bill 805.....	208
Senate Bill 579.....	244	Senate Bill 809.....	208
Senate Bill 580.....	242	Senate Bill 810.....	256
Senate Bill 581.....	143	Senate Bill 812.....	196
Senate Bill 593.....	79	Senate Bill 815.....	152
Senate Bill 599.....	67	Senate Bill 826.....	209
Senate Bill 602.....	341	Senate Bill 827.....	15
Senate Bill 610.....	166	Senate Bill 828.....	323
Senate Bill 611.....	67	Senate Bill 829.....	239
Senate Bill 619.....	346	Senate Bill 833.....	73
Senate Bill 621.....	103	Senate Bill 837.....	68
Senate Bill 623.....	264	Senate Bill 839.....	379
Senate Bill 624.....	259	Senate Bill 846.....	21
Senate Bill 626.....	192	Senate Bill 848.....	281
Senate Bill 630.....	193	Senate Bill 851.....	289
Senate Bill 637.....	352	Senate Bill 863.....	302
Senate Bill 644.....	278	Senate Bill 866.....	349
Senate Bill 651.....	67	Senate Bill 867.....	330
Senate Bill 658.....	289	Senate Bill 872.....	152
Senate Bill 665.....	150	Senate Bill 874.....	197
Senate Bill 668.....	154	Senate Bill 877.....	7
Senate Bill 672.....	131	Senate Bill 879.....	302
Senate Bill 678.....	352	Senate Bill 882.....	189
Senate Bill 679.....	67	Senate Bill 883.....	389
Senate Bill 690.....	264	Senate Bill 884.....	389
Senate Bill 691.....	150	Senate Bill 885.....	389
Senate Bill 692.....	382	Senate Bill 886.....	390
Senate Bill 693.....	389	Senate Bill 887.....	390
Senate Bill 702.....	182	Senate Bill 889.....	390
Senate Bill 709.....	21	Senate Bill 890.....	33
Senate Bill 712.....	363	Senate Bill 891.....	390
Senate Bill 716.....	302	Senate Bill 895.....	89
Senate Bill 718.....	103	Senate Bill 896.....	91
Senate Bill 727.....	264	Senate Bill 898.....	328
Senate Bill 728.....	356	Senate Bill 907.....	227
Senate Bill 729.....	48	Senate Bill 910.....	148
Senate Bill 732.....	226	Senate Bill 912.....	52
Senate Bill 734.....	234	Senate Bill 920.....	18
Senate Bill 736.....	238	Senate Bill 921.....	352
Senate Bill 737.....	346	Senate Bill 929.....	173
Senate Bill 739.....	120	Senate Bill 945.....	356

Senate Bill 951.....	239	Senate Bill 1176.....	307
Senate Bill 955.....	242	Senate Bill 1186.....	280
Senate Bill 967.....	380	Senate Bill 1188.....	193
Senate Bill 982.....	143	Senate Bill 1189.....	48
Senate Bill 984.....	190	Senate Bill 1192.....	271
Senate Bill 986.....	380	Senate Bill 1193.....	173
Senate Bill 988.....	248	Senate Bill 1195.....	70
Senate Bill 990.....	190	Senate Bill 1199.....	331
Senate Bill 993.....	82	Senate Bill 1202.....	16
Senate Bill 995.....	149	Senate Bill 1203.....	328
Senate Bill 998.....	221	Senate Bill 1204.....	352
Senate Bill 1000.....	166	Senate Bill 1205.....	230
Senate Bill 1002.....	316	Senate Bill 1206.....	353
Senate Bill 1005.....	69	Senate Bill 1211.....	150
Senate Bill 1006.....	69	Senate Bill 1214.....	239
Senate Bill 1011.....	298	Senate Bill 1217.....	242
Senate Bill 1014.....	49	Senate Bill 1224.....	33
Senate Bill 1017.....	380	Senate Bill 1226.....	171
Senate Bill 1018.....	282	Senate Bill 1227.....	177
Senate Bill 1026.....	154	Senate Bill 1238.....	149
Senate Bill 1027.....	155	Senate Bill 1246.....	93
Senate Bill 1032.....	115	Senate Bill 1247.....	178
Senate Bill 1037.....	182	Senate Bill 1253.....	331
Senate Bill 1038.....	79	Senate Bill 1255.....	8
Senate Bill 1044.....	112	Senate Bill 1257.....	335
Senate Bill 1045.....	376	Senate Bill 1258.....	335
Senate Bill 1050.....	302	Senate Bill 1264.....	38
Senate Bill 1055.....	197	Senate Bill 1271.....	271
Senate Bill 1063.....	370	Senate Bill 1273.....	278
Senate Bill 1074.....	346	Senate Bill 1275.....	129
Senate Bill 1090.....	75	Senate Bill 1281.....	118
Senate Bill 1103.....	284	Senate Bill 1282.....	250
Senate Bill 1105.....	234	Senate Bill 1283.....	201
Senate Bill 1106.....	239	Senate Bill 1284.....	210
Senate Bill 1107.....	239	Senate Bill 1290.....	248
Senate Bill 1108.....	239	Senate Bill 1297.....	120
Senate Bill 1112.....	137	Senate Bill 1298.....	118
Senate Bill 1113.....	157	Senate Bill 1299.....	118
Senate Bill 1122.....	248	Senate Bill 1302.....	155
Senate Bill 1126.....	70	Senate Bill 1309.....	215
Senate Bill 1130.....	107	Senate Bill 1311.....	271
Senate Bill 1131.....	356	Senate Bill 1330.....	156
Senate Bill 1133.....	265	Senate Bill 1331.....	9
Senate Bill 1137.....	8	Senate Bill 1339.....	341
Senate Bill 1139.....	143	Senate Bill 1340.....	194
Senate Bill 1142.....	80	Senate Bill 1342.....	245
Senate Bill 1146.....	290	Senate Bill 1345.....	245
Senate Bill 1147.....	42	Senate Bill 1351.....	324
Senate Bill 1149.....	209	Senate Bill 1353.....	83
Senate Bill 1151.....	128	Senate Bill 1354.....	121
Senate Bill 1170.....	108	Senate Bill 1370.....	9
Senate Bill 1173.....	138	Senate Bill 1377.....	312
Senate Bill 1175.....	108	Senate Bill 1378.....	152

Senate Bill 1395.....	290	Senate Bill 1605.....	317
Senate Bill 1408.....	216	Senate Bill 1621.....	104
Senate Bill 1413.....	112	Senate Bill 1626.....	94
Senate Bill 1421.....	302	Senate Bill 1641.....	357
Senate Bill 1424.....	46	Senate Bill 1652.....	329
Senate Bill 1425.....	46	Senate Bill 1663.....	143
Senate Bill 1426.....	70	Senate Bill 1668.....	360
Senate Bill 1428.....	2	Senate Bill 1670.....	347
Senate Bill 1433.....	303	Senate Bill 1673.....	303
Senate Bill 1434.....	356	Senate Bill 1680.....	3
Senate Bill 1435.....	103	Senate Bill 1686.....	312
Senate Bill 1436.....	103	Senate Bill 1691.....	307
Senate Bill 1437.....	104	Senate Bill 1692.....	10
Senate Bill 1440.....	331	Senate Bill 1693.....	291
Senate Bill 1447.....	363	Senate Bill 1704.....	42
Senate Bill 1448.....	210	Senate Bill 1707.....	121
Senate Bill 1450.....	33	Senate Bill 1710.....	115
Senate Bill 1452.....	175	Senate Bill 1713.....	341
Senate Bill 1455.....	271	Senate Bill 1730.....	330
Senate Bill 1458.....	230	Senate Bill 1740.....	116
Senate Bill 1461.....	70	Senate Bill 1751.....	83
Senate Bill 1464.....	363	Senate Bill 1754.....	155
Senate Bill 1465.....	335	Senate Bill 1769.....	155
Senate Bill 1469.....	70	Senate Bill 1772.....	399
Senate Bill 1471.....	9	Senate Bill 1786.....	357
Senate Bill 1472.....	10	Senate Bill 1787.....	296
Senate Bill 1473.....	227	Senate Bill 1791.....	58
Senate Bill 1479.....	243	Senate Bill 1792.....	400
Senate Bill 1480.....	243	Senate Bill 1795.....	390
Senate Bill 1481.....	75	Senate Bill 1798.....	398
Senate Bill 1485.....	265	Senate Bill 1799.....	380
Senate Bill 1491.....	312	Senate Bill 1800.....	390
Senate Bill 1498.....	376	Senate Bill 1801.....	391
Senate Bill 1507.....	70	Senate Bill 1802.....	391
Senate Bill 1518.....	104	Senate Bill 1803.....	391
Senate Bill 1524.....	157	Senate Bill 1804.....	392
Senate Bill 1525.....	190	Senate Bill 1805.....	83
Senate Bill 1528.....	182	Senate Bill 1806.....	83
Senate Bill 1533.....	296	Senate Bill 1807.....	392
Senate Bill 1537.....	382	Senate Bill 1808.....	392
Senate Bill 1551.....	53	Senate Bill 1809.....	172
Senate Bill 1555.....	83	Senate Bill 1810.....	393
Senate Bill 1563.....	21	Senate Bill 1811.....	370
Senate Bill 1564.....	202	Senate Bill 1813.....	84
Senate Bill 1569.....	317	Senate Bill 1820.....	84
Senate Bill 1570.....	321	Senate Bill 1821.....	84
Senate Bill 1579.....	353	Senate Bill 1823.....	393
Senate Bill 1587.....	329	Senate Bill 1826.....	393
Senate Bill 1589.....	279	Senate Bill 1828.....	400
Senate Bill 1591.....	202	Senate Bill 1830.....	196
Senate Bill 1592.....	202	Senate Bill 1831.....	381
Senate Bill 1593.....	22	Senate Bill 1836.....	84
Senate Bill 1604.....	380	Senate Bill 1840.....	383

Senate Bill 1844.....	179	Senate Bill 1873.....	395
Senate Bill 1846.....	155	Senate Bill 1875.....	46
Senate Bill 1847.....	381	Senate Bill 1881.....	395
Senate Bill 1848.....	381	Senate Bill 1882.....	395
Senate Bill 1850.....	10	Senate Bill 1883.....	176
Senate Bill 1851.....	393	Senate Bill 1884.....	396
Senate Bill 1853.....	400	Senate Bill 1887.....	396
Senate Bill 1855.....	393	Senate Bill 1888.....	396
Senate Bill 1863.....	318	Senate Bill 1889.....	396
Senate Bill 1864.....	394	Senate Bill 1891.....	400
Senate Bill 1865.....	394	Senate Bill 1892.....	85
Senate Bill 1866.....	84	Senate Bill 1894.....	401
Senate Bill 1867.....	85	Senate Joint Resolution 7.....	138
Senate Bill 1870.....	381	Senate Joint Resolution 17.....	71
Senate Bill 1871.....	394	Senate Joint Resolution 21.....	138
Senate Bill 1872.....	394	Senate Joint Resolution 40.....	279