

Summary of Enactments 79th Legislature

3rd Called Session
2006

Prepared by the Research Division
of the
Texas Legislative Council

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



Lieutenant Governor David Dewhurst, Joint Chair
Speaker Tom Craddick, Joint Chair
Milton Rister, Executive Director

July 2006

The mission of the Texas Legislative Council is to provide professional, nonpartisan service and support to the Texas Legislature and legislative agencies. In every area of responsibility, we strive for quality and efficiency.

Copies of this publication have been distributed in compliance with the state depository law (Subchapter G, Chapter 441, Government Code), and are available for public use through the Texas State Publications Depository Program at the Texas State Library and other state depository libraries. An online version of this publication can be found at <http://www.tlc.state.tx.us/pubslegref/pubslegref.html>.

Additional copies of this publication may be obtained from House Document Distribution:

In person: Room B.324, Robert E. Johnson, Sr., Legislative Office Building
1501 N. Congress Avenue

By mail: P.O. Box 12128, Austin, TX 78711-2128

By phone: (512) 463-1144

By fax: (512) 463-2920

By online request form (legislative offices only): <http://isntlnp1/FormsReq/MForms.nsf?opendatabase&login>

Table of Contents

Foreword	v
Introduction	vii
Enactments of the 79th Legislature, 3rd Called Session	
Criminal Justice	1
Higher Education	3
Public Education	5
Taxes and Tax Administration.....	9
Utilities.....	13

Foreword

The Summary of Enactments of the 79th Legislature, 3rd Called Session, provides synopses of the 11 bills enacted by the legislature during the called session.

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.

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

On April 17, 2006, the governor issued a proclamation calling for an extraordinary session of the 79th Texas Legislature to convene to consider legislation to provide for school district property tax relief, modification of the franchise tax, modification of the motor vehicle sales and use tax, modification of the tax on tobacco products, and an appropriation to the Texas Education Agency. The 3rd Called Session of the 79th Legislature convened on April 17, 2006, and adjourned *sine die* on May 16, 2006.

The governor issued five official memoranda expanding the call of the 3rd Called Session to include issues relating to higher education funding, appropriations to pay for damages suffered by Lamar University caused by Hurricanes Katrina and Rita, the recovery and securitization of hurricane reconstruction costs incurred by certain electric utilities, prohibiting certain disruptive behavior at a funeral service, transferring the administration of the Irma Rangel School of Pharmacy, and permitting the railroad commission to acquire title to carbon dioxide captured by a clean coal project.

During the 3rd Called Session, a total of 213 bills were filed, of which 11 passed; 35 joint resolutions were filed but none passed; and no bills were vetoed by the governor.

Enactments of the 79th Legislature 3rd Called Session

Criminal Justice

This chapter covers legislation relating to criminal offenses and penalties.

House Bill 97 (3rd C.S.)

Effective: 5-19-06

House Author: McCall et al.

Senate Sponsor: Duncan

House Bill 97 amends provisions of the Penal Code to make it a Class B misdemeanor offense to picket within 500 feet of a facility or cemetery being used for a funeral service, beginning one hour before the service begins and ending one hour after the service is completed. The bill adds this funeral service disruption offense to the list of offenses for which an affirmative defense of free speech or communication is provided under certain conditions.

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 chapter also includes legislation affecting higher education funding issues.

House Bill 63 (3rd C.S.)
Effective: 5-24-06

House Author: Pitts et al.
Senate Sponsor: Williams

House Bill 63 appropriates \$34 million to the Texas State University System to pay for costs associated with damages or disruptions caused by Hurricane Katrina or Hurricane Rita and suffered by Lamar University or its related institutions. The bill sets out provisions relating to allocation of funding and the prevention of double recovery or reimbursement for hurricane-related costs or expenditures.

House Bill 153 (3rd C.S.)
Effective: 5-31-06

House Author: Morrison et al.
Senate Sponsor: Zaffirini

House Bill 153 amends the Education Code to provide additional authority for the boards of regents of the various university systems and of individual independent universities in the state to issue revenue bonds in the amounts specified to finance the capital improvements enumerated in the bill.

The bill also amends the Government Code to extend to a junior college district with an enrollment of 40,000 or more the same authority granted to other local governments to issue securities or obligations to finance public improvements.

House Bill 154 (3rd C.S.)
Effective: 5-31-06

House Author: Luna
Senate Sponsor: Lucio

House Bill 154 amends the Education Code to transfer the administration of the Irma Rangel School of Pharmacy from Texas A&M University—Kingsville to The Texas A&M University System Health Science Center.

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.

House Bill 1 (3rd C.S.)

Effective: See below

House Author: Chisum et al.

Senate Sponsor: Shapiro et al.

House Bill 1 amends the Education Code, Tax Code, and Government Code to provide property tax relief, enhance public school fiscal and academic accountability, and increase state funding for public education. The bill also amends Education Code provisions relating to school employees, including providing for pay increases, performance incentives, and staff development; high school student performance and course work requirements; and other topics, including school start dates and uniform school board election dates.

Property Tax Relief and Public School Funding: The bill lowers the cap on school district maintenance and operations (M&O) property tax rates from \$1.50 per \$100 valuation to \$1.33 for the 2006 tax year and to \$1.00 for the 2007 tax year, and allows for further compression in subsequent years. For districts that imposed M&O taxes at a rate below the \$1.50 cap in the 2005 tax year, the bill provides for a rate compression to reduce their M&O tax rates to 88.67 percent of their 2005 rate in the 2006 tax year and to 66.67 percent of their 2005 rate in the 2007 tax year, and provides additional state aid for districts in an amount equal to the sum of: (1) the amount needed for each district to maintain a total of state and local per-pupil revenue equal to either the per-pupil M&O revenue it received in the 2005-2006 school year or the revenue to which it would have been entitled for the 2006-2007 school year under Chapters 41 and 42, Education Code, as those chapters existed on January 1, 2006, whichever is greater; (2) \$2,500 for each of the district's teachers, full-time librarians, certified counselors, and nurses; and (3) a high school allotment of \$275 per pupil in average daily attendance in grades 9 through 12. The bill includes provisions for the commissioner of education to compute the amount to which each district is entitled, taking into account a variety of specified factors; appropriates \$3.825 billion to the Texas Education Agency for distribution to school districts in accordance with these provisions; and clarifies that any appropriations for the reduction of school district M&O tax rates and the attendant state aid may not be used for any other purpose, such as certain funding adjustments or facilities funding.

The bill replaces the fixed dollar amounts currently specified for the Tier 1 basic allotment, the Tier 2 guaranteed yield level, and the Chapter 41 equalized wealth level (currently \$2,537 per pupil, \$27.14 per pupil per penny of tax effort above \$0.86, and \$305,000 per pupil, respectively) and sets those at varying amounts based on the level of school district tax effort. The basic allotment is set at the per-pupil amount that would be available to the district at the 88th percentile of per-pupil wealth at a tax rate of \$0.86 per \$100 valuation (estimated to be \$2,748 for the 2006-2007 school year). The guaranteed yield level is set at varying amounts based on a district's tax effort as follows: (1) the tax revenue per weighted pupil per penny of tax effort available to the district at the 88th percentile (estimated to be \$31.95 for the 2006-2007 school year) for M&O tax effort above \$0.86 and up to the district's compressed M&O tax rate; (2) the tax revenue per weighted pupil per penny of tax effort available to the Austin Independent School District (estimated to be \$41.21 for the 2006-2007 school year) for the first six cents over the district's compressed M&O tax rate; and (3) \$31.95 for each penny of tax effort above

that six cents. The equalized wealth level is capped at: (1) the per-pupil wealth that generates the M&O tax revenue per pupil available to the district at the 88th percentile of per-pupil wealth (estimated to be \$319,500 for the 2006-2007 school year) for each penny of tax effort up to the district's compressed M&O tax rate; (2) except as otherwise provided, the per-pupil wealth that generates the M&O tax revenue per pupil available to the Austin ISD (estimated to be \$412,100 for the 2006-2007 school year) for the first six cents above the district's compressed M&O tax rate; and (3) \$319,500 per pupil for the district's M&O tax effort above that six cents. The six-cent threshold applicable to the guaranteed yield and equalized wealth levels applies beginning with the 2008-2009 school year, and a temporary threshold of four cents applies for the 2006-2007 and 2007-2008 school years. Districts may not levy more than four cents above their compressed M&O tax rate for enrichment for the first two years after the effective date of the bill, and any subsequent increase for enrichment will require voter approval. For property wealthy districts, the tax revenue raised by this six cents of additional tax effort (or four cents in 2006-2007) is not subject to recapture, but only if the corresponding six cents for Chapter 42 school districts is equalized to the level a penny of tax generates in the Austin ISD, and excess revenue (any revenue above \$31.95 per pupil per penny of tax effort) raised by any tax effort above that six cents is subject to recapture. The bill also revises the schedule of payments from the foundation school fund to accelerate the final installment payment to certain school districts so that such payment is made on or before August 25.

The bill amends the provisions of the Tax Code governing the calculation of school district rollback rates so as to make any increase of more than four cents above a school district's compressed M&O tax rate for enrichment purposes subject to voter approval. The bill also establishes a one-time uniform election date for voter approval of a school district tax rate for the 2006 tax year that exceeds the district's rollback tax rate; the election must be ordered not later than August 31, 2006, and held on September 30, 2006. The bill also requires school districts to state their current year and prior year M&O, debt service, and total tax rates separately on tax bills or accompanying statements. The bill also contains certain provisions regarding the participation by school districts in tax increment financing and the conduct of the comptroller's school district property value study. The provisions of the bill pertaining to the freeze on school district taxes or residence homesteads of the elderly or disabled did not take effect because they were contingent on a constitutional amendment that did not take effect.

The bill includes other provisions relating to funding for the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and alternative juvenile justice programs, where funding is based in part on agreements between such schools and programs and school districts and on funding provided to districts. Finally, the bill allows the commissioner of education to treat a statutory or regulatory reference to a tax rate of \$1.50, as the statutes or rules existed on May 1, 2006, as a different tax rate reflecting the effect of property tax rate compression provided by the bill.

Fiscal Accountability: House Bill 1 provides for the establishment of up to three education research centers; for the sharing of student information among such centers, state education agencies, and local school districts in accordance with applicable federal privacy laws; for greater public access to Public Education Information Management System data; and for the creation of an online clearinghouse of information on campus and district best practices relating to instruction, finance, resource allocation, and business practices. It also requires the commissioner of education to study the possibility of adding a uniform indicator to measure effective administrative management through cooperative shared services arrangements, imposes requirements on regional education service centers to promote the use of such arrangements, and adds other requirements relating to the appointment of internal auditors by school districts.

In addition, the bill provides for the enhancement of the state's financial accountability rating system, the publication of proposed school district budget summaries, the conduct of a comprehensive third-party review of school district accounting systems, and the establishment of annual spending targets for school districts.

Academic Accountability: House Bill 1 provides for the implementation of an electronic student records system and requires each district, charter school, and public technical, junior, or senior college or public university to participate in the system for the purpose of electronic retrieval and transfer of relevant student information. It provides for the evaluation and reenrollment of a limited English proficiency (LEP) student in a bilingual education or special language program under certain conditions, subsequent to the student's initial transfer out of such a program; adds a measure of progress toward dual language proficiency for LEP students and a measure of progress toward postsecondary success for all students to the academic excellence indicator system; and provides for a measure of annual improvement in student achievement on certain statewide standardized tests. The bill replaces the low-performing campus rating with an academically unacceptable rating; clarifies the specific sanctions and sanction procedures applicable to charter schools and individual campuses and creates new sanctions, including management of certain academically unacceptable campuses by a qualified nonprofit entity or a school district other than the one in which the campus is located; establishes procedures for a school district or charter school to challenge an accountability rating or sanction; requires the commissioner to define the accreditation levels (accredited, accredited-warned, and accredited-probation); establishes notification requirements and procedures for districts falling in the last two categories; and prohibits unaccredited districts from receiving further state funding.

Education Employees: House Bill 1 requires the implementation of a school leadership pilot program to provide training for school principals and makes that training mandatory for each principal of an academically unacceptable rated campus and that principal's replacement, if any. It creates a mentoring program for beginning teachers, prescribing qualifications and requirements for any teacher to be assigned as a mentor as well as providing for a mentor teacher stipend. The bill provides for a \$2,500 salary increase for each full-time teacher, librarian, certified counselor, and nurse. It eliminates the previously provided health care supplement but allows employees to designate a portion of their salary for health care supplementation and provides for a state-funded wage increase for auxiliary support staff in the amount of \$500 for full-time employees and \$250 for part-time employees. In addition to the salary increases, the bill establishes two locally designed incentive programs—an Awards for Student Achievement Program targeted toward rewarding high achievement at high-poverty schools and providing incentive payments that range from \$3,000 to \$10,000 for individual teachers, and a more general Educator Excellence Award Program providing individual incentive payments or stipends to teachers and other school employees—and requires employment contracts to stipulate that qualifying employees may receive incentive payments, which are not to be considered an entitlement as part of an employee's salary.

High School-Related Provisions: House Bill 1 requires the establishment of a vertical team of high school educators and college faculty to recommend college readiness standards and expectations, to evaluate the high school curriculum and other instructional requirements to prepare students to succeed in undertaking college-level work, and to recommend steps to align that curriculum with those standards. It charges the P-16 Council with the task of recommending a college readiness and success strategic action plan to increase student success and decrease the number of students having to enroll in developmental courses in college. The bill adds a requirement for students to take four years of English, mathematics, science, and social studies

as part of the recommended and advanced high school programs; allows districts to provide flexible school day high school programs for dropout recovery and dropout prevention or for other innovative campus redesign; authorizes public senior colleges and universities to establish a Texas governor's school as a summer residential program for high-achieving high school students; requires any statewide high school end-of-course test to be developed in a manner that allows its use in determining a student's placement in a college course on the same subject; and establishes criteria for use of a district's high school allotment.

Miscellaneous Provisions: Other provisions of House Bill 1 postpone the next scheduled sunset review date for the Texas Education Agency from 2007 to 2012; prohibit a district from starting the school year before the fourth Monday in August, unless the district operates on a year-round schedule, and disallow any waivers from this prohibition; require school board elections to be held jointly with either an election for city officials or a general election for state and county officers, using the same polling places as those other elections; and express the legislature's intent that the State Board of Education forgo further textbook proclamations pending reforms of the state's textbook procurement and purchasing system.

House Bill 1 provisions apply beginning with the 2006-2007 school year unless otherwise provided by the act.

Taxes and Tax Administration

This chapter covers legislation on the allocation of revenue from certain taxes to school district property tax relief and public education and legislation to broaden the base of businesses subject to the state franchise tax and to restructure that tax. It also includes legislation relating to motor vehicle sales and use taxes and an increase in the rate for tobacco taxes.

House Bill 2 (3rd C.S.)

Effective: See below

House Author: Pitts et al.

Senate Sponsor: Williams

House Bill 2 amends provisions of the Government Code and Tax Code to provide for the allocation of revenue from certain taxes to school district property tax relief and public education. The bill creates the property tax relief fund, composed of revenue from franchise taxes, motor vehicle sales and use taxes, and taxes on cigarettes and other tobacco products. House Bill 2 establishes conditions under which money in the fund is appropriated only to reduce school district maintenance and operations tax rates and conditions under which a portion of the money in the fund is appropriated for that purpose and a portion is appropriated to minimize certain disparities in revenue between districts of varying property wealth. Provisions relating to allocation of franchise tax revenue take effect September 1, 2007; provisions relating to allocation of motor vehicle sales and use tax revenue take effect October 1, 2006; and provisions relating to allocation of cigarette and tobacco product tax revenue take effect September 1, 2006.

House Bill 3 (3rd C.S.)

Effective: See below

House Author: Keffer, Jim et al.

Senate Sponsor: Ogden et al.

House Bill 3 amends provisions of the Tax Code to broaden the base of businesses that are subject to the state franchise tax and to restructure the tax. Under the restructuring, taxable entities include partnerships, corporations, banking corporations, savings and loan associations, limited liability companies, business trusts, professional associations, business associations, certain joint ventures, joint stock companies, holding companies, and other legal entities, including combined groups. Entities not subject to the franchise tax include, among others, sole proprietorships, general partnerships directly owned by individual persons, certain grantor trusts, escrows, real estate investment trusts, real estate mortgage investment conduits, and certain passive entities that receive only a limited amount of income from the conduct of an active business. In addition, an entity that is not a corporation but that, because of its activities, would be exempted under the franchise tax as it existed before the restructuring is also exempt under the restructured tax, including insurance companies required to pay insurance premium taxes, nonprofit corporations, cooperatives, and credit unions, among others. However, House Bill 3 does subject certain insurance companies to the franchise tax for the tax year any portion of which the entity is in violation of final orders issued by the Texas Department of Insurance in relation to excessive or discriminatory rate practices.

Before changes to Chapter 171, Tax Code, enacted in House Bill 3, the franchise tax was based on a corporation's net taxable capital (taxed at a rate of 0.25 percent) or on its net earned surplus (taxed at a rate of 4.5 percent). Under House Bill 3, the franchise tax is paid on an entity's "taxable margin," which is computed using as a base an entity's "total revenue." Total revenue is generally the business's gross receipts and other income minus items such as bad debt, foreign royalties and dividends, federal income tax deductions, and distributive income from certain entities. In addition, House Bill 3 lists a number of expenses and "flow-through funds" (funds that pass through the taxable entity to another entity) that are excluded from the computation of total revenue. Such expenses and flow-through funds include, but are not limited to, taxes

collected from a third party to be remitted to a taxing authority; principal repayment of loans collected by lending institutions; certain amounts relating to legal services, including damages due to a legal claimant, reimbursement for expenses incurred specific to the prosecution of a claimant's matter, and up to \$500 of actual out-of-pocket expenses per pro bono case; certain amounts relating to staff leasing services, including payments received from a client company for wages, payroll taxes, and employee and workers' compensation benefits for the assigned employees of the client company; and certain health care provider costs and compensation, including payments received under the Medicaid program, Medicare program, Indigent Health Care and Treatment Act, Children's Health Insurance Program (CHIP), TRICARE military health system, and certain workers' compensation claims, as well as the actual cost of any uncompensated care. If the health care provider is a health care institution, the exclusion for provider payments and uncompensated care is limited to 50 percent of payments received or of the value of the care given.

Under the restructured franchise tax, for an entity to arrive at its taxable margin, the entity calculates its total "margin" as the lesser of three values: (1) 70 percent of total revenue; (2) total revenue minus costs of goods sold; and (3) total revenue minus total compensation and benefits. The bill also includes certain deductions for costs and compensation associated with persons called to active military duty. The entity makes an annual choice to deduct from its total revenue either its costs of goods sold or its total compensation. The bill specifies criteria used to determine the entity's costs of goods sold (basically all direct costs of acquiring or producing goods) and its total compensation (basically wages, cash compensation, and workers' compensation, health care, and retirement benefits), with total compensation limited to \$300,000 (indexed for inflation) per employee. On determining its total margin, an entity then determines its "apportioned margin" by allocating to Texas the proportion of business performed in the state. From that amount, the entity subtracts any other allowable deductions to determine the entity's "taxable margin," i.e., the amount on which the entity is taxed. In addition, the bill sets out specific reporting requirements in determining taxable margin for affiliated groups engaged in unitary business and for certain tiered partnership arrangements.

House Bill 3 includes a two-tiered tax rate. A taxable entity engaged primarily in retail or wholesale trade pays, on its taxable margin, the franchise tax at a rate of 0.5 percent. All other taxable entities pay at a rate of 1.0 percent. The bill sets out criteria for determining whether a business is engaged primarily in retail or wholesale trade. Any increase in the rates must be approved by a majority of the registered voters voting in a statewide referendum. No election is required for a decrease in the rates.

House Bill 3 exempts from the franchise tax those businesses that have no more than \$300,000 (indexed for inflation) in total revenue or that owe less than \$1,000 in franchise taxes.

For a taxable entity with more than 100,000 employees in Texas, the bill requires the entity to file an annual report with the comptroller stating the number of its Texas employees or the employees' family members that receive CHIP or Medicaid benefits.

For enforcement purposes, the comptroller is authorized to forfeit the right of a taxable entity to transact business in the state in the same manner the comptroller is authorized to forfeit a corporation's corporate privileges in the state.

House Bill 3 amends the procedure under the Texas Economic Development Act by which a school district may consider an application for a limitation on appraised value to require the Texas Education Agency to conduct an economic impact evaluation on the proposed limitation rather than allowing the district itself to hire a third party to perform the evaluation. The evaluation is binding on the district and the applicant.

House Bill 3 requires the comptroller to identify and obtain an information report from each of the 1,000 entities that paid or were required to pay the most franchise tax in calendar year 2005, the 1,000 entities that had the greatest amount of gross receipts in 2005, the 1,000 entities with the most employees in the state in 2005, and the 1,000 entities with the greatest school maintenance and operations (M&O) property tax levy in 2005. From the information, the comptroller must report to state leadership by April 1, 2007, and April 1, 2008, the amount of franchise tax revenue that would have been generated from the entities if the restructured franchise tax had been in effect on January 1, 2006, and the M&O property taxes paid by the entities in the 2005, 2006, and 2007 tax years. The provisions described by this paragraph take effect September 1, 2006.

House Bill 3 stipulates that the restructured franchise tax is not an income tax and that the federal law concerning state taxation of income from interstate commerce does not apply.

In addition, the bill stipulates that the Supreme Court of Texas has exclusive and original jurisdiction over a challenge to the constitutionality of the bill or any provision of the bill and may issue injunctive or declaratory relief in connection with the challenge. The court is required to rule on such a challenge on or before the 120th day after the challenge is filed. The provisions described by this paragraph take effect September 1, 2006.

Except as otherwise noted, House Bill 3 takes effect January 1, 2008.

House Bill 4 (3rd C.S.)

Effective: See below

House Author: Swinford

Senate Sponsor: Janek

House Bill 4 amends the Tax Code to establish requirements for using a standard presumptive value of a motor vehicle to compute motor vehicle sales and use taxes. The bill defines “standard presumptive value” as the private-party transaction value of a motor vehicle as determined by the Texas Department of Transportation based on an appropriate regional guidebook of a nationally recognized motor vehicle value guide service or other comparable guide. The bill provides that if the amount paid for a motor vehicle subject to motor vehicle sales and use taxes is equal to or greater than 80 percent of the standard presumptive value of the vehicle, a county tax assessor-collector is required to compute the tax on the amount paid. If the amount paid is less than 80 percent of the standard presumptive value of the vehicle and the purchaser does not establish the valuation of the vehicle, the county tax assessor-collector is required to compute the tax on the amount that is equal to 80 percent of the standard presumptive value of the vehicle. To establish the valuation of a vehicle, a purchaser must show documentation from a registered motor vehicle dealer or an appraisal certified by a licensed adjuster or registered motor vehicle dealer. The bill establishes provisions relating to the total consideration of a used motor vehicle and to the collection of taxes when an application for motor vehicle registration or certificate of title is made. The bill exempts certain motor vehicles from the bill’s requirements.

The bill requires the Texas Department of Transportation to maintain information on the standard presumptive values of motor vehicles as part of the department’s registration and title system. The department is required, not later than October 1, 2006, to establish standard presumptive values for motor vehicles, modify its registration and title system as needed to include that information, make that information available through the system to all county tax assessor-collectors, and publish that information and make it available to any requesting person.

The provisions of House Bill 4 relating to the use of motor vehicle standard presumptive values by county tax assessor-collectors take effect October 1, 2006; all other provisions take effect September 1, 2006.

House Bill 5 (3rd C.S.)
Effective: 1-1-07

House Author: Hamric
Senate Sponsor: Armbrister

House Bill 5 amends the Tax Code to increase from \$20.50 to \$70.50 per thousand the tax rate for cigarettes weighing three pounds or less per thousand and increases the tax rate for tobacco products other than cigars from 35.213 percent to 40 percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal.

Utilities

This chapter covers legislation relating to a clean coal power plant demonstration project, FutureGen, and the railroad commission's authority to acquire title to carbon dioxide captured by such a project and to administer and control the carbon dioxide on behalf of the state. It also includes legislation to allow electric utilities subject to restructuring to recover certain costs incurred in the wake of Hurricane Rita.

House Bill 149 (3rd C.S.)

Effective: 9-1-06

House Author: Chisum et al.

Senate Sponsor: Averitt

The U.S. Department of Energy is pursuing a clean coal power plant demonstration project, FutureGen, which Texas is seeking on a competitive basis. In preparation for this anticipated activity, House Bill 149 amends the Natural Resources Code to require the Railroad Commission of Texas to acquire title to carbon dioxide (CO₂) captured by such a project and to administer and control the CO₂ on behalf of the state. The commission may sell, for enhanced oil recovery or other beneficial use, captured CO₂ that is not injected for permanent geological storage, and sale proceeds go to the general revenue fund. Title transfer does not relieve a project owner or operator of liability associated with the generation of the CO₂ before it was captured. The bill authorizes The University of Texas System and the permanent university fund (PUF) to enter into a lease with the commission or a project owner or operator for the use of system or PUF lands for permanent CO₂ storage. The lease must adequately indemnify the system and PUF against liability resulting from CO₂ migration or escape from the zone or reservoir into which it is injected.

House Bill 163 (3rd C.S.)

Effective: 5-31-06

House Author: King, Phil et al.

Senate Sponsor: Williams

Provisions of the Utilities Code allow electric utilities subject to restructuring to recover stranded costs (expenses and obligations incurred under regulation that are not recoverable in competitive markets). The provisions include a securitization process whereby the utility issues instruments known as transition bonds to recoup the stranded amounts, and the bonds are retired through transition charges paid by utility customers. House Bill 163 amends the Utilities Code to establish similar securitization provisions for utility recovery of reconstruction costs incurred in the wake of Hurricane Rita. It applies to a special regulatory situation in which a rate freeze is imposed until June 30, 2008, involving an investor-owned electric utility that is operating solely outside the territory of the Electric Reliability Council of Texas in areas of the state that were included in the Southeastern Electric Reliability Council on January 1, 2005. The bill authorizes securitization by the utility through hurricane reconstruction bonds, on issuance of a financing order by the Public Utility Commission of Texas. To the extent the utility receives insurance payments, governmental grants, or other funding sources to compensate it for such costs, those amounts must be used to reduce cost recovery from customers. The bill provides that if the commission finds that the securitization method is not beneficial to utility ratepayers, the commission must permit the electric utility to use other means of cost recovery, including an appropriate customer surcharge mechanism.

