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## **Litigation of Interest: PFAS Chemical Usage and Potential Impacts on Municipal Water Systems**

The State of Texas and many other states, as well as the EPA, are reviewing a chemical found in many water provider systems across the country because of its use in firefighting foam. This increases regulatory scrutiny and likely changes could impact many Texas cities and water providers.

**The Chemical(s).** PFAS are a family of man-made, toxic chemicals encompassing hundreds of compounds, including perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA). All PFAS contain a chain of carbon atoms bonded to fluorine atoms. The carbon-fluorine bond is one of the strongest covalent bonds in organic chemistry. It is primarily the unique properties of this carbon-fluorine bond that give many PFAS their stain-resistant and surfactant properties and make them thermally and chemically stable. PFOS and PFOA are also the primary components of AFFF (firefighting foam), which is used to extinguish Class B fuel fires on military bases, fire training schools, fire stations, and airports around the world. They are easily dissolved in water, which increases their mobility and the ease with which they spread into the environment, contaminating

soil, and leaching into groundwater and aquifers. PFAS are commonly referred to as “forever chemicals.”

**The Regulatory Environment.** Given the toxicity and persistence of these chemicals, any amount found in groundwater or drinking water is likely to be deemed unacceptable by regulatory agencies; this may involve the costly installation of treatment systems or modifying existing systems. In June 2022, the EPA recommended Health Advisory Level (HAL) of .02 parts per trillion (ppt) for PFOS and .004 ppt for PFOA, figures that represent a substantial reduction from the previous combined HAL of 70 ppt for PFOS and PFOA. These regulatory standards have dramatically changed in the last decade, and it is very likely these standards will become far more stringent and widespread in the future. The EPA will likely release its initial recommended maximum contaminant level (MCL) in the coming months for PFOS and PFOA; the MCL will likely be very low. Once the EPA (or a state regulatory body) establishes this MCL, cities and water providers will have the financial responsibility to treat their water below the MCL. This will likely be costly and take time to implement.

**The Underlying Litigation.** A multitude of lawsuits have been filed against manufacturers involving general PFAS contamination, as well as PFAS contamination specifically related to AFFF. These suits have been filed across the country by private individuals and public entities, including a number of states and hundreds of cities. These water providers have generally alleged that defendants designed, manufactured, marketed, sold, and/or otherwise supplied (directly or indirectly) PFAS and/or products containing PFAS that ultimately contaminated water supplies and land resources. These claims have also noted the ongoing expense likely to result from this evolving issue. Given the seriousness and broad coverage of this issue, a Multi-District Litigation (MDL) was applied for and granted before Judge Richard M. Gergel in the United States District Court for the District of South Carolina. There are presently thousands of cases pending in the AFFF MDL. These cases are only filed against the chemical manufacturers; they do not and should not involve any of the users of these chemicals. Cities and municipalities used AFFF in good faith as a fire retardant and in accordance with the law and the manufacturers’ instructions. In that litigation, it is now known that historical documentation existed where some of these manufacturers even instructed AFFF users to discard this product into wastewater systems.

Contaminated surface water, groundwater, and drinking water are all of the utmost concern, but they only reflect a part of the problem. This issue is circular and reoccurring, in large part, because a defendant in the MDL directed the users of AFFF to dispose of its product in wastewater systems and they provided those instructions over a number of decades dating back to the 1970s. These disposals along with other industrial and household sources of PFAS have infiltrated wastewater systems across the country, likely including those in Texas. Once PFAS is in the wastewater, it re-enters the rivers and streams through the effluent discharge of wastewater facilities and through the biosolids or sewerage sludge that most wastewater treatment facilities use to fertilize agricultural lands in and around local municipalities. After spreading across land, PFAS eventually runs off and back into the surface and groundwater which leads it back to the water reservoirs and drinking water of municipalities. This can be a toxic and perpetual cycle. The only way to stop the cycle is to properly eradicate the problem through filtration and/or remediation at all levels. This is a necessary, expensive, and time-consuming endeavor that the litigation asserts should not be

borne by the taxpayers; instead, the manufacturer defendants who created and exacerbated the problem should bear the cost.

Cities, states, and water provider plaintiffs in these cases are seeking damages for the costs associated with creating a system that both effectively removes this chemical both now and well into the future. Many times, that cost will include testing and expert analysis, initial capital outlays such as the installation of new water treatment/filtration systems or modifying existing systems, as well as the O&M cost to maintain those systems for decades. These cases also seek to make the parties who created this chemical pay for these costs while protecting the taxpayers and ratepayers from this ongoing burden.

Texas cities are encouraged to perform their due diligence by assessing the financial and operational impacts of PFAS as well as weighing their legal options. If your city's legal or water departments are interested in learning more about this ongoing litigation, please feel free to contact TML consultant and legal advisor Snapper Carr at [Snapper@focusedadvocacy.com](mailto:Snapper@focusedadvocacy.com).

## **Governor Abbott Sets Emergency Items**

Last Thursday, Governor Abbott announced his emergency items during his [State of the State](#) address. According to the Texas Constitution, the Legislature cannot not pass legislation during the first 60 days of regular session unless the governor declares the matter an emergency. Those items are listed below.

1. Cutting Property Taxes
2. Ending COVID Restrictions Forever
3. Education Freedom
4. School Safety
5. Ending Revolving Door Bail
6. Securing the Border
7. The Fentanyl Crisis

## **Reminder: Deadline for Cities to Challenge the Texas Broadband Map Is Monday**

The deadline for political subdivisions to challenge funding eligibility determinations on the [Texas Broadband Map](#) is **Monday, February 27, 2023**.

Under [Chapter 490I of the Government Code](#), a political subdivision or broadband service provider may petition the Texas Broadband Office (BDO) to reclassify a designated area on the map as eligible or ineligible for broadband funding.

To challenge an area designated as ineligible for funding, a challenger must provide evidence that: (1) broadband providers *do not* offer broadband services that meet the 25/3 Mbps threshold to

consumers within ten business days to at least 80 percent of addresses in the specified area; or (2) the specified area *has not* been awarded federal funding for the deployment of broadband services.

You can find more information about the Texas Broadband Map challenge process [here](#).

## **Texas Demographic Center to Hold Webinar on Census Count**

The Texas Demographic Center is set to hold a webinar on March 7, 2023, on the Census Count Question Resolution (CQR) program. This program allows city officials to request that the Census Bureau review information regarding their housing unit and boundary information which may have affected their 2020 Census count giving cities an opportunity to have the Census Bureau review their count. The deadline to [submit](#) CQR cases to the Census Bureau is June 30, 2023.

City officials can sign up for the webinar [here](#).

## **Get Involved During the Legislative Session: Grassroots Involvement Program**

During the 88<sup>th</sup> Legislative Session, Texas cities are facing many challenges and opportunities. TML will need to mobilize our membership at key points during session. The Grassroots Involvement Program (GRIP) is one way to do so. Our GRIP survey focuses on a variety of items including your areas of expertise and involvement with other professional organizations. Most importantly, the GRIP survey asks how well you know various state legislators and if you are willing to communicate with those legislators during the session. TML's grassroots approach is crucial to our efforts.

If you have a relationship with your legislator(s) or want to be more involved during session, please take the time to complete the [GRIP survey](#). Past efforts have proven that such participation is a highly effective tool.

We ask that you complete the survey as soon as possible.

## **Federal Infrastructure Bill Update**

*In November 2021, the federal Infrastructure Investment and Jobs Act (IIJA) was signed into law. The IIJA is altogether a \$1.2 trillion bill that will invest in the nation's core infrastructure priorities, including roads, bridges, rail, transit, airports, ports, energy transmission, water systems, and broadband.*

*The League will monitor state and federal agencies and work with the National League of Cities (NLC) to access the latest information relating to the IIJA. We will provide periodic updates in the*

*Legislative Update on resources for Texas cities on how to access IJA funding for local infrastructure projects.*

### **U.S. Department of Housing and Urban Development (HUD)**

On February 16, HUD [announced](#) it has begun accepting requests for technical assistance for its Thriving Communities Technical Assistance program. The Thriving Communities Technical Assistance (TCTA) program is part of the IJA's [Thriving Communities Network](#) - an interagency initiative between HUD and several other federal agencies to help provide place-based and capacity-building technical assistance to disadvantaged communities. The TCTA will provide funding to help local governments to incorporate housing needs, specifically in disadvantaged communities, as part of their larger infrastructure projects. HUD will prioritize TCTA funding for local governments with a population below 250,000 and those receiving certain DOT competitive grant funds.

You can find more information about the TCTA program, eligibility, application process, and deadlines [here](#).

### **U.S. Department of Transportation (DOT)**

The DOT Maritime Administration is accepting applications for \$662 million in grant funds through its [Port Infrastructure Development Program](#) (PIDP) for projects designed to improve the safety, efficiency, and reliability of the movement of goods in and around ports. The PIDP will provide funding to port authority, state, and local government planning and capital projects to improve and expand port and freight-related infrastructure. PIDP applications are due by **April 28, 2023**.

You can find more information about the PIDP application process, eligible projects, and past grant winners [here](#) and [here](#).

## **City-Related Bills Filed**

(Editor's Note: You will find all of this session's city-related bill summaries online at <https://www.tml.org/DocumentCenter/View/3392/City-Related-Bills-Filed>.)

### **Property Tax**

**H.B. 2312 (Romero) – Appraisal Methods**: would prohibit the chief appraiser from considering a sale to be a comparable sale if the purchaser is a governmental unit and the chief appraiser determines that the governmental unit paid a sales price that exceeded the market value of the property.

**H.B. 2397 (Guillen) – Exemptions and Special Appraisals**: would provide that ownership of property is not considered to have changed if ownership of the property is transferred from the former owner to the surviving spouse or child of the former owner for the purpose of: (1) certain

property tax exemptions; and (2) if the land is used in materially the same way as the former owner, certain special appraisal provisions.

**H.B. 2398 (Hefner) – Agricultural Land Appraisal:** would waive the penalty fee for an application for appraisal as agricultural land that is submitted after the deadline for filing the application if: (1) the land that is subject to the application was appraised as agricultural land in the preceding tax year; (2) the former owner of the land died during the preceding tax year; and (3) the application is filed not later than the delinquency date for the taxes on the land for the year for which the application is filed by: (a) the surviving spouse or a surviving child of the former owner; (b) the executor or administrator of the estate of the former owner; or (c) the trustee of a trust created by the former owner or the surviving spouse or a surviving child of the trustor of such a trust who is acting as a beneficiary under the trust.

**H.B. 2488 (Geren) – Appraised Value Appeals:** would provide that in an appeal of the determination of appraised value, the burden of proof is on the chief appraiser or the appraisal district to support an increase in the appraised value of property if the value of that property was lowered under a tax protest in the previous year.

**H.B. 2500 (Bell) – Chief Appraiser:** would: (1) require a chief appraiser to be elected at the general election for state and county officers by the voters of the county in which the appraisal district is established; (2) provide that the chief appraiser serves a two-year term beginning January 1 of every other odd-numbered year; and (3) provide that to be eligible to serve as chief appraiser, an individual must be a resident of the county in which the appraisal district is established and must have resided in the county for at least four years preceding the date the individual takes office.

**S.B. 976 (Middleton) – Tax Rate Adoption:** would, among other things: (1) change the definition of “debt” for purposes of the tax rate calculation to include only debt approved at an election; and (2) repeal the section that provides that a taxing unit that adopts a tax rate that exceeds the voter approval rate but does not exceed the de minimis rate is not subject to an automatic election and is instead subject to a petition election.

**S.B. 977 (Bettencourt) – Definition of Debt:** would change the definition of “debt” for purposes of the tax rate calculation to include only debt approved at an election.

**S.B. 978 (Bettencourt) – Tax Rate Elections:** would repeal the section that provides that a taxing unit that adopts a tax rate that exceeds the voter approval rate but does not exceed the de minimis rate is not subject to an automatic election and is instead subject to a petition election.

**S.B. 1019 (Hughes) – Appraisal Cap:** would establish a 15 percent appraisal cap on real property other than a residence homestead. (See **S.J.R. 53**, below.)

**S.J.R. 53 (Hughes) – Appraisal Cap:** would amend the Texas Constitution to authorize the legislature to establish a 15 percent appraisal cap on real property other than a residence homestead. (See **S.B. 1019**, above.)

## **Public Safety**

**H.B. 2278 (Anchia) – Handguns:** would: (1) prohibit a state agency or political subdivision from taking any action that states or implies that a license holder who is carrying a handgun is prohibited from entering or remaining on a premises or other place owned and occupied by the governmental entity or leased to and occupied by the governmental entity, unless the license holder is prohibited from carrying a handgun on the premises under certain laws; and (2) require a resident that gives an agency or political subdivision written notice of a violation of the prohibition in (1), above, to include in the written notice a copy of any document or the specific location of a sign found to be in violation of the prohibition.

**H.B. 2281 (Anchia) – Handguns:** would: (1) provide that the governing body of a city with a population of more than 500,000 shall order an election to be held on the question of whether to prohibit a person from carrying a wholly or partially visible handgun within the corporate boundaries of the city if a petition requesting the election is submitted to the governing body and is signed by a number of registered voters of the city equal to at least 10 percent of the number of voters participating in the last general election held in the city; (2) provide that if a majority of those voting at the election vote in favor of the proposition, the governing body of the city shall adopt an ordinance prohibiting a person from carrying a wholly or partially visible handgun within the corporate boundaries of the city; (3) exempt an ordinance prohibiting openly carrying a handgun within the corporate boundaries of the city and any signs or notices referring to that prohibition adopted by a city as a result of the election from the wrongful exclusion of a handgun license holder provisions and associated civil penalties; and (4) provide that the prohibition of a city from adopting regulations relating to the transfer, possession, wearing, carrying, ownership, storage, transportation, or licensing or registration of firearms, does not affect the authority of a city to regulate the open carrying of a handgun.

**H.B. 2283 (Martinez) – Transporting Person with Disability Registration:** would, among other things, require: (1) an application for vehicle registration to provide space for the applicant to voluntarily indicate that the applicant may transport a person with a disability; and (2) the Department of Public Safety to establish a system to include information received under (1), above, in the Texas Law Enforcement Telecommunications System for the purpose of alerting a peace officer who makes a traffic stop that the operator of the stopped vehicle may be transporting a person with a disability. (Companion bill is **S.B. 661** by **LaMantia**.)

**H.B. 2311 (Dutton) – Peace Officer Liability:** would provide that: (1) a person injured or the estate of a person killed in an event in which five or more individuals are killed may bring an action against a state or local peace officer who: (a) responded to the event during the course of the officer's duties; and (b) failed to comply with standard operating procedures established by the officer's law enforcement agency to quickly end the event; (2) a claimant may recover in an action brought under this bill: (a) damages incurred in the event that is the basis for the action; and (b) reasonable attorney's fees and costs incurred in bringing the action; (3) limitations on public servant liability and election of remedies requirements do not apply to an action brought under this bill; and (4) a peace officer may not assert official immunity or other forms of immunity as a defense to an action brought under this bill.

**H.B. 2319 (Wu) – Peace Officer Cooperation:** would provide that: (1) TCOLE shall suspend or revoke the license of a peace officer who fails to cooperate, including by submitting to an

interview, with a law enforcement agency during an investigation by the agency; (2) a peace officer's license may not be suspended or revoked under (1), above, solely on the grounds that the peace officer invoked the officer's right against self-incrimination under the United States Constitution or the Texas Constitution; and (3) TCOLE shall adopt rules to implement this bill.

**H.B. 2356 (Johnson) – Mobile Stroke Unit Grant Program:** would, among other things, require the Health and Human Services Commission to establish and administer a grant program to provide financial assistance to stroke facilities and increase the availability of mobile stroke units in Texas.

**H.B. 2382 (S. Thompson) – Crafted Precious Metal Transactions:** would provide that: (1) a crafted precious metal dealer shall report each transaction to an online database that is used by law enforcement agencies to investigate offenses related to crafted precious metal and other property; (2) the Department of Public Safety by rule shall designate the database to which a dealer is required to report under (1), above; and (3) a dealer who fails to permit a peace officer to inspect crafted precious metal purchased by the dealer during regular business hours while in the dealer's possession commits a Class B misdemeanor offense. (Companion bill is **S.B. 984** by **Paxton**.)

**H.B. 2395 (Manuel) – Notice to Victims of Family Violence:** would provide that: (1) a peace officer who investigates an incident involving sexual assault or who responds to a disturbance call that may involve sexual assault shall provide the victim a written notice containing information about crime victims rights; (2) at the initial contact or at the earliest possible time, the peace officer shall: (a) provide to the victim a written referral to the nearest sexual assault program and information about the statewide electronic tracking system for evidence collected in relation to a sexual assault or other sex offense; (b) offer to request a forensic medical examination on behalf of the victim; (c) coordinate with the local response team to provide continuing care to the victim or to further investigate the offense; and (d) provide to the victim written notice containing certain information required under this bill; (3) each law enforcement agency shall consult with a local sexual assault program or response team to develop the written notice required by (2), above, and shall update the notice at least each biennium; (4) the notice in (2), above, must be in English and Spanish and include the current contact information for a victim assistance coordinator and a crime victim liaison; and (5) the notice in (2), above, is considered to be sufficient if it includes certain statements outlined in this bill.

**H.B. 2417 (Cain) – Criminal Warnings:** would provide that: (1) a peace officer who takes a person into custody without a warrant shall immediately inform the person orally in simple, nontechnical terms that: (a) the person has the right to remain silent and not make any statement at all and that any statement the person makes may be used against the person at trial; (b) any statement the person makes may be used as evidence against the person in court; (c) the person has the right to have a lawyer present to provide advice prior to and during any questioning; (d) if the person is unable to employ a lawyer, the person has the right to have a lawyer appointed to provide advice prior to and during any questioning; and (e) the person has the right to terminate the interview at any time; (2) a staff member of the facility will inform the person of the person's rights at the time the person is admitted to a facility and before questioning, assessing, or examining the person; and (3) a person apprehended, detained, or transported for emergency detention shall be informed of certain rights orally in simple, nontechnical terms, at the time the



person is admitted to a facility and before the person is questioned, assessed, or examined, and in writing in the person's primary language if possible.

**H.B. 2434 (Plesa) – Lost or Stolen Firearm Reporting:** would provide that: (1) a peace officer who receives a report from an owner of a firearm that the firearm was lost or stolen shall report the loss or theft to the Department of Public Safety (DPS); (2) the report must include: (a) the name of the owner; (b) any available information about the firearm; and (c) the date that the owner became aware the firearm was lost or stolen; (3) DPS shall regularly send all reports received under (1), above, to the National Crime Information Center; and (4) failure to report to a peace officer or law enforcement agency a lost or stolen firearm by an owner within 24 hours after the time the person became aware the firearm was lost or stolen constitutes a criminal offense. (Companion bill is **S.B. 405** by **Eckhardt**.)

**H.B. 2441 (Plesa) – Peace Officer Training:** would provide that TCOLE shall require cities, among others, as part of continuing education requirements for peace officers, to provide training on identifying and interacting with trauma-impacted veterans and diverting those veterans to available community resources.

**H.B. 2456 (VanDeaver) – Peace Officers:** would provide, among other things, that a peace officer who receives compensation for private employment as a patrolman, guard, extra job coordinator, or watchman is exempt from certain private security regulations if the peace officer is compensated at least at the minimum wage rate by the state or a political subdivision of the state. (Companion bill **S.B. 357** by **Hall**.)

**H.B. 2496 (Swanson) – Water Outage and Fire Protection:** would, among other things: (1) require the regulatory authority for a public water system responsible for a hydrant to adopt a rule or ordinance that requires the public water system to provide to each fire department that provides fire suppression services in the area in which the hydrant is located notice of an unplanned water service interruption that results in the hydrant being temporarily unavailable for use in a fire emergency as soon as possible, but no later than: (a) one hour from the first notification that a hydrant is unavailable for use when the outage impacts multiple hydrants; or (b) three hours from the first notification that a hydrant is unavailable for use when the outage impacts a singular hydrant; and (2) require the regulatory authority for a public water system responsible for a hydrant to adopt a rule or ordinance that requires the public water system to provide to each fire department that provides fire suppression services in the area in which the hydrant is located notice of a planned water service interruption that results in the hydrant being temporarily unavailable for use in a fire emergency prior to a disruption of service.

**H.B. 2506 (Jetton) – Emergency Detention and Transportation:** would, among other things, provide that: (1) a peace officer who takes a person into custody for an emergency detention shall immediately transport the apprehended person to the nearest appropriate inpatient mental health facility that can provide 24-hour residential and psychiatric services located within 100 miles from where the person was apprehended, unless the person needs stabilization of a physical emergency medical condition; (2) the Office of Court Administration shall develop and provide to each court in the state with jurisdiction to hear emergency mental health matters best practices and procedures for ensuring that a judge or magistrate is available 24 hours a day, seven days a week to respond

to applications for emergency detention; (3) a local mental health authority that determines a person that has been detained should be transported to an appropriate mental health facility before the expiration of the period for emergency detention may submit a request for a peace officer to provide transportation; and (4) on receipt of notice of the request from the officer's supervisor, the peace officer immediately shall transport the detained person to the appropriate mental health facility along with a copy of the notification of emergency detention for the detained person to be provided to the receiving facility.

**H.B. 2507 (Jetton) – Emergency Detention:** would, among other things, provide that: (1) a peace officer may detain in custody for emergency detention purposes a person who has been admitted to an inpatient mental health facility, regardless of whether that person was admitted for voluntary mental health services; and (2) if a judge or magistrate transmits a warrant for the detention of a person who has been admitted to a facility at the time the application for emergency detention is presented, the facility may detain the person to perform a preliminary examination.

**S.B. 931 (Middleton) – Remote Vehicle Disabling Technology:** would: (1) create a state jail felony offense if a person: (a) manufactures, distributes, or possesses with intent to distribute remote vehicle disabling technology (RVDT) that is capable of being activated or engaged by a motor vehicle manufacturer or governmental entity and installed on a light truck or passenger car; (b) installs on a light truck or passenger car RVDT that is capable of being activated or engaged by the vehicle manufacturer or a governmental entity; or (c) sells a light truck or passenger car on which RDVT is installed that is capable of being activated or engaged by the vehicle manufacturer or a governmental entity; and (2) subject a vehicle dealer's or manufacturer's license to revocation.

**S.B. 984 (Paxton) – Crafted Precious Metal Transactions:** would provide that: (1) a crafted precious metal dealer shall report each transaction to an online database that is used by law enforcement agencies to investigate offenses related to crafted precious metal and other property; (2) the Department of Public Safety by rule shall designate the database to which a dealer is required to report under (1), above; and (3) a dealer who fails to permit a peace officer to inspect crafted precious metal purchased by the dealer during regular business hours while in the dealer's possession commits a Class B misdemeanor offense. (Companion bill is **H.B. 2382** by S. Thompson.)

**S.B. 997 (West) – Human Remains Photographs:** would provide that: (1) a person commits a state jail felony offense if the person publishes a photograph of human remains that the person obtained while acting within the course and scope of the person's duties as a first responder, coroner, medical examiner, employee of a coroner's office, or employee of an office of a medical examiner; (2) it is a defense to prosecution under (1), above, if that person published the photographs for an official law enforcement or medical purpose; (3) a defendant is liable to a person's surviving spouse, child, or parent for damages or other relief arising from a violation in (1), above, in relation to the person; (4) a claimant who prevails in an action under (3), above, is entitled to recover reasonable attorney's fees and costs incurred in bringing the action; (5) a governmental unit is jointly and severally liable for damages (not to exceed \$100,000) arising from a violation in (1), above, by a person employed by the governmental unit; (6) a governmental unit's sovereign or governmental immunity to suit and from liability is waived to the extent of liability created under this bill; and (7) a first responder, coroner, medical examiner, employee of a

coroner's office, or employee of an office of a medical examiner may not assert official immunity as a defense to liability under this bill.

**S.B. 1020 (King) – Expunction:** would, among other things, provide that a peace officer, firefighter, detention officer, county jailer, or emergency medical services employee is eligible for an expunction of arrest records and files if: (1) such person has completed a public safety employees treatment court program; (2) the person has not previously received an expunction of arrest records and files for completion of a public safety employees treatment court program; and (3) the person submits an affidavit to the court attesting to the fact described in (2), above. (Companion bill is **H.B. 1405** by Geren.)

### **Sales Tax**

**H.B. 2292 (Slawson) – Sales Tax Reimbursement and Discount:** would: (1) permit a sales taxpayer to deduct and withhold 2.5 percent of the sales tax imposed on credit card sales due from the taxpayer; and (2) provide that the prepayment discount of 1.25 percent does not apply to taxes imposed on credit card sales due from the taxpayer.

**H.B. 2320 (Caroline Harris) – Sales Tax Exemption:** would exempt feminine hygiene products from the sales tax.

**H.B. 2422 (Lozano) – Sales Tax Exemption:** would exempt from the sales tax certain skilled trade tool items during a period beginning at 12:01 a.m. on the first Friday in September and ending at 11:59 p.m. on the following Monday.

**H.B. 2482 (Capriglione) – Sales Tax Exemption:** would amend the section providing a temporary sales tax exemption for certain tangible personal property related to data centers to: (1) allow a data center that is located or will be located in one or more buildings and on contiguous or noncontiguous parcels of land to qualify for the exemption; (2) require that a data center located on noncontiguous parcels of land be located in the same county or an adjacent county and connected by a fiber network; (3) eliminate the requirement that a qualifying job staffed by a third-party employer must include a contract providing that the job is permanently assigned to the data center; and (4) provide that a data center that refurbishes a space to locate a data center can qualify for the exemption.

**S.B. 1000 (West) – State Sales Tax Rate:** would reduce the state sales tax rate from 6.25 percent to 5.75 percent.

**S.B. 1022 (Nichols) – Aircraft Sales Tax Exemption:** would eliminate the requirement that to receive the exemption for services, equipment, and tangible personal property associated with aircraft, the services, equipment, or tangible personal property must be owned or operated by or on behalf of a person using the aircraft as a carrier of persons or property, a person who has a sales tax permit and uses the aircraft for the purpose of providing flight instruction, or a person who uses the aircraft exclusively for agricultural use.

### **Community and Economic Development**

**H.B. 2284 (King) – Repurchase After Condemnation:** would, among other things, provide that: (1) a person from whom a real property interest is acquired through eminent domain is entitled to repurchase that property if the property’s use is changed from the public use for which the property was initially acquired; (2) the repurchase right in section (1), above, may be exercised during the lifetime of: (a) the person from whom the property was acquired; or (b) a person who is related within three generations to the person from whom the property was acquired; and (3) the heirs, successors, or assigns of the person in section (1), above, have the same repurchase rights.

**H.B. 2308 (Ashby) – Enforcement Against Agricultural Operations:** would, among other things, provide that: (1) the definition of “agricultural operation” would include producing hay and other forages for animal feed and veterinary services; (2) the date an agricultural operation is established is the date on which an agricultural operation commenced; (3) no action to restrain an agricultural operation may be brought against an operation that has been in operation for at least one year; (4) remedies for an agricultural operator against whom an action is brought are expanded to include any damages found by the trier of fact; (5) an occupant of any land on which agricultural operations exist or take place is not liable to the state or a governmental unit for the construction or maintenance on the land of an agricultural improvement if the construction is not expressly prohibited by state statute in effect at the time the improvement is constructed; and (6) any other law is preempted to the extent of a conflict with the law governing governmental requirements on agricultural operations.

**H.B. 2318 (Zwiener) – Possession of Property Acquired by Eminent Domain:** would provide, among other things, that with regard to acquiring property through eminent domain: (1) possession of the property occurs not earlier than 180 days following the date of award by the special commissioners court; (2) a city may take immediate possession of the property after either: (a) paying the property owner the amount of damages and costs awarded by the special commissioners; or (b) depositing that amount of money with the proper court; and (2) a city is not prohibited from making an agreement to take immediate possession of property pending resolution of further litigation.

**H.B. 2343 (Guillen) – Manufactured Homes:** would: (1) prohibit a city from unreasonably regulating or restricting the installation of a new HUD-code manufactured home; (2) prohibit a city from requiring a specific use permit for a new HUD-code manufactured home; (3) require a city with zoning regulations to permit the installation of a new HUD-code manufactured home under at least one residential zoning classification or type of residential zoning district; and (4) prohibit a city from adopting zoning regulations that directly or indirectly prohibit HUD-code manufactured homes in all residential areas of the city.

**H.B. 2402 (Moody) – Low Income Housing Tax Credits:** would provide for: (1) the definition of “at-risk development” to include developments that have received certain Section 8 housing assistance payments; and (2) inclusion in an “at-risk development” a project to create new or rehabilitated housing at a location other than the location of any of the original development sites, if the development is supported by the applicable governing body of a city in which the development is located, as evidenced by a resolution adopted by the governing body.

**H.B. 2409 (Reynolds) – Building Codes:** would, among other things, provide for the adoption of the International Residential Code and International Building Code as they existed on May 1, 2021, as the municipal residential building code and municipal commercial building code for all cities in Texas.

**H.B. 2421 (Lozano) – School Property Tax Limitations:** would extend the expiration date of the Texas Economic Development Act from December 31, 2022, to December 31, 2033.

**H.B. 2476 (Garcia) – Veterans’ Land Bank Program:** would, among many other things: (1) create the Veterans’ Land Bank Program by the Texas State Affordable Housing Corporation; (2) provide that the program may acquire, hold, and transfer unimproved real property to provide affordable housing for veterans who are members of low-income households; (3) provide that certain unimproved property subject to a tax lien may be transferred to the program to be used for affordable housing; and (4) provide that a city which holds a portion of the lien described in (3), above, may consent or withhold consent to the transfer.

**S.B. 898 (Hughes) – Outdoor Signs:** would provide that: (1) if a public construction project causes a commercial sign use, structure, or permit within a city or the city’s ETJ not to be authorized, the owner of the commercial sign is entitled to relocate the use, structure, or permit to certain other locations, including any area within the city or its ETJ; (2) a governmental entity, including a city, which acquires a commercial sign by eminent domain or causes the need for the commercial sign to be relocated, shall pay the costs related to the acquisition or relocation; (3) if the view and readability of a commercial sign are obstructed under certain circumstances, the owner of the sign may: (a) adjust the height of the sign; or (b) relocate the sign to a location within 500 feet of its previous location; (4) a city in which the commercial sign in sections (1) or (3), above, are located shall provide for the height adjustment or relocation by a special exception to any applicable zoning ordinance, if necessary; (5) “off-premise sign” means an outdoor sign displaying advertising that pertains to a certain entities or activities not principally located on the premises on which the sign is located; and (6) the rights associated with an existing, lawful off-premise sign vest in the owner of the off-premise sign.

**S.B. 929 (Parker) – Nonconforming Use Compensation:** would, among other things, provide: (1) that in addition to other notices, a city shall provide written notice containing certain language of any public hearing regarding any proposed zoning change that could result in the creation of a nonconforming use; (2) that the notice required in (1), above, must: (a) be sent by mail to certain addresses; (b) contain the time and place of the hearing; and (c) include specific notice language; (3) that if a nonconforming use is required by a city to cease operation, the owner or the lessee of the property is entitled to receive either payment for costs associated with closing the operation or additional time to engage in the nonconforming use; (4) that in order to terminate a nonconforming use, a city must: (a) determine that the nonconforming use has an adverse effect; (b) notify each owner of real or business personal property and order them to cease operation; and (c) inform each owner and occupant of their available remedies; and (5) for a process to work through multiple competing claims for payment and appeal rights, including appeals to the city’s board of adjustment and to state court.

**S.B. 985 (Paxton) – Notice for Certain Zoning Changes:** would require certain individual notices of zoning changes to be sent to each owner according to the address on the most recently approved county tax roll.

## **Elections**

**S.B. 934 (Middleton) – Eligibility for Public Office:** would provide that an elected or appointed officer of a political subdivision authorized to impose a tax or issue bonds is ineligible to serve as an appointed or elected officer of another political subdivision authorized to impose a tax or issue bonds.

**S.B. 946 (Sparks) – Bond and Tax Elections:** would require that an election for the issuance of bonds or a tax increase must be held on the November uniform election date and may not be held as an emergency election.

## **Emergency Management**

**H.B. 2390 (Isaac) – Polling Places:** would provide that the commissioners court of a county may not designate as a polling place a location on the campus of an institution of higher education located within the county.

**H.B. 2498 (Swanson) – Elections:** would, among other things, provide that: (1) election watchers may be appointed at location where the early voting clerk reviews applications for a ballot to be voted by mail; (2) a watcher appointed to serve at a location where the early voting clerk reviews applications for a ballot to be voted by mail must deliver the certificate of appointment and certificate of completion from training to the early voting clerk when the watcher first reports for service; (3) a watcher serving at a location where the early voting clerk reviews applications for a ballot to be voted by mail: (a) may be present at the location at any time the early voting clerk reviews the applications and until the early voting clerk completes the clerk's duties; and (b) serve during the hours the watcher chooses; (4) an election watcher is entitled to examine any document that is processed by an election official while the watcher is present, but may not examine a document processed by an election official in the absence of the watcher; (5) a polling place may not be located in a prison, jail or other detention facility; (6) a library card may not be used, for purposes of proof of identification to vote, as a government document that shows the name and address of the voter, including the voter's voter registration certificate; (7) the early voting clerk shall post on the county's website the date, time, and location at which the early voting clerk will review applications for ballots to vote by mail; (8) the space on the carrier envelope that is provided with the ballot to be voted by mail must be accompanied by a statement explaining to the voter that entering information into that space does not eliminate or replace the requirement that the voter sign the carrier envelope certificate; (9) if the early voting clerk receives a timely carrier envelope that does not fully comply with the applicable requirements, the clerk may, before the earlier of the first meeting of the early voting ballot board or the first meeting of the signature verification committee, deliver the carrier envelope in person or by mail to the voter and may receive, before the deadline, the corrected carrier envelope from the voter, or the clerk may notify the voter of the defect by telephone and advise the voter that the voter may come to the clerk's office in person to correct the defect or cancel the voter's application to vote by mail and vote on

election day; (10) after the earlier of the first meeting of the early voting ballot board or the first meeting of the signature verification committee, if the clerk receives a timely carrier envelope that does not fully comply with the applicable requirements, the clerk may, after obtaining the approval of the early voting ballot board or the signature verification committee, as applicable: (a) deliver the carrier envelope in person or by mail to the voter and may receive, before the deadline, the corrected carrier envelope from the voter; or (b) notify the voter of the defect by telephone and advise the voter that the voter may come to the clerk's office in person to correct the defect or cancel the voter's application to vote by mail and vote on election day; (11) the general custodian of election records in a county with a population of 100,000 or more, or in a political subdivision of that county, shall implement a video surveillance system that retains a record of all areas containing voted ballots: (a) from the time the voted ballots are delivered to the central counting station until the canvass of precinct election returns; and (b) from the time the voted ballots are delivered to the signature verification committee or early voting ballot board until the canvass of precinct election returns; (12) a video from a system implemented under (11), above, shall be made available to the public by a livestream on the home page of the website of the county or political subdivision responsible for the video surveillance system; (13) a county is liable for a civil penalty of \$1,000 for each day that the livestream under (12), above, is not made available on the home page of the county's website; and (14) a demonstration by the general custodian of election records that the source code of the voting system equipment has not been altered, shall be made: (a) at the same time as logic and accuracy test of the voting system is conducted; and (b) in the presence of the testing board.

**S.B. 921 (Hughes) – Preferential Voting System:** would provide that: (1) in an election requiring a majority vote to be elected to a public office, a candidate must receive more than half of the votes as originally cast; and (2) a majority may not be determined by using a preferential voting system (voting system which permits a voter to rank each candidate through a numerical designation from the candidate the voter favors most to the candidate the voter favors least) to reassign votes.

**S.B. 932 (Middleton) – Candidate Eligibility:** would provide that: (1) a candidate may be declared ineligible for a place on the ballot if the candidate fails to pay a filing fee or submit a petition in lieu of paying a filing fee; and (2) the authority responsible for preparing the ballots shall omit a candidate from the ballot if the candidate is declared ineligible under (1), above.

**S.B. 941 (LaMantia) – Disaster Identification System:** would, among other things, provide that: (1) the Texas Division of Emergency Management may include in its state emergency plan provisions for the use of a disaster identification system; (2) in an area subject to a state of disaster declaration, a person may elect to participate in a disaster identification system activated for that area; (3) the disaster identification system shall authorize the use of a device that is capable of displaying a flashing light and continuous light in either the color white or the colors blue, green, red, and yellow to communicate with disaster relief personnel; and (4) an executive order or proclamation declaring a state of disaster activates for the area subject to the declaration the disaster identification system described above. (Companion bill is **H.B. 1078** by **Martinez**.)

**S.B. 972 (West) – Election Watchers:** would provide that an election watcher appointed to serve at a precinct polling place, a meeting place for an early voting ballot board, or a central counting

station must deliver a form of legal identification that discloses the full name and address of the watcher to the presiding judge.

**S.B. 990 (Hall) – Countywide Polling Places:** would, among other things, eliminate the countywide polling place program.

**S.B. 993 (Schwertner) – Candidate Applications:** would provide that: (1) a candidate's application for a place on the ballot must be signed and sworn to by the candidate in the physical presence of a person authorized to administer oaths in Texas; and (2) each affidavit of a petition filed in connection with a candidate's application for a place on the ballot must include an affidavit of the person who circulated it, executed in the physical presence of a person authorized to administer oaths in Texas.

**S.B. 1039 (Bettencourt) – Election Irregularities:** would provide that: (1) a person who participated in the relevant election as a candidate, a county chair or state chair of a political party, a presiding judge, an alternate presiding judge or the head of a specific-purpose political committee that supports or opposes a ballot may issue a written request to the county clerk or other authority conducting an election for an explanation and supporting documentation for: (a) an action taken by the election officer that appears to violate the Election Code; (b) irregularities in results in a precinct or at a polling place or early voting polling place; (c) inadequacy or irregularity of documentation required to be maintained under the Election Code; or (d) irregularity or reconciliation results identified in reconciliation reports regarding voters and votes cast; (2) not later than the 20<sup>th</sup> day after the date a request is received under (1), above, the county clerk or other authority shall provide the requested explanation and any supporting documentation; (3) a requestor who is not satisfied with the explanation and supporting documentation provided under (2), above, may issue a request for further explanation and supporting documentation to the county clerk or other authority; (4) not later than the 10<sup>th</sup> day after the date a request is received under (3), above, the county clerk or other authority shall provide the requested explanation and any supporting documentation; (5) a requestor who is not satisfied with the explanation and supporting documentation provided by the clerk or other authority under (4), above, may issue a request for an audit to the secretary of state that includes the request submitted to the clerk or other authority and explanations and supporting documentation; (6) not later than the 30<sup>th</sup> day after the date the secretary of state receives a request for an audit under (5), above, the secretary must determine whether the information submitted under (5), above, sufficiently explains the irregularity defined in (1), above; (6) if the information submitted by the requestor under (5), above, is insufficient, the secretary of state shall immediately begin an audit of the identified irregularity at the expense of the county or other authority conducting the election; (7) the county clerk or other authority conducting the election shall cooperate with the office of the secretary of state and may not interfere with or obstruct the audit; (8) on conclusion of the audit the secretary of state shall provide notice of the findings of the audit to the person who submitted the request for an audit and the county clerk or other authority conducting the election; (9) the secretary of state, may, in the secretary's discretion, make a determination that a violation of the Election Code has occurred solely on the basis of the evidence submitted under (5), above, without conducting an audit, and shall send notice of the determination to the person who submitted the request for an audit and to the county clerk or other authority conducting the election; (10) if, following an audit, the secretary of state determines that a violation of the Election Code has occurred, the secretary shall appoint



a conservator to oversee elections in the county election precinct where the violation occurred and the conservator shall serve for two federal election cycles; (11) in addition to the notice required under (8), above, the secretary of state shall provide special notice to the county clerk or other authority conducting the election detailing any violation of the Election Code found by the secretary; (12) if the county clerk or other authority conducting the election does not remedy a violation detailed in a notice under (11), above, by the 30<sup>th</sup> day after the date the clerk or other authority receives the notice, the secretary of state shall assess a civil penalty of \$500 for each violation not remedied and, if possible, remedy the violation on behalf of the county clerk or other authority; (13) if the secretary of state is unable to remedy the violation on behalf of the county clerk or other authority, the secretary shall assess an additional penalty under (12), above, for each day the county clerk or other authority does not remedy the violation until the violation is remedied; (14) the secretary of state shall maintain a record of county clerks or other authorities that conduct elections who have been assessed a civil penalty, and shall publish the record on the secretary of state's website; and (15) the attorney general may bring an action to recover a civil penalty that has not been paid, and such penalty collected shall be deposited in the state treasury to the credit of the general revenue fund.

### **Municipal Courts**

**H.B. 2380** (Vasut) – **Municipal Court Fines and Costs:** would: (1) increase the credit for time served in jail or laboring in a county jail industries program, workhouse, farm, or improvements, and maintenance projects from \$100 to \$150 per day; (2) increase the amount of fines or costs discharged for each eight hours of community service performed by a defendant from \$100 to \$150; and (3) require a justice or judge to apply any time the defendant was confined in jail or prison awaiting trial to the defendant's fines and costs; and (Companion bill is **S.B. 352** by **Zaffirini**.)

**S.B. 904** (Springer) – **Handicapped Parking Restrictions:** would: (1) prohibit a political subdivision from dismissing a violation for a person parking in a space or area designated specifically for persons with disabilities because the parking space marking did not comply with state law, if the parking space is in general compliance and compliance and clearly distinguishable as a designated accessible parking space for persons with disabilities; and (2) provide that a political subdivision may only issue a warning for unlawfully parking in such a space if there is no above-grade sign as provided by law.

### **Open Government**

**H.B. 2309** (Hunter) – **Dates of Birth:** would provide that a person's date of birth is not confidential and may not be withheld under the Texas Public Information Act if that information is contained in: (1) a candidate's application for a place on the ballot; or (2) corrections or prosecutorial information, including information regarding an arrest, charge, indictment, conviction, order of deferred adjudication, or inmate record.

**H.B. 2419** (Holland) – **Utility Competitive Matters:** would expand the definition of "competitive matters" to allow for withholding from public disclosure under the Texas Public Information Act the following: (1) a utility-related matter, including a cable, internet, or broadband

service matter, that is related to the public power utility's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors; (2) a matter reasonably related to information involving the provision of cable, internet, or broadband services by a public power utility, including: (a) a capital improvement plan; (b) an expense related to the installation of a facility to provide those services; (c) bidding and pricing information for installation of the facility (d) risk management information, contracts, and strategies; (e) plans, studies, proposals, and analyses for: (i) system improvements, additions, or sales; or (ii) establishing pricing for providing those services; and (f) customer billing, contract, and usage information. (Companion bill is **S.B. 983** by **Paxton**.)

**H.B. 2486 (Hefner) – Police and Fire Records:** would provide that the following information in a peace officer's or firefighter's personnel file is confidential and excepted from public disclosure under the Texas Public Information Act: (1) an application for employment; (2) information related to the process of hiring the peace officer or firefighter; and (3) a letter, memorandum, or other document relating to alleged misconduct by the peace officer or firefighter if the employing department: (a) determines that there is insufficient evidence to sustain the charge of misconduct; or (b) did not take disciplinary action against the peace officer or firefighter for the alleged misconduct.

**H.B. 2492 (Capriglione) – Contracting Information:** would, among other things:

1. provide that contracting information under the Public Information Act (PIA) includes information in a financial document relating to the receipt or expenditure of public funds by a governmental body;
2. provide that the specific exceptions to disclosure relating to competition or bidding information, law enforcement information, trade secret information, and proprietary information do not apply to several categories of contracting information, including communications and other information sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor;
3. provide that a governmental body may not decline to release information described in Number 2, above, in which a third-party's privacy or property interests may be involved, for the purpose of requesting an attorney general decision;
4. provide that a governmental may not decline to release information subject to disclosure under Number 2, above, in order to allow a vendor, contractor, potential vendor, or potential contractor to assert an exception to disclosure under the PIA;
5. provide that a governmental body shall release information subject to disclosure under Number 2, above, in unredacted form, even if the governmental body has or will request a decision from the attorney general regarding other information subject to the request;
6. provide that a governmental body may not request an attorney general's decision regarding information subject to disclosure under Number 2, above;

7. provide that information related to competition or bidding is excepted from public disclosure if a governmental body demonstrates that release of the information would harm its interests by providing a substantial advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future;
8. provide that information submitted to a governmental body by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from public disclosure if the vendor, contractor, potential vendor, or potential contractor that the information relates to demonstrates based on specific factual evidence that disclosure of the information would also give a substantial advantage to a competitor; and
9. repeal the provision that provides that information relating to sales tax paid to the city or other local governmental entity that is provided to the city or entity by the comptroller is confidential, is not open to public inspection, and may be used for specific purposes.

(Companion bill is **S.B. 680** by **Johnson**.)

**H.B. 2493** (Capriglione) – **Electronic Public Information**: would provide, among other things, that:

1. a data dictionary or other indicia of the type or category of information held in the applicable field of a database, other than metadata that directly implicates database security, is public information under the Texas Public Information Act (TPIA);
2. for public information for which a third party is the custodian for a governmental body: (a) the use of an electronic recordkeeping system by or for a governmental body may not erode the public's right of access to public information under the TPIA; (b) the contents of public information that is produced and maintained in an electronic spreadsheet or database that is searchable or sortable ("electronic public information"), including information under Number 1, above, is significant and not merely used as a tool for the maintenance, manipulation, or protection of property; (c) if a request for public information applies to electronic public information and the requestor requests the electronic public information in a searchable or sortable format, the person responding to the request shall provide an electronic copy of the requested electronic public information in the searchable format requested using computer software the person uses in the ordinary course of business to access, support, program, manipulate, or otherwise manage the governmental body's information; (d) a person responding to a request for public information may not: (i) refuse to provide a copy of electronic public information on the grounds that exporting the information or redacting excepted information will require searching, sorting, or filtering the information with computer software used by the person in the ordinary course of business to access, support, or otherwise manage the governmental body's information; or

(ii) charge the requestor for searching, sorting, or filtering the information as provided by (2)(d)(i), above; (e) a requestor may request that a copy of electronic public information be provided in the format in which the information is maintained by or for the governmental body or in a standard export format such as a flat file electronic American Standard Code for Information Interchange (ASCII) if the computer programs used by or for the governmental body support exporting the information in that format; (f) the person responding to the request shall provide the copy in the requested format or in another format acceptable to the requestor and shall provide the copy through an electronic transfer such as electronic mail or an electronic drop box if possible, or otherwise on suitable electronic media; (g) if electronic public information is maintained in a format that is: (i) searchable but not sortable, the person responding to the request shall provide an electronic copy of the information in a searchable format that complies with this section; or (ii) sortable, the person responding to the request shall provide an electronic copy of the information in a sortable format that complies with this section; (h) each party to a contract for the creation and maintenance of electronic public information by or for a governmental body shall use reasonable efforts to ensure the contract does not impair the public's ability to inspect or copy the information or make the information more difficult for the public to inspect or copy than records maintained by the governmental body; (i) the provisions of 2(a)-(h), above, do not affect the applicability to electronic public information of a confidentiality provision or other exception from required disclosure; and (j) the TPIA cost rules apply to an electronic copy or paper printout of electronic public information; and

3. the TPIA provision related to responding to requests for information that require programming or manipulation of data is repealed.

(Companion bill is **S.B. 965** by **Johnson**.)

**S.B. 933 (Middleton) – Public Information Act:** would subject a nonprofit state association or organization primarily composed of similarly situated political subdivisions to the Public Information Act.

**S.B. 958 (Campbell) – Release of Personal Affiliation Information:** would, among other things, provide that: (1) “personal affiliation information” means a record or any data that directly or indirectly identifies a person as a member, supporter, or volunteer of, or a donor to, a nonprofit organization; (2) except under certain circumstances, a city may not: (a) require an individual to provide or compel the release of personal affiliation information; (b) require a nonprofit organization to provide personal affiliation information; (c) release, publicize, or otherwise publicly disclose personal affiliation information; or (d) request or require a current or prospective contractor of the city to provide a list of nonprofit organizations to which the contractor has provided support; (3) personal affiliation information is excepted from release under the Public Information Act; (4) a person who alleges a violation may bring a civil action to obtain injunctive relief and money damages; (5) sovereign and governmental immunity are waived for purposes of section (4), above; and (6) a person who violates this law is also subject to certain criminal penalties.

**S.B. 965 (Johnson) – Electronic Public Information:** would provide, among other things, that:

1. a data dictionary or other indicia of the type or category of information held in the applicable field of a database, other than metadata that directly implicates database security, is public information under the Texas Public Information Act (TPIA);
2. for public information for which a third party is the custodian for a governmental body: (a) the use of an electronic recordkeeping system by or for a governmental body may not erode the public's right of access to public information under the TPIA; (b) the contents of public information that is produced and maintained in an electronic spreadsheet or database that is searchable or sortable ("electronic public information"), including information under Number 1, above, is significant and not merely used as a tool for the maintenance, manipulation, or protection of property; (c) if a request for public information applies to electronic public information and the requestor requests the electronic public information in a searchable or sortable format, the person responding to the request shall provide an electronic copy of the requested electronic public information in the searchable format requested using computer software the person uses in the ordinary course of business to access, support, program, manipulate, or otherwise manage the governmental body's information; (d) a person responding to a request for public information may not: (i) refuse to provide a copy of electronic public information on the grounds that exporting the information or redacting excepted information will require searching, sorting, or filtering the information with computer software used by the person in the ordinary course of business to access, support, or otherwise manage the governmental body's information; or (ii) charge the requestor for searching, sorting, or filtering the information as provided by (2)(d)(i), above; (e) a requestor may request that a copy of electronic public information be provided in the format in which the information is maintained by or for the governmental body or in a standard export format such as a flat file electronic American Standard Code for Information Interchange (ASCII) if the computer programs used by or for the governmental body support exporting the information in that format; (f) the person responding to the request shall provide the copy in the requested format or in another format acceptable to the requestor and shall provide the copy through an electronic transfer such as electronic mail or an electronic drop box if possible, or otherwise on suitable electronic media; (g) if electronic public information is maintained in a format that is: (i) searchable but not sortable, the person responding to the request shall provide an electronic copy of the information in a searchable format that complies with this section; or (ii) sortable, the person responding to the request shall provide an electronic copy of the information in a sortable format that complies with this section; (h) each party to a contract for the creation and maintenance of electronic public information by or for a governmental body shall use reasonable efforts to ensure the contract does not impair the public's ability to inspect or copy the information or make the information more difficult for the public to inspect or copy than records maintained by the governmental body; (i) the provisions of 2(a)-(h), above, do not affect the applicability to electronic public information of a confidentiality provision or other exception from required disclosure; and (j) the TPIA cost rules apply to an electronic copy or paper printout of electronic public information; and
3. the TPIA provision related to responding to requests for information that require programming or manipulation of data is repealed.

(Companion bill is **H.B. 2493** by **Capriglione**.)

**S.B. 983 (Paxton) – Utility Competitive Matters:** would expand the definition of “competitive matters” to allow for withholding from public disclosure under the Texas Public Information Act the following: (1) a utility-related matter, including a cable, internet, or broadband service matter, that is related to the public power utility’s competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors; (2) a matter reasonably related to information involving the provision of cable, internet, or broadband services by a public power utility, including: (a) a capital improvement plan; (b) an expense related to the installation of a facility to provide those services; (c) bidding and pricing information for installation of the facility; (d) risk management information, contracts, and strategies; (e) plans, studies, proposals, and analyses for: (i) system improvements, additions, or sales; or (ii) establishing pricing for providing those services; and (f) customer billing, contract, and usage information. (Companion bill is **H.B. 2419** by **Holland**.)

### **Other Finance and Administration**

**H.B. 4 (Capriglione) – Data Privacy:** would, among other things: (1) limit the collection of personal consumer data to what is adequate, relevant, and reasonably necessary in relation to the purposes for which that personal data is processed; (2) prohibit specific uses of personal consumer data; (3) provide the Office of Attorney General with exclusive investigative and enforcement authority of (1) and (2), above; and (4) expressly preempt any local ordinance, resolution, rule, or other regulation regarding the processing of personal consumer data.

**H.B. 2269 (Dutton) – Contracts for School Resource Officers:** would: (1) allow the board of trustees of any school district to enter into a memorandum of understanding (MOU) with a city that is the employing political subdivision of commissioned peace officers for the purpose of providing school resource officers; (2) require the MOU to: (a) be in the form of an interlocal contract; and (b) use a proportionate cost allocation methodology to address any costs or fees incurred by the school district or the city, as applicable; (3) allow a city to recoup direct costs incurred as result of the contract but may not allow the city to profit under the contract; and (4) allow a city to seek funding from federal, state, and private sources to support the cost of providing school resource officers.

**H.B. 2296 (Dorazio) – Parking Fee Exemption:** would exempt vehicles displaying a specialty license plate for specific military campaign and service award recipients from payment of a parking fee collected by a governmental entity other than the federal government when being used to transport a disabled veteran or the person for whom the specialty plate was issued.

**H.B. 2334 (Burns) – Plumbers:** would provide that: (1) a person is not required to be licensed under the plumbing licensing law to perform plumbing work consisting of installing, servicing, or repairing service mains, service lines, appurtenances, equipment, or appliances that provide water, sewer, or storm drainage services on private property in an area that extends from a public right-of-way or public easement to not less than five feet from a building or structure; and (2) the exemption to licensure in (1), above, does not apply to plumbing work performed on private property designated for use as a one-family or two-family dwelling.

**H.B. 2338 (J. Lopez) – Warrant Fees:** would provide that a defendant convicted of a felony or a misdemeanor shall pay the following, as reimbursement fees for services performed in the case by a peace officer for executing or processing an issued arrest warrant, capias, or capias pro fine: (1) \$75 if the defendant is convicted of a felony, a Class A misdemeanor, or a Class B misdemeanor; or (2) \$50 if the defendant is convicted only of a Class C misdemeanor. (Companion bill is **S.B. 157** by **Perry**.)

**H.B. 2329 (Bailes) – Honey Production:** would, among other things, prohibit a local governmental authority from regulating the production of honey or honeycomb at a honey production operation.

**H.B. 2331 (Stucky) – Responding to Third-Party Subpoenas:** would provide that: (1) a city may impose a fee in the same amount and manner as provided by the Public Information Act for a charge for providing a copy of public information to produce a record in response to a subpoena, request for production, or other instrument issued under the authority of a tribunal relating to a civil action to which the city is not a party; and (2) the city custodian of a record who produces records under (1), above, but who is not required to appear in court, is not entitled to a witness fee. (Companion bill **S.B. 569** by **Springer**)

**H.B. 2350 (Harris) – Occupational Licenses:** would provide that: (1) if an individual is required to possess an occupational license issued by a state licensing authority to engage in an occupation, a political subdivision may not adopt or enforce any ordinance, order, rule, regulation, law, or policy that: (a) requires the individual to possess an occupational license issued by the political subdivision to engage in that occupation; or (b) is more stringent than or is inconsistent with a law of this state or a rule adopted by the applicable state licensing authority and that regulates in any manner a contract entered into between the person and a member of the public for the purchase of goods or services from the person; (2) an ordinance, order, rule, regulation, law, or policy that violates the prohibition in (1), above, is void and unenforceable; and (3) the prohibition in (1), above, does not limit the authority of a political subdivision to adopt and enforce certain regulations.

**H.B. 2367 (Lozano) – Residential Amenity Rentals:** would:

1. define “residential amenity rental” as a feature or facility: (a) that is part of a property used or designed to be used as the home of a person, family, or household, including a single-family dwelling; and (b) that is rented for a period of less than 15 hours and not for the purpose of providing sleeping accommodations to a tenant;
2. provide that a political subdivision may require a provider of a residential amenity rental to, before renting a residential amenity rental to another person: (a) register the rental as provided in Number 4, below; (b) designate an emergency contact responsible for responding to complaints regarding the rental; and (c) provide proof that written notice was given to each owner of property that shares a common boundary with the property where the rental is located of the provider’s intent to use the property as a residential amenity rental;

3. provide that a political subdivision may prohibit a provider from serving food to a tenant of a residential amenity rental unless serving food commercially at the rental is otherwise authorized by law;
4. provide that a political subdivision that adopts a registration requirement under Number 2(a), above: (a) shall approve a registration application unless the provider is in violation of a regulation authorized in Number 2, above; (b) may charge a nominal registration fee not to exceed the amount sufficient to cover the costs of administering the registration requirement; and (c) may maintain an Internet website or telephone hotline that enables a member of the public to file a complaint regarding a residential amenity rental;
5. require a political subdivision to approve or deny a registration application in accordance with Number 4(a), above, not later than the 30th day after the date the political subdivision receives the application and provide that if the political subdivision fails to respond, the registration is considered approved;
6. provide that if a political subdivision requires a provider to register, the registration must be valid for at least one year;
7. provide that a political subdivision may suspend a registration i only in accordance with Number 15, below;
8. provide that a political subdivision may not adopt or enforce an ordinance, order, or rule that: (a) prohibits or limits the use of a property as a residential amenity rental; or (b) applies to residential amenity rental providers, residential amenity rental tenants, or other persons associated with residential amenity rentals in a manner that is more restrictive or otherwise inconsistent with the application of the law to other similarly situated persons;
9. provide that in a legal action challenging the adoption or enforcement of an ordinance, order, or rule under this chapter, the political subdivision has the burden of proving by clear and convincing evidence that the ordinance, order, or rule;
10. provide that to the extent of a conflict between any regulation adopted by a county and any regulation adopted under the bill by a political subdivision other than a county, the county regulation controls;
11. provide that to the extent of a conflict between any regulations adopted by two or more political subdivisions other than a county, the less stringent limitation or requirement controls;
12. provide that a political subdivision may assess a civil penalty against a provider for a violation of an ordinance, order, or rule adopted by the political subdivision that is the direct result of the operation of the residential amenity rental;
13. provide that a civil penalty issued under Number 12, above, must be in a reasonable amount, not to exceed \$200 per violation;



14. provide that a second violation that is the direct result of the operation of the residential amenity rental, a political subdivision may assess an increased civil penalty, not to exceed \$400;
15. provide that for a third violation that is the direct result of the operation of the residential amenity rental, a political subdivision may: (a) suspend the registration of a provider for a period not to exceed one year; or (b) prohibit the continued use of the property as a residential amenity rental by the same provider;
16. provide that to assess a civil penalty, suspend a registration, or prohibit the continued use of a property as a residential amenity rental under Number 15, above, the political subdivision has the burden of proof of demonstrating that the violation was a direct result of the residential amenity rental's operation; and
17. prohibit a political subdivision from assessing a penalty on a provider, suspending a registration, or prohibiting the continued use of a property as a residential amenity rental Number 15, above until the provider has exhausted all appeal rights for the underlying violation.

**H.B. 2371 (Turner) – Cemeteries:** would, among other things, provide: (1) that a city may make additional burial spaces available in a city cemetery if: (a) the city has had possession and control of the cemetery for at least 25 years; (b) the city holds a public hearing; (c) the cemetery has been consistently maintained in accordance with other law; and (d) selling of additional spaces will not endanger public health, safety, comfort, and welfare; and (2) for a process to determine whether a burial plot has been abandoned.

**H.B. 2374 (Landgraf) – Engine and Energy Source Regulations:** would provide that a political subdivision may not adopt or enforce an ordinance, order, regulation, or similar measure that: (1) limits access to, or effectively prohibits the use of, an energy source wholesaler, retailer, or producer, including a retail service station, that is necessary to provide to a specific energy source; or (2) directly or indirectly, prohibits or restricts the use, sale, or lease of an engine based on its fuel source, unless the action does not effectively prohibit or restrict, the use, sale, or lease of the engine and is not preempted by state or federal law. (Companion bill is **S.B. 1017** by **Birdwell**)

**H.B. 2413 (Canales) – Driver’s License Renewal Denial:** would, among other things: (1) require a political subdivision to immediately notify the Department of Public Safety (DPS) if there is no cause for DPS to deny renewal of the person’s driver’s license for failure to appear or satisfy a judgment in criminal court because the person appeared in court, satisfied the judgment or entered into an agreement with the court to satisfy the judgment, and paid a reimbursement fee, or the court found that the person is indigent under the Transportation Code; and (2) allow a political subdivision to notify DPS if the person fails to adhere to the agreement.

**H.B. 2424 (Romero) – Public Swimming Pool Inspectors:** would require the executive commissioner of the Health and Human Services Commission to adopt rules to require pool and spa inspectors to obtain training and certification in the operation of pools and spas that is at least equivalent to the training and certification requirements of pool and spa operators.

**H.B. 2425 (Isaac)** – **Contracts with Chinese Companies:** would, for any contracts entered into after January 1, 2024, prohibit a governmental entity from entering into a contract with a company for goods and services unless the contract contains a written verification from the company that it is not a Chinese company.

**H.B. 2440 (Stucky)** – **Health Profession Licensing Preemption:** would provide that, unless expressly authorized by law, a municipality may not adopt or enforce any ordinance, rule, or regulation that regulates the practice of a health profession if the practice of that profession requires a person to possess an occupational license issued by a state licensing authority.

**H.B. 2446 (Dutton)** – **Cannabis:** would, among other things: (1) reduce the criminal penalties for marijuana offenses (ranging from a Class C misdemeanor to second degree felony) based on the amount possessed or possession at specific locations; (2) allow for a Class C misdemeanor marijuana offense to be elevated to a Class B misdemeanor if the defendant has three or more convictions of the same offense within the prior 24 months; (3) exempt a defendant from having to be taken before a magistrate for certain misdemeanor marijuana offense charges; (4) provide that it is not a defense to prosecution for a marijuana offense if the person is requesting emergency assistance to respond to a possible overdose of another person, if the person making the request is committing a marijuana offense at the time; (5) eliminate automatic community supervision for a marijuana offense involving possession of more than one pound of marijuana; (6) require completion of a TDLR-approved drug awareness and education course as part of any deferred adjudication sentence for a marijuana offense; (7) allow for non-disclosure of certain marijuana offenses under certain circumstances; and (8) allow for expunction of a Class C misdemeanor marijuana offense if committed before September 1, 2023.

**H.B. 2457 (Parker)** – **City Fees:** would:

1. require a city, except those located in a county with a population of less than 30,000, to establish and maintain an email notification service to which any person may electronically subscribe to receive information regarding new or increased city fees, unless: (a) the city is located primarily in a county with a population of less than 30,000; or (b) the city does not maintain an email notification service for any purpose on January 1, 2023, in which case the city may post the notifications described in Number 2, below, on the city's Internet website so long as the notifications are accessible from a prominently displayed link on the home page of the city's website;
2. provide that the email notification service described in Number 1, above, must: (a) allow a subscriber to request notification of each: (i) new fee proposed to be adopted by the city; (ii) existing fee proposed to be increased by the city; (iii) proposed budget of the city that includes use of revenue from a new or increased fee; (iv) adopted budget of the city that includes use of revenue from a new or increased fee; and (v) public hearing scheduled to be held at which a fee or budget described by (i) through (iv) is scheduled to be discussed; (b) include a link in the notification to any webpage maintained by the city on which the fee or budget may be viewed; and (c) notify the subscriber by email not later than the day: (i) the city provides public notice of a public hearing at which a proposed new or increased fee or a proposed budget is scheduled to be discussed, for notification of a public hearing

for a proposed fee or budget; (ii) the budget officer files a proposed budget with the city clerk, for notification of a proposed budget; or (iii) the city council files an adopted budget with the city clerk, for notification of an adopted budget;

3. provide that a city's proposed budget that includes estimated revenue from a new fee or the increase of an existing fee must contain a cover page with the following statement in 18-point or larger type: "This budget includes estimated revenue from the following new or increased fees: (include a description of each new or increased fee, the dollar amount of each new fee, and the dollar amount of and percentage of increase of each increased fee);
4. provide that adoption of a budget that includes estimated revenue from a new fee or the increase of an existing fee requires a separate vote of the governing body to ratify the use of that revenue, and the vote is in addition to and separate from the vote to adopt the budget or a vote to adopt or increase the fee; and
5. provide that a city's adopted budget contain a cover page that includes, if applicable, the following statement in 18-point or larger type: "This budget includes estimated revenue from the following new or increased fees: (include a description of each new or increased fee, the dollar amount of each new fee, and the dollar amount of and percentage of increase of each increased fee)."

(Companion bill is **S.B. 767** by **Parker**.)

**H.B. 2464 (Price) – TMRS Cost of Living Adjustments:** would provide that: (1) the governing body of a city that adopts an ordinance, effective January 1, 2024 or January 1, 2025, to authorize and provide for increased annuities to be paid to retirees and beneficiaries of deceased retirees of the city, may elect to compute the annuity increase as the sum of prior and current service annuities of the person on whose service the annuities are based, on the effective date of the annuity increase, multiplied by the percentage increase specified in the ordinance; (2) an adjustment to the annuity after the annuity starting date for annuity increases under (1), above, may not cause an annuitant's annuity to exceed the amount that the annuitant would be entitled to had the maximum amount of the annuity increase allowed under current law been applied to the annuity; and (3) the provisions under (1)-(2), above, expire on December 31, 2025.

**HJR 118 (Reynolds) – Medical Use Cannabis:** would provide for a constitutional amendment that would authorize and regulate the possession, cultivation, and sale of cannabis for medical use.

**S.B. 917 (Hall) – Municipal Utility Districts:** would: (1) require a regular or special meeting of the board of a municipal utility district to be held at a publicly accessible location inside or not more than five miles outside the territory of the district; and (2) provide that (1), above, does not prohibit the board of a district from holding an open or closed meeting by telephone conference call or videoconference call in accordance with the Open Meetings Act. (Companion bill is **H.B. 1312** by **Vasut**.)

**S.B. 943 (Kolkhorst) – Online Public Notices:** would, among other things: (1) require newspapers that publish public notices, at no additional cost to a governmental entity, publish a

public notice on one or more webpages on the newspaper's website clearly designed for public notices and accessible to the public at no cost, and deliver the same to the Texas Press Association (TPA) for publication on a TPA-controlled website, if, the TPA maintains such a website as a statewide repository of public notices; (2) if the TPA maintains a website described in (1), above, it must ensure that the website: (a) is accessible to the public at no cost; (b) is updated as notices are received; (c) is searchable and sortable by subject matter and/or location; and (d) offers a subscription service to receive e-mail notification that a notice has been published; and (3) require that any entity required to publish a public notice online archive the notice on its website in its entirety, include the notice publication date. (Companion bill is **H.B. 2178** by **Hunter**.)

**S.B. 969 (Zaffirini) – Tuition and Fees Exemption:** would provide an exemption from the payment of criminal justice or law enforcement course tuition and lab fees for an undergraduate student who is employed by the state or a political subdivision, including a city, as a correctional officer or jailer.

**S.B. 986 (Creighton) – Evictions:** would: (1) prohibit a city or county from adopting or enforcing an ordinance, order, or measure that prohibits, restricts, or delays delivery of a notice to vacate, the filing of a lawsuit to recover possession, or otherwise relates to an eviction suit; and (2) eliminate the requirement that a landlord issue a notice of proposed eviction and allow the tenant a reasonable time to respond before issuing a notice to vacate, except where required by the lease or federal law. (Companion bill is **H.B. 2035** by **Slawson**.)

**S.B. 1009 (Parker) – Massage Establishments:** would: (1) authorize a political subdivision to regulate a massage establishment through zoning requirements, including conditional use permits, and to regulate a massage establishment's hours of operation; and (2) provide that a regulation under (1), above, may be adopted: (a) under authority to regulate sexually oriented businesses; (b) if regulating the hours of operation of a massage therapist or massage establishment; or (c) if the regulation relates to the ownership or operation of a massage establishment, or the provision of massage therapy, by a person: (i) who has been arrested for on three or more occasions, or convicted of certain criminal offenses; (ii) against whom a sanction has been imposed for a violation of state law; or (iii) who has owned or operated a massage establishment against which a sanction has been imposed for a violation of state law. (Companion bill is **H.B. 2134** by **Thimesch**.)

**S.B. 1014 (Hughes) – Prohibiting Disclosure of Genetic Information:** would, among other things: (1) prohibit a person or entity from obtaining, using, or disclosing an individual's genetic material or information without the individual's or individual's authorized representative's express consent, subject to certain exceptions; (2) exempt from (1), above, material being obtained or otherwise necessary for use for law enforcement purposes, paternity testing, newborn screening, to comply with a court order, to provide emergency medical services, or to identify a deceased individual; (3) create a criminal offense for violating (1), above; (4) authorize the Office of Attorney General to bring suit seeking injunctive relief and civil penalties against persons or entities for violating (1), above; (5) establish a private cause of action to enjoin or restrain a person or entity from further violating (1), above, and recover resulting damages; and (6) waive sovereign and governmental immunity as applicable for claims under (4) and (5), above.

**S.B. 1017 (Birdwell) – Engine and Energy Source Regulations:** would provide that a political subdivision may not adopt or enforce an ordinance, order, regulation, or similar measure that: (1) limits access to or effectively prohibits the use of, an energy source wholesaler, retailer, or producer, including a retail service station, that is necessary to provide to a specific energy source; or (2) directly or indirectly, prohibits or restricts the use, sale, or lease of an engine based on its fuel source, unless the action does not effectively prohibit or restrict, the use, sale, or lease of the engine and is not preempted by state or federal law. (Companion bill is **H.B. 2374** by **Landgraf**.)

**S.B. 1025 (Kolkhorst) – Vaccine Passports:** would, among other things: (1) prohibit any person or entity from issuing a written or electronic vaccine passport to facilitate the identification of an individual’s vaccination status for a purpose other than health care, or using any information collected by a state or local governmental agency to certify an individual’s vaccination status; and (2) prohibit a business from requiring that a customer provide documentation certifying the customer’s vaccination status or post-transmission recovery from communicable disease to gain access or entry to, or to receive service from the business.

**S.B. 1026 (Kolkhorst) – COVID-19 Vaccine Passports:** would, among other things: (1) prohibit a political subdivision from issuing or adopting an order or ordinance or otherwise require an individual to be vaccinated against COVID-19; (2) prohibit a governmental entity or court of law from requiring an individual to provide certification of the individual’s COVID-19 vaccination or post-transmission recovery to gain access or entry to, or receive service from the governmental entity, or a condition for jury service or appointment as counsel for an indigent defendant, but does not restrict a governmental entity or court of law’s ability to implement COVID-19 screening and infection protocols in accordance with state and federal law; and (3) prohibit an employer, labor organization, or employment agency from discriminating against individual or members for not having been vaccinated against COVID-19.

**S.B. 1029 (Hall) – Gender Modification Treatment:** would, among other things, prohibit a governmental entity from using or providing public money for the provision or administration of a gender modification procedure or treatment.

**S.B. 1034 (Middleton) – Public Nuisance Actions:** would, among other things, eliminate a public nuisance cause of action for any claim seeking relief from: (1) an action or condition authorized, licensed, approved, or mandated by statute, ordinance, regulation, permit, order, rule or other similar measure adopted, promulgated, or approved by the federal government, state government, or political subdivision; (2) an action or condition that can be addressed through an existing statutory cause of action or administrative enforcement mechanism; or (3) a product or claim based on the manufacturing, distributing, selling, labeling, or marketing of a product.

## **Personnel**

**H.B. 2298 (Talarico) – Family and Medical Leave:** would provide, among other things, that: (1) an employer, including a city, shall pay a contribution on the wages of an employee to a family and medical leave fund that will be administered by the comptroller in accordance with the direction of the Texas Workforce Commission (TWC); (2) an employer may deduct all or a portion

of the cost of contributions described in (1), above, from an employee's wage; and (3) for each calendar year, TWC shall establish a contribution rate for all employers.

**H.B. 2315 (Canales) – Disease Presumption:** would provide that: (1) disease presumption does not apply if the disease or illness for which benefits or compensation is sought is a cancer that originates at the stomach, colon, rectum, skin, prostate, testis, or brain, non-Hodgkin's lymphoma, multiple myeloma, malignant melanoma, and renal cell carcinoma and is known to be caused by the use of tobacco: (a) the firefighter or emergency medical technician has used a tobacco product in the five years preceding the diagnosis of the cancer; or (b) the firefighter's or emergency medical technician's spouse has, during the marriage, used a tobacco product that is consumed through smoking in the five years preceding the diagnosis of the cancer; and (2) would exclude a peace officer from the applicability of (1), above.

**H.B. 2316 (Canales) – Injuries In the Scope of Duty:** would, among other things, provide that: (1) an employer, including a city (but excluding a city that has adopted civil service for its fire fighters or peace officers), may not take an adverse employment action against a peace officer, detention officer, county jailer, or fire fighter who has sustained a compensable injury on the basis of the person's inability to perform the duties for which the person was elected, appointed, or employed before the person is certified as having reached maximum medical improvement, unless the person's treating doctor indicates that the person is permanently restricted from returning to perform the duties for which the person was elected, appointed, or employed; (2) an employer that violates (1), above, shall be liable for reasonable damages incurred by the person as a result of the violation in an amount not to exceed \$100,000; and (3) sovereign immunity to suit and from liability is waived, and a peace officer, detention officer, county jailer, or fire fighter may sue an employer for damages described in (2), above, and reinstatement to the person's former position of employment.

**H.B. 2317 (Canales) – Disease Presumption:** would, among other things, provide that: (1) disease presumption does not apply if the disease or illness for which benefits or compensation is sought is known to be caused by the use of tobacco and: (a) a detention officer, firefighter, peace officer, or emergency medical technician has used a tobacco product in the five years preceding the diagnosis of the disease or illness; or (b) the detention officer's, firefighter's, peace officer's, or emergency medical technician's spouse has, during the marriage, used a tobacco product that is consumed through smoking in the five years preceding the diagnosis of the disease or illness; and (2) a detention officer, firefighter, peace officer, or emergency medical technician who suffers an acute myocardial infarction or stroke resulting in disability or death is presumed to have suffered the disability or death during the course and scope of employment as a detention officer, firefighter, peace officer, or emergency medical technician if: (a) while on duty, the detention officer, firefighter, peace officer, or emergency medical technician: (i) was engaged in a situation that involved stressful or strenuous physical activity involving law enforcement, supervision of inmates, fire suppression, rescue, hazardous material response, emergency medical services, or other emergency response activity; (ii) participated in a training exercise that involved stressful or strenuous physical activity; or (iii) was exposed to smoke, fumes, or toxic substances; and (b) the acute myocardial infarction or stroke occurred not later than 72 hours after the end of a shift in which the detention officer, firefighter, peace officer, or emergency medical technician was engaging in the activity described under (2)(a), above.

**H.B. 2455 (King) – Medical Examination:** would provide that: (1) a fire department shall offer an annual occupational medical evaluation to each fire fighter employed by the fire department at no cost to the fire fighter; (2) the annual occupational medical evaluation must be confidential and include: (a) fluid tests; (b) a pulmonary function test; (c) an electrocardiogram; (d) an infectious disease screening; (e) a cancer screening; and (f) a chest x-ray; (3) a fire fighter is eligible to receive a chest x-ray during an annual occupational medical examination described in (2), above, once every five years; (4) the Texas Commission on Fire Protection shall adopt rules establishing minimum standards for annual occupational medical examinations by using standards developed by the National Fire Protection Association; and (5) a fire department is not required to comply with (1), above, until July 1, 2024.

**H.B. 2468 (Burrows) – Workers’ Compensation:** would, among other things, provide that, for purposes of workers’ compensation, lifetime income benefits are paid until the death of the employee for: (1) a physically traumatic injury to the brain resulting in a permanent major neurocognitive disorder or a psychotic disorder; (2) third degree burns that cover at least 40 percent of the body and require grafting, or third degree burns covering the majority of: (a) both hands; (b) both feet; (c) one hand and one foot; or (d) one hand or foot and the face; or (3) a serious bodily injury sustained by the employee in the course and scope of the employee’s employment or volunteer service as a first responder that permanently prevents the employee from performing any gainful work. (Companion bill is **S.B. 1033** by **Perry**.)

**H.B. 2470 (Kuempel) – Mental Illness:** would provide that: (1) an employer of a first responder (peace officer, fire fighter, or EMS personnel) may not suspend, terminate, or take any other adverse employment action, including a demotion in rank or reduction of pay or benefits, against a first responder solely because the employer knows or believes that the first responder has certain mental illness, except that the employer may take an appropriate adverse employment action that is necessary to ensure public safety; (2) a person may assert a violation of (1), above, against an employer, or as a defense, in a judicial or administrative proceeding and may seek: (a) compensatory damages; (b) reasonable attorney’s fees and court costs; and (c) any other appropriate relief; and (3) sovereign immunity to suit is waived.

**S.B. 909 (Johnson) – Civil Service:** would, among other things, provide that in a civil service city:

1. a police chief may appoint to the position of assistant police chief a person who is not a sworn police officer employed by the police department if the police chief: (a) requests and is granted approval for the appointment from the city council; and (b) provides a justification for hiring outside of the department to the Civil Service Commission (Commission) and the Commission determines that: (i) the justification is valid; and (ii) the appointment will improve the department’s operations;
2. except for a decision by the Commission to suspend a police officer for not more than 15 calendar days, a firefighter or police officer may appeal any Commission decision by filing a petition in district court asking that the decision be set aside;

3. if the district court determines that a petition filed by a police officer under Number 2, above, was arbitrary, unreasonable, not in accordance with Commission rules, or not in accordance with applicable law, the district court shall dismiss the petition;
4. a firefighter or police officer commits a Class C misdemeanor if the person: (a) fails to respond to a subpoena issued by the Commission; (b) takes part in political activities while in uniform or on active duty; or (c) engages in a strike against the governmental agency that employs the person;
5. Except for appointment to the position of fire chief, assistant fire chief, police chief or assistant police chief, a firefighter or police officer, as applicable, is eligible for promotion if the firefighter or police officer has continuously held a position in the classification that is immediately below, in salary, the classification for which the examination is to be held for at least two years before the examination date;
6. a firefighter is not eligible for promotion to the rank of captain or its equivalent unless the firefighter has at least four years of actual service in the fire department for which the fire fighter would serve as that rank;
7. if a police officer is serving in a beginning position in a police department, the two-year service period described in Number 5, above, begins on completion of the police officer's probationary period;
8. if a firefighter or police officer is recalled on active military duty for not more than 60 months, the two-year service required for a promotion under Number 5, above, does not apply and the firefighter or police officer is entitled to have time spent on active military duty considered as duty in the department;
9. a demoted police officer is not eligible for promotion unless the police officer has served continuously in the next lower position for at least two years after the demotion;
10. a Commission rule prescribing cause for removal, suspension, or demotion of a police officer is valid only if it involves one or more of the following grounds: (a) acts of incompetency, neglect, or failure to perform a job function deemed essential to the position as set forth in the police department's job description for the position; (b) acts showing lack of good moral character, including: (i) discourtesy to the public or to a fellow employee while the police officer is in the line of duty; (ii) intoxication while on duty or excessive intoxication while off duty; (iii) conduct prejudicial to good order; (iv) refusal or neglect to pay just debts; (v) absence without leave; (vi) excessive use of force; or (vii) making a false statement or substantive omission during the employment application process, a police department hearing, or a police department investigation;; (c) violation of a municipal charter provision; (d) violation of an applicable police department rule or special order; (d) a plea of guilty or nolo contendere, an adjudication of guilt, a probated sentence, a deferred adjudication or a verdict of guilty after a criminal trial of any felony offense or certain misdemeanor offenses; or (e) acts constituting an offense under Number 10(d), above, regardless of



criminal prosecution, including any act in any jurisdiction other than this state, which if committed in this state would constitute such an offense unless a court has held the offense as unconstitutional;

11. other than in a city that has a population of more than 1.5 million, if the police chief determines that a police officer under the chief's supervision or jurisdiction violated a civil service rule, the police chief may: (a) suspend the police officer for a period not to exceed 15 calendar days; (b) suspend the police officer indefinitely, which is equivalent to dismissal from the department; or (c) recommend to the Commission to demote the police officer to any lower rank in the classified civil service;
12. a police officer has the right to appeal a suspension or recommended demotion made under Number 11, above, unless: (a) if offered by the police chief, the police officer agrees in writing to voluntarily accept a demotion or suspension of up to 90 calendar days; or (b) the police chief is requesting to demote a police officer who has been promoted in the last six months to the police officer's previous civil service rank on the certain grounds relating to the new position;
13. in an appeal described in Number 12, above, the Commission, in its decision, shall state whether the police officer is: (a) permanently dismissed from the police department; (b) temporarily suspended from the police department for a definite period; (c) demoted to the position requested by the police chief; (d) demoted to a position between the police officer's current position and the position requested by the police chief; or (e) restored to the police officer's former position or status in the police department's classified service;
14. a decision by the Commission of an appeal described in Number 12, above, to suspend a police officer for not more than 15 calendar days is final and may not be appealed to the district court;
15. a police officer may not appeal an indefinite suspension, a suspension, a promotional bypass or a recommended demotion to an independent third-party examiner;
16. a person who is 45 years of age or older may be certified for a beginning position as a police officer in a police department; and
17. the civil service director or the director's designee may not release any information contained in a firefighter's or police officer's personnel file unless the release of the information is: (a) required by law; or (b) requested by a local, state, or federal law enforcement agency conducting a criminal history check on a current or former police officer.

**S.B. 1033 (Perry) – Workers' Compensation:** would, among other things, provide that, for purposes of workers' compensation, lifetime income benefits are paid until the death of the employee for: (1) a physically traumatic injury to the brain resulting in a permanent major neurocognitive disorder or a psychotic disorder; (2) third degree burns that cover at least 40 percent

of the body and require grafting, or third degree burns covering the majority of: (a) both hands; (b) both feet; (c) one hand and one foot; or (d) one hand or foot and the face; or (3) a serious bodily injury sustained by the employee in the course and scope of the employee's employment or volunteer service as a first responder that permanently prevents the employee from performing any gainful work. (Companion bill is **H.B. 2468** by **Burrows**.)

**S.B. 1041** (Hughes) – **Sexual Harassment**: would provide that: (1) the protections against retaliation and discrimination in employment apply to a person who engages in the following acts in relation to a discriminatory practice based on sexual harassment: (a) opposes a discriminatory practice; (b) makes or files a charge; (c) files a complaint; or (d) testifies, assists, or participates in any manner in an investigation, proceeding, or hearing; (2) the definition of sexual harassment in employment includes an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if the advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, abusive or offensive working environment; (3) a person may bring a civil action for damages or other relief arising from an unlawful employment practice based on sexual harassment regardless of whether: (a) the person has filed a complaint with the Texas Workforce Commission (Commission) based on the grievance; or (b) if the person has filed a complaint with the Commission based on the grievance, the complaint is still pending or the person has not received a notice of the right to file a civil action; (4) a civil action arising from an unlawful employment practice based on sexual harassment filed without filing a complaint under (3), above, may not be brought later than the second anniversary of the date the conduct constituting an unlawful employment practice based on sexual harassment occurred; (5) the monetary caps placed on compensatory damages awarded for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses and the amount of punitive damages that apply to damages arising from an unlawful employment action do not apply to an unlawful employment action based on sexual harassment; and (6) a civil action for damages arising from an unlawful employment practice based on sexual harassment is subject to uncapped compensatory damages and exemplary damages that may not exceed an amount equal to the greater of: (a) two times the amount of economic damage plus an amount equal to any noneconomic damages found by the jury, not to exceed \$750,000; or (b) \$200,000. (Companion bill is **H.B. 1999** by **Julie Johnson**.)

### **Purchasing**

**S.B. 936** (Hancock) – **Public Work Contracts**: would provide that a governmental entity awarding a public work contract funded in whole or in part with state or local governmental money or governmentally administered financial assistance, including the issuance of debt guaranteed by this state or a local governmental entity, money from ratepayers, or money from user fees may not: (1) prohibit, require, discourage, or encourage a person bidding on the public work contract, including a contractor or subcontractor, from entering into or adhering to an agreement with a collective bargaining organization relating to the project; or (2) discriminate against a person based on the person's involvement in the agreement, including the person's status or lack of status as a party to the agreement or willingness or refusal to enter into the agreement.

**S.B. 949** (West) – **Historically Underutilized Businesses Loan Program**: would, among other things, require the comptroller to establish a revolving loan program to provide loans to historically

underutilized businesses to assist in the purchase of performance and payment bonds required for public work contracts with governmental entities.

### **Transportation**

**H.B. 2399** (Thierry) – **Automated Traffic Control in School Zones**: would provide that a municipality may implement or operate an automated traffic control system on a city street for the purpose of enforcing compliance with posted speed limits in a school crossing zone.

**S.B. 1023** (Nichols) – **Notice of Maximum Bridge Load Capacity**: would provide that if the Department of Transportation inspects a city bridge and determines that the bridge qualifies for a lower maximum load than is currently posted, the department may post notice on the road or highway approaching the bridge stating the maximum load permitted, if the department is required or authorized to do so under federal law.

### **Utilities and Environment**

**H.B. 2288** (Patterson) – **Non-Dispatchable Generation**: would, among other things: (1) provide that the Public Utility Commission (PUC) shall prohibit the sale of electric energy from a non-dispatchable generation facility at wholesale in the ERCOT power region after January 1, 2030 but that the bill does not prohibit a sale of electricity as credit for surplus solar generation by public schools, interconnected distributed renewable generation, or another sale of electricity from distributed renewable generation; (2) repeal the provision that requires the PUC to require an electric utility or a transmission and distribution utility to construct or enlarge transmission or transmission-related facilities for the purpose of meeting the goal for generating capacity from renewable energy technologies; (3) repeal the provision that requires the PUC to establish a target of 10,000 megawatts of installed renewable capacity by January 1, 2025; and (4) provide that before January 1, 2023, the PUC shall: (a) suspend the goal for renewable energy to protect the reliability and operation of the grid; and (b) abolish all programs and terminate any payments or credits required for the goal for renewable energy in state law.

**H.B. 2391** (Thompson) – **Concrete Plants**: would provide that only a city or county in which a proposed concrete plant will be located and persons actually residing in a permanent residence within 440 yards of the proposed concrete plant may request a public hearing from the Texas Commission on Environmental Quality regarding the construction of the concrete plant. (Companion bill is **S.B. 705** by Miles.)

**H.B. 2437** (Zwiener) – **TCEQ Penalties**: would, among other things: (1) increase the penalties for violations of: (a) water occupational licensing and registration requirements; (b) on-site sewage disposal systems requirements; (c) used oil collection, management, and recycling requirements; (d) environmental performance standards for plumbing fixtures requirements; and (e) irrigators requirements; (2) provide that the amount of a penalty assessed for a violation of the Manufacturing Facility Community Right-to-Know Act must be tripled if a first responder who is not employed at the facility that is the subject of the penalty, or who does not participate in a shared service agreement with another facility, is injured as a result of exposure to hazardous material while responding to an incident at the facility; and (3) provide that the civil penalty must be tripled

for a person who knowingly discloses false information or negligently fails to disclose a hazard as required by the Public Employer Community Right to Know Act or the Manufacturing Facility Community Right to Know Act if a first responder who is not employed at the facility that is the subject of the penalty, or who does not participate in a shared service agreement with another facility, is injured as a result of exposure to hazardous material while responding to an incident at the facility.

**H.B. 2442 (Guillen) – Certificates of Convenience and Necessity:** would, among other things, provide that, for a municipally owned utility (MOU) that applies to obtain a certificate of convenience and necessity for newly incorporated or annexed areas, on the day a MOU submits an application for single certification to the Public Utility Commission, the MOU shall send, via certified mail or hand-delivery, a copy of the application to the retail public utility that provides water or sewer service to all or part of the area pursuant to a certificate of convenience and necessity.

**H.B. 2460 (T. King) – Water Availability Models:** would provide that not later than December 1, 2026, the Texas Commission on Environmental Quality shall obtain or develop updated water availability models for the Guadalupe, Lavaca, Nueces, San Antonio, San Jacinto, and Trinity River basins. (Companion bill is **S.B. 296** by Perry.)

**H.B. 2483 (T. King) – TWDB Financial Assistance:** would, among other things: (1) establish the water for Texas fund (Fund); (2) provide that the Texas Water Development Board (TWDB) may make disbursements from the Fund to another fund or account administered by the board, including a fund or account established by the bill, in the amounts the board determines necessary; (3) provide that the TWDB shall ensure that a portion of the money disbursed from the Fund is used for: (a) water infrastructure projects for rural political subdivisions and cities with a population of less than 150,000; and (b) projects to develop new water supply sources; (4) require the TWDB to adopt rules to establish a program to provide technical assistance to retail public utilities in conducting required water audits required and in applying for financial assistance from the board to mitigate the utility system's water loss; and (5) require the TWDB to submit to the legislature a water loss report every fifth year. (Companion bill is **S.B. 837** by Perry.) (See **H.J.R. 116**, below.)

**H.J.R. 116 (T. King) – Water Project Funding:** would amend the Texas Constitution to create the water for Texas fund to be administered by the Texas Water Development Board to assist in financing water projects in this state. (See **H.B. 2483**, above.)

**S.B. 296 (Perry) – Water Availability Models:** would provide that not later than December 1, 2026, the Texas Commission on Environmental Quality shall obtain or develop updated water availability models for the Guadalupe, Lavaca, Nueces, San Antonio, San Jacinto, and Trinity River basins. (Companion bill is **H.B. 2460** by T. King.)

**S.B. 893 (Zaffirini) – Water CCN:** would provide that: (1) the executive director of the Public Utility Commission (PUC), at the discretion of the executive director or at the request of the certificate holder, may make a correction to a certificate of public convenience and necessity, without observing formal amendment procedures, by reissuing the certificate or issuing an

endorsement to the certificate; (2) the executive director shall notify the certificate holder that the correction has been made and ensure that the reissued certificate or endorsement is recorded in the PUC's records; (3) the executive director may make a correction under (1), above, only: (a) to correct a clerical or typographical error; (b) to change the mailing address of the certificate holder to match updated contact information provided by the certificate holder; (c) to change the name of an incorporated certificate holder on a certificate if: (i) an amendment to the certificate holder's articles of incorporation or certificate of formation, as applicable, is filed with the secretary of state that only changes the name of the certificate holder; and (ii) the certificate holder provides verification from the secretary of state to the PUC that the amendment only changed the name of the certificate holder; (d) to describe accurately the boundaries of the certificated area; (e) to correct a mapping error in a certificate to reflect the metes and bounds of the certificated area; or (f) to correct another similar nonsubstantive error or matter if authorized by the PUC by rule; and (4) the notice and hearing requirements to not apply to a correction under (1), above.

**S.B. 894 (Zaffirini) – Water Rights:** would provide that a water right is not cancelled for nonuse if the nonuse resulted from an executed temporary or permanent forbearance agreement that: (1) promotes restoration, preservation, or enhancement of instream flows; (2) was entered into by the holder of the permit, certified filing, or certificate of adjudication; and (3) was filed with the Texas Commission on Environmental Quality not later than the 180th day after the date the agreement was executed. (Companion bill is **H.B. 874** by **Bowers**.)

**S.B. 947 (King) – Criminal Offense for Damaging Critical Infrastructure:** would: (1) create a criminal offense if, without the effective consent of the owner or operator of a critical infrastructure facility, the person: (a) intentionally or knowingly damages, destroys, vandalizes, or impairs the function of any critical infrastructure facility; and (b) as a result of the conduct described by (1)(a), above, causes an extended power outage; (2) provide that an offense under (1), above, is a felony of the second degree, except that the offense is a felony of the first degree if: (a) the amount of pecuniary damage to the critical infrastructure facility is \$100,000 or more; or (b) the actor uses a firearm or explosive weapon in the commission of the offense; and (3) provide that it is a felony of the first degree for manslaughter if it is shown on the trial of the offense that the defendant committed an offense under (1), above, and that conduct caused the death of an individual.

**S.B. 973 (West) – Criminal Offense for Damaging Gas Meters:** would provide that: (1) it is a state jail felony for criminal mischief if the amount of pecuniary loss is less than \$2,500, if: (a) the property damaged or destroyed is a meter installed by a gas utility on the property of a residence, including a meter installed on the property of an apartment, a leased or owner-occupied condominium, or a building that receives gas utility service that is master metered; and (b) the damage or destruction is caused by discharging a firearm; (2) it is a felony of the third degree for criminal mischief if the offense is punishable under (1), above, and as a direct result of the commission of the offense an individual suffered serious bodily injury or death; and (3) it is a felony of the third degree for criminal mischief if the offense is punishable under (1), above, and as a direct result of the commission of the offense an individual suffered serious bodily injury or death.

**S.B. 1015 (King) – Electric Utility Rates:** would, among other things, remove regulatory authorities (including cities) from the electricity rate-making process.

**S.B. 1016 (King) – Electric Utility Rates:** would: (1) define “employee compensation and benefits” to include base salaries, wages, incentive compensation, and benefits, but not pension, other postemployment benefits, or incentive compensation; and (2) provide that, when establishing an electric utility’s rates, the regulatory authority (including a city) shall presume that employee compensation and benefits expenses are reasonable and necessary, if the expenses are consistent with recent market compensation studies not earlier than three years before the initiation of the proceedings to establish the rates.

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